

ISSUE BRIEF

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Right-to-Work Laws: Myth vs. Fact

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Many states and local governments are considering right-to-work laws. These laws make union dues voluntary. Without them, union contracts make paying dues a condition of employment. While most Americans support the concept of right-to-work, unions argue strenuously against them. However, most of the arguments against right-to-work have little basis in fact.

Myth: Right-to-work laws prohibit unions.

Fact: Right-to-work laws make union dues voluntary. Without right-to-work laws, unions negotiate contracts that force workers to pay dues or get fired. Right-to-work laws protect workers' freedom. The National Labor Relations Act also protects the right of workers in right-to-work states to unionize. Unions currently represent 4.4 million workers in 24 right-to-work states, including highly unionized Nevada, Iowa, and Michigan.¹

Myth: Right-to-work laws undermine unions.

Fact: Right-to-work laws make unions work to earn workers' support. In the long run, this can strengthen union locals. Without right-to-work laws, unions can take their members' dues for granted and provide lower quality representation. Gary Casteel, the Southern region director for the United Auto Workers, explains:

This is something I've never understood, that people think right to work hurts unions. To me, it helps them. You don't have to belong if you don't want to. So if I go to an organizing drive, I can tell these workers, "If you don't like this arrangement, you don't have to belong." Versus, "If we get 50 percent of you, then all of you have to belong, whether you like to or not." I don't even like the way that sounds, because it's a voluntary system, and if you don't think the system's earning its keep, then you don't have to pay.²

Myth: Right-to-work laws allow non-union members to "free ride" on the benefits of union representation without paying its cost.

Fact: Unions voluntarily represent non-members. The Supreme Court has repeatedly ruled that the National Labor Relations Act allows unions to negotiate contracts covering only dues-paying members. As Justice Brennan wrote in *Retail Clerks v. Dry Lion Goods* (1962), "'Members only' contracts have long been recognized."³ Unions represent non-members only when they act as "exclusive bargaining representatives," which requires non-members to accept the union's representation. In that case, the law requires unions to represent non-members fairly. They cannot negotiate high wages for their supporters and the minimum wage for non-members. Unions can avoid representing non-members by disclaiming exclusive representative status.

Myth: Representing non-members costs exclusive representative unions a lot of money.

Fact: Unions often spend little on representational activities. When unions choose to act as exclusive bargaining representatives, they often

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spend relatively little on processing grievances and negotiating contracts. Often union contracts have employers cover these costs by allowing union stewards to do union business while on company time. As a result, many union locals spend very little representing workers—either members or non-members.

Federal filings reveal that in 2013 United Auto Workers Local 2164 in Bowling Green, Kentucky, spent just 2 percent of its \$560,000 budget on representational activities.⁴ Boilermakers Local 107 in Brookfield, Wisconsin, spent 5 percent of its \$2.0 million budget on representational activities.⁵ Machinists Lodge 2515 in Alamogordo, New Mexico, spent 23 percent of its \$645,000 budget on representational activities—almost all of which constituted payments to its officers.⁶

Myth: Right-to-work laws provide no economic benefits.

Fact: Companies consider right-to-work laws a major factor when deciding where to locate. Organizing victories bring in a lot more money for a union in jurisdictions with compulsory dues. Consequently, unions organize more aggressively in places without right-to-work laws.⁷ Companies in turn want to know they can avoid being targeted by union organizers if

they treat their workers well. Right-to-work laws make that more likely. Economic development consultants report that roughly half of all major businesses refuse to consider locating in jurisdictions with compulsory dues.⁸ Bureau of Labor Statistics data show that between 1990 and 2014 total employment grew more than twice as fast in right-to-work states as in states with compulsory dues.⁹

Myth: Right-to-work laws lower wages.

Fact: Workers have the same or higher buying power in right-to-work states. Opponents often deride voluntary dues as “right-to-work for less.” Average wages in right-to-work states are indeed slightly lower than in non-right-to-work states. This occurs because almost every Southern state has a right-to-work law and the South has a lower cost of living. Studies that control for differences in costs of living find workers in states with voluntary dues have no lower—and possibly slightly higher—real wages than workers in states with compulsory dues.¹⁰

Myth: Right-to-work laws divide Americans.

Fact: Americans overwhelmingly support right-to-work laws. Recent Gallup polling finds Americans support right-to-work laws by a 71 percent to 22 percent margin—better than 3 to 1. Inde-

1. Heritage Foundation calculations using data from Barry T. Hirsch and David A. Macpherson, “Union Membership, Coverage, Density and Employment by State, 2013,” http://unionstats.gsu.edu/State_U_2013.htm (accessed December 11, 2014).
2. Lydia DePillis, “Why Harris v. Quinn Isn’t as Bad for Workers as It Sounds,” *The Washington Post*, July 1, 2014, <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/07/01/why-harris-v-quinn-isnt-as-bad-for-workers-as-it-sounds/> (accessed December 11, 2014).
3. *Retail Clerks v. Dry Lion Goods*, 369 U.S. 17 (1962).
4. U.S. Department of Labor, Office of Labor-Management Standards, “Form LM-2 Labor Organization Annual Report,” filed by Local 2164, United Auto Workers, 2013, File No. 513-952, <http://www.unionreports.gov> (accessed December 11, 2014).
5. *Ibid.*, filed by Local 107, International Brotherhood of Boilermakers, 2013, File No. 012-656.
6. *Ibid.*, filed by Lodge 2515, International Association of Machinists, 2013, File No. 070-592.
7. David Ellwood and Glenn Fine, “The Impact of Right-to-Work Laws on Union Organizing,” *Journal of Political Economy*, No. 95 (April 1987), pp. 250-273.
8. Ron Starnier, Mark Arend, and John McCurry, “Locked in on Labor,” *Site Selection Magazine*, July 2004, <http://www.siteselection.com/issues/2004/jul/p500/> (accessed December 11, 2014), and Daniel Tobergte, President of Northern Kentucky Tri-County Economic Development Program, testimony before the Labor and Industry Committee of the Kentucky House of Representatives, March 13, 2014, <http://www.ket.org/legislature/archives/?nola=WGAOS+015186&session=wgaos+015> (accessed December 11, 2014).
9. Heritage Foundation calculations using data from the Bureau of Labor Statistics, “State and Area Employment, Hours, and Earnings,” June 1990–October 2014. Figures include Michigan and Indiana as compulsory dues states as they implemented voluntary dues in 2013 and 2012, respectively. Oklahoma was omitted because it became a right-to-work state in 2001. Figures are weighted by total employment in states in June 1990. The unweighted average shows right-to-work states’ employment growing 49 percent and compulsory dues states growing 26 percent.
10. William J. Moore, “The Determinants and Effects of Right-to-Work Laws: A Review of the Recent Literature,” *Journal of Labor Research*, No. 19 (Summer 1998), pp. 445-469, and W. Robert Reed, “How Right-to-Work Laws Affect Wages,” *Journal of Labor Research*, Vol. 24, No. 4 (October 2003), pp. 713-730.

pendents support right-to-work laws 77 percent to 17 percent, Republicans support them 74 percent to 18 percent, and Democrats support them 65 percent to 30 percent.¹¹ Polling also shows that union members themselves support voluntary dues by an 80 percent to 17 percent margin.¹² Voters also reward politicians who support voluntary dues at the polls. Not a single Michigan legislator who voted for right-to-work laws in 2012 lost in the next general election. Right-to-work laws remain controversial primarily among union officers—not the general public.

The arguments against right-to-work laws do not withstand scrutiny. Right-to-work laws give workers a choice over where their money goes. This freedom forces unions to earn their members' support. It also attracts businesses and jobs. The law should not force anyone in America to pay union dues as a condition of employment.

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11. Jeffrey M. Jones, "Americans Approve of Unions but Support 'Right to Work,'" Gallup, August 28, 2014, <http://www.gallup.com/poll/175556/americans-approve-unions-support-right-work.aspx> (accessed December 11, 2014). Gallup poll of 1,032 adults living in the United States conducted August 7-10, 2014. The poll's margin of error is plus or minus 4 percentage points.
 12. "Benchmark Study of Union Employee Election Year Attitudes," The Word Doctors, October 2010, Question 41, <http://www.theworddoctors.com/docs/Benchmark%20Study%20of%20Union%20Employee%20Election%20Year%20Attitudes.pdf> (accessed August 15, 2012). Representative sample of 760 union members with a margin of error of plus or minus 3.7 percent. The Word Doctors is Frank Luntz's polling and focus group firm.
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