

**FINAL REPORT
OF THE
INTERIM STUDY COMMITTEE
ON
EMPLOYMENT ISSUES**



**Indiana Legislative Services Agency
200 W. Washington St., Suite 301
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November 2011

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I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted legislation (IC 2-5-34) directing the Interim Study Committee on Employment Issues to study and make recommendations to the Legislative Council concerning the following:

- (1) Laws related to the issue of whether or not an employee should be required to join an employee organization as a condition of employment.
- (2) Project labor agreements.

The Committee consists of nine members: four members of the Senate, four members of the House of Representatives, and one member of the General Assembly who is appointed by the chairman of the Legislative Council and who serves as the chairman of the Committee.

II. INTRODUCTION AND REASONS FOR STUDY

Current Indiana law requires the Committee to study laws related to the following: (1) whether or not an employee should be required to join an employee organization as a condition of employment and (2) project labor agreements during 2011 and make recommendations to the Legislative Council. (IC 2-5-34)

III. SUMMARY OF WORK PROGRAM

The Committee met four times during the 2011 interim. All meetings were held in the Statehouse in Indianapolis. At the first meeting, held July 26, 2011, the Committee took testimony and discussed the right-to-work (RTW) issue. At the second meeting, held September 7, 2011, the Committee took testimony and discussed project labor agreements (PLAs). The third meeting, held October 6, 2011, covered both topics and was open for public comment. At the fourth meeting, held October 26, 2011, the Committee discussed findings and recommendations and approval of the final report.

IV. SUMMARY OF TESTIMONY

A more detailed summary of the testimony can be found in the meeting minutes.

Testimony Supporting RTW

- Based on the principles of freedom of speech and association, individuals should be able to choose whether or not to associate with unions. Unions argue that they are forced to bargain for all employees, not only for union members, but there is nothing in law that forces them to do that. Unions want to keep their privileges. The assumption is made that it's fair for everyone to be forced to pay dues because everyone benefits from the union, but sometimes it is not the case that everyone benefits.
- Certain businesses will not locate in non-RTW states. Based on the experience of professionals working for site selection companies, 50-75% of manufacturing companies express a preference for locating in RTW states, and 25-50% of industrial clients exclude non-RTW states from consideration. Companies also look closely at labor issues, unionization rates, and economic incentives. For industrial projects, labor and other issues trump quality-of-life issues. Manufacturing companies express preferences for RTW in order to have more flexibility and lower hiring costs. RTW is identified in the initial screening with the employers. This determination is done before further exploration is done. Non-RTW states will not even know that they have been screened out.
- Based on research presented, RTW states have a higher quality of life, population growth, higher wages when adjusted for cost of living, and economic growth than non-RTW states. RTW states have a comparative advantage. In the long run, RTW lowers the cost of doing business and makes labor costs more affordable. RTW makes businesses more stable without concern for strikes or other labor difficulties.
- Comparing data from Indiana to Midwestern RTW states, Indiana has comparatively lower wages and decreasing private sector employment compared with increasing employment in RTW states. In addition, there has been a decrease in the size of the labor force in Indiana, and out migration of adults ages 25-34.
- In a survey of Indiana small business owners belonging to the National Federation of Independent Businesses, 90% supported RTW. Small business owners testified that RTW gives employers more flexibility, would help economic growth, and would help Indiana become more competitive. They also support freedom of choice and mentioned that RTW would help keep their customers in Indiana.
- Economic development professionals from Northeast Indiana testified that RTW will help them be more competitive and will help to bring jobs to their area. Site selectors they work with have repeatedly told them that some companies do not consider Indiana due to the RTW issue. Indiana workers should be able to compete on their merits and not be disqualified

from competition because of the RTW issue.

- Testimony by RTW advocates pointed out that RTW does not prevent workers from joining a union. It simply guarantees that an employee can't be forced to pay dues in order to work in a union-represented business. When individual workers decide whether they want to be members of a union, the union movement becomes more accountable to workers. When unions are more accountable to individual workers, the state becomes more attractive to employers. In non-RTW states, unions know dues money is going to flow either way, whether or not people are well represented. RTW laws make unions more responsive to their members.
- A business owner with employees in both RTW and non-RTW states indicated that employee benefits and wages were tied to the cost of living and the economic realities of the localities they were in, rather than on whether or not they were located in a RTW state.

Testimony Opposing RTW

- A RTW opponent indicated that economic development comes from growth to existing businesses, entrepreneurial job creation, and companies relocating. RTW would only impact relocation. Companies use a sophisticated process to decide where to locate. Ultimately, the decision is based on the bottom line.
- Based on research presented, workers in RTW states earn less than in non-RTW states when adjusted for a variety of factors. RTW also decreases the odds of getting health insurance or a pension through an employer for both union and nonunion employees. RTW does not have any impact on job growth.
- RTW would make it more difficult for unions to raise money and retain members. Data is insufficient to determine the economic effect of RTW.
- Fatality rates in the construction industry are higher in RTW states than in non-RTW states. This may be the result of greater union resources and training in non-RTW states.
- Presented research indicated that RTW laws result in lower wages and benefits. RTW laws may be successful in bringing employers to the state, but those employers seeking lower wages will move abroad. Employers can only save on labor costs through productivity with an experienced, skilled workforce. Direct comparisons between growth rates in RTW and non-RTW states can be misleading, because RTW states started from a lower base. Based on research presented, there is no evidence of wage increases over the long run due to RTW.

- In the U.S., if the majority of workers want to be represented by a union, an election is held, and the union is certified to represent those workers. The union is required to represent all employees, even those who do not want union representation. Under the law, people cannot be compelled to become union members. Nonunion employees pay dues to cover their portion of union representation, and not for political purposes. If RTW passed, some people may stop paying dues. The union would still have to represent everyone, but their ability to do that would be diminished.
- Union members expressed concern that RTW would lower wages and benefits, bringing only low-wage jobs to Indiana, and threaten union viability due to freeloaders using the benefits of the union but not being willing to pay for them.
- Indiana tried RTW for eight years, and then rejected it. It didn't increase growth over that time.

Additional RTW Testimony

- Representatives from the construction industry argued that the industry should be exempted from any RTW law that passes. Due to the nature of the industry, it is already treated differently than other industries in national labor law. Another representative from the construction industry asked not to be exempted from RTW, arguing that lawmakers should take a policy position that would increase employment in Indiana.

Testimony Supportive of Banning PLAs on Public Projects

- Markets should be free and fair, and PLAs act as a barrier to free markets.
- Based on recent study of school construction costs in California, PLA projects cost 13% to 15% more to complete than non-PLA projects.
- PLAs do not prevent agreement violations from being made. In addition, PLAs shut out nonunion contractors from successfully bidding on projects. In order to participate in PLA projects, nonunion workers are required to pay union dues and benefits and go through union hiring halls.
- Under government-mandated PLAs, contractors have to sign a contract with a union to be able to work on a project. It becomes difficult and expensive for nonunion contractors to compete for a project when they have to pay dues and benefit costs to the union, despite not receiving union benefits. PLAs require contractors to recognize a union as the sole representative of their workers. In addition, almost all PLAs require hiring through union hiring halls, which reduces competition. The result of

government-mandated PLAs are higher costs to taxpayers and unfair political favoritism. Banning PLAs does not prevent local governments from entering into good contracts to ensure contractor accountability or discourage local hiring.

- PLAs disadvantage nonunion contractors because they are required to pay union dues, benefits, pensions, and health care that they did not negotiate and that their employees may not benefit from. Indiana has a prevailing wage law as well, so PLAs are redundant on several counts. PLAs do not lower costs or provide a greater degree of worker safety during construction.

Testimony Opposed to Banning PLAs on Public Projects

- Representatives of local governments argued that locals should be able to decide when to use PLAs on public projects, depending on local needs. Through PLAs they are able to employ local workers for local construction projects.
- PLAs can create value for the owners and the public. The use of PLAs should be evaluated on a project-by-project basis. For a large, complex project like Lucas Oil Stadium with many different workers, a PLA may be a good idea.
- PLAs are important to Indiana because of cost savings, guaranteed manpower, and ability to use local workers. PLAs benefit taxpayers by making sure the labor force is skilled, qualified, and well-trained.
- PLAs were initially used in highly unionized areas as tools to get concessions from unions on work rules and staffing requirements. Some PLAs still use this old form; however, on projects such as J.W. Marriot and Lucas Oil, owners and unions negotiated work rules and staffing requirements. Nonunion contractors, small businesses, and minority- and women-owned business were able to work the project. In addition, in many PLAs there is a threshold above which subcontractors have to pay the common wage, but for jobs below the threshold those requirements do not apply.
- Based on the experience of the Public Works Department in Los Angeles, PLA projects did not cost more than non-PLA projects. In addition, through PLAs, they were able to develop apprenticeship opportunities for under-represented populations and focus on using the local work force.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following findings of fact:

(1) Based on the principles of freedom of speech and association, individuals should be able to choose whether or not to associate with unions. RTW would guarantee the rights of freedom of speech and association.

(2) The Committee has studied the RTW issue and finds that RTW would be an important competitive tool for the Indiana Economic Development Corporation (IEDC) and local economic development organizations to attract new jobs to Indiana and to retain existing jobs.

(3) During the site-selection process, businesses often show a preference for RTW states, and exclude Indiana and other non-RTW states from consideration because of a perceived lack of flexibility and higher costs in their potential dealings with organized labor.

(4) Due to the lack of a RTW law, Indiana is often not considered by companies looking to expand. As a result, the state does not receive the opportunity it deserves to market the attractive business climate that the state government has worked to create over the years.

(5) Becoming a RTW state would likely bring more jobs to Indiana by making the state even more attractive to relocating and expanding companies.

The Committee made the following recommendations:

(1) The Committee recommends that the legislature consider RTW legislation.

(2) The Committee makes no recommendations concerning PLAs.

VI. COMMITTEE DISCUSSION AND CONSIDERATION OF THE FINAL REPORT

On October 26, 2011, the Committee met to discuss and vote on the draft final report. After Committee discussion and the rejection of two proposed amendments to the Committee Findings and Recommendations section, the draft final report was approved as the Final Report by a 5-4 vote.

WITNESS LIST

Mark Anderson, United Auto Workers (UAW) 5 S.B.
Dan Arnett, United Steelworkers (USW) 4863
Dr. Dale Baleman, Professor, School of Labor and Industrial Relations, University of Michigan
Della Bell, Hyatt employee
Matt Bell, Regional Chamber of Northeast Indiana
Rob Beiswenger, President, Indiana Right to Work Committee
Andrew Berger, Association of Indiana Counties
Matt Boyd, small business owner, NFIB
Martha Bracken, Associated Builders and Contractors
Diana Brenner, President of Brenner Design Incorporated
W. Erik Bruvold, founding President of the National University System Institute for Policy Research
Bryon Capper, Communications Workers of America
Brendan Clancy, owner of Clancy's Irish Pub
Mike Compton, Mishawaka City Council, 5th District
Andy Conlin, Senior Manager, State and Local Affairs, National Associated Builders and Contractors
Kevin Cope, International Brotherhood of Electrical Workers Local 855
Robert C. Cramp, UAW CAP Council, Steuben and LaGrange Counties
Katie Culp, Senior Vice President, Cassidy Turley, Real Estate Services
Jeffrey Dailey, UAW
Fred Davis, retired member UAW
Rob Deppert, small business owner, insurance agent
Susan Fuldauer, President of Central Labor Council
J.R. Gaylor, President and CEO, Associated Builders and Contractors of Indiana
Dr. Dale Glaser, principal of Glaser Consulting, statistical consultant and Adjunct Professor of Statistics at the University of San Diego
Miriam Gonzalez, Hyatt employee
Stan Greer, National Institute for Labor Relations Research, associated with the National RTW Committee
Nancy Guyott, President, Indiana State AFL-CIO
Becky Hanawalt, USW
Michelle Ison, union member working in an open shop in Batesville
Dale Johnsen, Indiana State Building Trades
Charlie Kahl, President of the Building and Highway Division, Indiana Construction Association
Cliff Kerce, Carpenters Industrial Council local 2133
Mike Kerr, principle owner of Wilhelm Construction
Paul Kersey, Director of Labor Policy, Mackinac Center for Public Policy
Bill Kohnya, Wabash County Economic Development Group
Kevin Korenthal, Executive Director, Associated Builders and Contractors, California Cooperation Committee
Professor Gordon Lafer, University of Oregon
Barry Macey, Attorney, Macey, Swanson, and Allman
Tom McKenna
Christie Menyard, Hoosier Grocery Workers

Harry Milly, commercial flooring contractor
Bill Mott, Vice President, Corporate Labor Relations and Safety, Hunt Construction Group
Greg Mourad, Director of Legislation, National Right to Work Committee
Mike Mullis, J.M. Mullis, Inc., Memphis, Tennessee
John Neighbours, Baker and Daniels, Council for the Indiana Construction Association
Dan Nicholson, Indiana Meat Cutters
James Palmore, International Union of Painters and Allied Trades
Jay Pittas, Remy Intl.
Ron Port, CEO of Home Health
Barbara Quandt, National Federation of Independent Business
John Raine, small business owner, Raine Inc.
George Raymond, Indiana Chamber of Commerce
John Reamer, Inspector of Public Works, Los Angeles, California
Peter Rimsans, Executive Director, Indiana State Building and Construction Trades Council
Ed Roberts, Manufacturers Association
Jim Robinson, USW
Rosa Rodriguez, steel worker, representative of USW
Mitch Roob, CEO, Indiana Economic Development Corporation
Mike Row, Wells County Chamber of Commerce and Economic Development
John Sampson, Northeast Indiana Regional Partnership
Gerry Scheub, Lake County Commissioner
Bruce Schweizer, UAW local #5
Brian Snedecor, Mayor of Hobart, Indiana
Mike Snyder, USW
Ty Spatta, small business owner, Axis Enterprise
Mark Sweeney, McCallum Sweeney Consulting, South Carolina
Dan Thystrup, small business owner, Adventure Glass
Alan Tio, Whitley County Economic Development Corporation
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