MINORITY REPORT
OF THE
INTERIM STUDY COMMITTEE
ON
EMPLOYMENT ISSUES

Indiana Legislative Services Agency
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November 2011

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Interim Study Committee on Employment Issues

Membership Roster

Senators	Representatives
Philip Boots Crawfordsville	Kreg Battles Vincennes
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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at http://www.in.gov/legislative/.

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.

II. REQUEST FOR A MINORITY REPORT

Legislative Council Resolution 11-02, Section 12, reads as follows:

> SECTION 12. **STUDY COMMITTEE MINORITY REPORTS.** LSA study committee staff may not prepare a "minority report" for members of a study committee unless at least 4 legislator members of that committee jointly make such a request in writing to the Executive Director of the LSA. The request must be made within 5 working days after adoption of a final report, and the minority report must be completed by not later than 10 working days after the date the request is made. No more than 1 minority report may be prepared for any study committee.

Pursuant to this provision of the Legislative Council Resolution, Representative Niezgodski, Senator Tallian, Representative Battles, and Senator Arnold, all members of the Interim Study Committee on Employment Issues (Committee), made a request in writing to Mr. John Ross, Executive Director of the Legislative Services Agency (LSA), to include a minority report in the final report of the Committee. The request was made within five working days after the adoption of the final report, and no other minority report has been requested or prepared for this Committee.

III. REASONS FOR THE MINORITY REPORT AND FINDINGS AS PROVIDED TO LSA BY MINORITY COMMITTEE MEMBERS

Representative Niezgodski, Senator Tallian, Representative Battles, and Senator Arnold requested this minority report to present conclusive statements about the data and expert testimony received by this committee regarding the impact of Right-to-Work (RTW) legislation on Indiana's economy. The minority believe that the testimony provided in committee does not support the conclusion in the final report that the General Assembly should consider RTW. These legislators found the evidence illustrates a negative economic impact that outweighs the reliability of all other data presented, and the minority feels that it is the duty of the minority to present the economic drawbacks of RTW in Indiana. Furthermore, these legislators want this report to emphasize the inadequacy of the other data presented and the illogical conclusions brought forth for political gain by people hired by interest groups supporting RTW.

Finding 1: RTW Does Not Bring Business to Indiana

RTW is Not an Incentive for Site Selection

The final committee report argues that Indiana is hampered in its ability to attract business by not being a RTW state. The committee report cites testimony from site selectors and others that some businesses won't consider Indiana because it is not RTW. However, site selectors testifying in support of RTW admitted that many factors go into deciding whether a business locates to Indiana. One presenter, Mr. Sweeney, went so far as to say that he suggests to his clients that they include RTW as only one of multiple factors in an overall evaluation. Another site consultant, Mike Mullis, stated that Indiana is already a very pro-business state. He listed the main factors as a strong financial status, quality work force, geography and logistics, and a competitive tax status (for income, worker's compensation, and unemployment insurance rates).

Fred Davis testified that while serving as a member of a local economic development commission, he has seen no cases of refusal to consider the area because of RTW status. The more important factors businesses consider include taxes, local incentives, and workforce training. Jim Robinson, from United Steelworkers, testified that too many other factors go into site selection to isolate RTW as a significant factor. The RTW states also tend to have other beneficial policies attractive to business. This supports the testimony of the former Director of the Indiana Department of Commerce, who testified in support of proactive measures in Indiana that have proven, positive effects on site selection. These measures include:

I. Developing and enhancing economic human capital.

II. Improving involvement of colleges and universities with their home communities and with the state.

III. Catering to Indiana's multiple regions and economies and crafting region-specific incentives.

Further, business leaders who make location decisions say RTW laws do not improve business recruitment. The RTW state of Louisiana commissioned a study to determine the importance of various factors in business location decisions. Business decision-makers were asked to rank 26 different factors in terms of their importance to business location decisions. Louisiana found that the availability of skilled labor, labor productivity, and labor costs all rate as the most important considerations in business location decisions. In fact, RTW laws ranked 24th out of 26 factors. (Louisiana Business Image Survey; Public Policy Research Lab, January 24, 2005.) Another study conducted by the *Area Development Magazine* asked business leaders to tell them what factors most influence their decisions about where to locate facilities. In the past 5 years, RTW has never been in the top 10 factors.

Mitch Roob, Chairman of the Indiana Economic Development Corporation, also stated that Indiana had been rated one of the best states in the Midwest and in the nation for business climate. It was further discussed that Indiana was ranked #5 in the nation, even without RTW. He was asked, and refused, to state for the record that any company failed to consider Indiana as a site for new business simply due to a lack of RTW laws.

<u>Data Showing RTW is an Important Site Selection Factor is Critically Flawed</u>

Many of the claims of support for RTW legislation come from a study conducted by Dr. Richard Vedder, an Ohio University professor, at the request of the Indiana Chamber of Commerce. The flaws in the methodology used to produce this report were discussed during the committee, and merit repeating here. The Chamber report assumes RTW policies are the cause of the economic success in states without statistical analysis to support this claim.

In his research for the Chamber, Dr. Vedder only controlled for 7 economic factors that could affect a state's economic health. Data showing RTW policies actually harm a state's economy controlled for 42 factors that affect the workforce, including age, education, gender, and concentration of jobs in different industries. By not controlling for economic factors that affect job development and wages, Dr. Vedder inaccurately asserts that the job growth rate in RTW states is attributable solely to the RTW policies. For example, the Chamber report does not take into account that the states driving the average are states with cheaper real estate and large oil and gas industries. Indiana will not be able to duplicate these factors regardless of the labor laws passed here. The Chamber report does not even take into account corporate tax rates, which the authors of the majority report all endorsed as a site selection driver during the 2011 session.

<u>RTW is an Outdated Economic Theory Made Void by the Emergence of the Global Economy</u>

Most RTW states adopted their laws in 1947, prior to the development of an interstate highway system in America. Thus, comparisons from that era to modern times are difficult. But, Oklahoma passed RTW relatively recently (2001) and did so based on the same promises that manufacturing jobs would come because the state would no longer be "red-lined" by businesses making site selection decisions. Unfortunately for Oklahomans, "not only has manufacturing employment failed to rise in Oklahoma, but, after increasing steadily in the previous 10 years, it has fallen steadily in every year since right-to-work was adopted." (Lafer & Allegretto, *Does Right to Work Create Jobs: Answers from Oklahoma*, March 16, 2011.) The Oklahoma Department of Commerce has reported that the number of firms and jobs brought into the state has been 1/3 lower in the 10 years following passage as compared to the 10 years preceding passage of RTW.

RTW is also not an effective strategy for winning a competition for low wages in a global economy. The availability of cheap labor overseas limits the effectiveness of RTW policies to attract companies looking for lower labor costs. Globalization has all but eliminated the effectiveness of policies controlling labor costs as a means of attracting businesses to a particular United States locale. For example, Mexican auto workers make approximately 1/10 of what non-union workers make in the United States, making RTW policies a non-issue for low-wage competition. Indiana will never be the choice for companies basing a site selection decision primarily on cheap labor, regardless of our RTW status.

In addition to the global market minimizing any potential benefit to RTW legislation, national RTW proponents admitted during committee testimony that the more states implement this policy, the less effective it becomes. Indiana would be the 23rd state to enact such legislation. Having half the country as RTW minimizes any added benefit RTW arguably could contribute to Indiana as Indiana is not unique compared to other states. This underscores the importance of focusing on the other factors that can set us apart from states, such as a skilled workforce and educated population.

Finding 2: RTW Hurts Hoosier Workers

RTW Will Lower Wages

Site selectors testified that some companies who choose RTW states do it because they consider it to be a way to lower either the wages or the number of employees. In addition, several people testified that they were employees in large chain stores with facilities in both RTW and non-RTW states, and the same jobs pay less in the RTW states. Despite this testimony, proponents of RTW argue that the policy does not lower wages. However, the Chamber of Commerce study substantiated other testimony by indicating that one of the reasons to support RTW is because of lowered costs for employers. This policy cannot simultaneously lower costs for employers and protect wages and jobs for employees.

The personal income data presented to the committee shows RTW legislation will lower personal income in Indiana by an average of between $1,500 and $5,538 per person per year. This supports the theory that businesses support RTW as a mechanism to lower wages as a means to increase corporate profits. The data shows this loss in income is for both union and non-union employees. The evidence also shows decreased income means less money that would have been spent in the local economy at restaurants and other small businesses.

A loss in wages results in a larger economic loss for communities. For every $1 million in lost wages there is a corresponding impact of $850,000 in economic loss. This presents a considerable loss to the Indiana economy and all businesses reliant on consumer spending. Lower consumer spending means less profit for these businesses, and less profit will lead to job losses. Research conducted by the Economic Policy Institute shows that for every $1 million in lost wages, an additional six jobs are lost in the local economy.

RTW Lowers Benefits for Workers

Research conducted by the Economic Policy Institute has shown benefits are lower for workers in RTW states. The rate of employer-sponsored health insurance is 2.6% lower in RTW states, and employer-sponsored pensions are 4.8% lower. RTW would cause some Hoosiers to lose access to benefits critical for preserving financial stability for their families.

Report Showing RTW Improves Income is Based on Statistically Flawed Data

The Chamber report uses averages to support the claim that from 1977 to 2008 personal income and employment grew faster in the 22 RTW states than in those without RTW laws. However, asserting a causal effect from an average is misleading. When data from all the states is laid out side by side, it shows the two fastest-growing states to be non-RTW states. Ten non-RTW states (including Washington, D.C.) had income growth over the same period that was greater than 17 of the 22 RTW states. It is poor public policy to make decisions that affect hundreds of thousands of hard-working Hoosiers with such serious questions about the information used to make these new laws. (Lafer, *Right-to-Work Wrong for New Hampshire*, April 5, 2011.)

Finding 3: RTW Allows People to Receive Representation for Which They Don't Contribute

Certain businesses testified they are concerned about the freedom of employees to choose not to belong to a union and not to pay dues. However, this concern was not expressed by any employee who testified before the committee. However, requiring dues-paying union members to finance the cost of labor agreements for those who would not pay dues will place an unfair burden on workers by RTW. Several people testified to their belief that anywhere between 10% to 35% of members would stop paying dues. They further testified that this number had little to do with whether the unions were doing a good job and more to do with recession economics.

Furthermore, federal law protects free association by stating that no person can ever be forced to join a union against their will. Non-members can be charged only the cost of their representation and only where the workers have so voted and the employer has agreed. As stated in federal law, unions must represent all workers fairly and without discrimination in certified bargaining units, and unions could be sued for failing to provide this representation. The law also says that workers at a particular establishment, by majority vote, may choose to require workers to pay their share of costs incurred for representation. This requirement can only be in place for representational costs if the employer chooses to negotiate this requirement. If 30% of the employees request to do so, the workers may then vote separately on the question of representational costs.

Even where a majority of workers have voted to require representational costs, individual workers may elect NOT to join a union or pay dues. Individual workers who have a religious objection are not required to pay representational costs, but instead can choose to make a charitable donation of an equal amount. Indiana has unionized workplaces where a union security clause is in place and also workplaces where no such agreement is in place. This shows that some employers and workers clearly find it advantageous to require the payment of representational costs.

Finding 4: RTW Impinges on Freedom of Contract

Simply stated, RTW is government intruding on the freedom of Hoosiers to negotiate contracts of employment. RTW legislation is needless government regulation that prohibits parties from entering into an agreement even if they believe it is in their best interests to do so. It substitutes the judgment of the government for that of the employers and workers in the negotiation of contracts of employment. Further, RTW only applies to union businesses, and only targets existing union employers. This means that non-union businesses are dictating rules to union employers and impinging upon their freedom to make contract decisions that are unique to each company.

Finding 5: RTW is Nothing More than a Nationwide Attempt to Marginalize Unions

Hundreds of Hoosiers testified that RTW will hurt their wages and work environment. The few advocates of RTW were predominately out-of-state, paid lobbyists with a national agenda to weaken unions for corporate gain. Unions, as collective bargaining units, speak for the collective best interest of all workers. As elected officials responsible for protecting the rights of our constituents, we should support these entities that are democratically elected by a majority body of the workers to ensure fair and safe working environments.

Weakening unions will weaken the skill level and financial stability of Indiana's workforce. Unions have a proven track record of negotiating and providing high-quality training and apprenticeship programs that provide workers with important skills and experience. Projects are accomplished efficiently and often times under budget because of quality training and quality work promoted by unions in our state. Unions also work for the collective good of workers to ensure they have access to living wages and health and retirement benefits that contribute to keeping Hoosier families and local communities fiscally stable.

Unions also promote a safe working environment by advocating for and creating strict standards for safety concerns. Training programs required by unions ensure that workers are mindful, knowledgeable and skillful in the workplace. Liabilities are decreased through apprenticeship programs and the high levels of experience held by union workers. Incidences of injury and death in the workplace are decreased through the initiatives that unions take to ensure the safety and awareness of all their workers. According to the Bureau of Labor Statistics, the rate of workplace deaths is 51% higher in states with RTW. Specifically, a research scientist from the University of Michigan testified during committee that in RTW states there is a 42% higher rate of deaths from electrocution. He further stated the construction and building trades is one of the most hazardous occupations in the world and has seen the presence of unions decreases a state's fatality rate.

Finding 6: RTW is Not Needed in Indiana

Despite that RTW is said to be of most importance to manufacturing employers, Indiana already ranks 2nd among states in per capita manufacturing employment, and we are a leading state in manufacturing employment growth. (Conexus, 2011 Report) In addition, Indiana is one of the leading states for manufacturing employment growth since the start of the recession, and manufacturing is the strongest economic sector in the U.S. economy. ("America's 'Rust Belt' States Lead the Economy," *Financial Times*, May 1, 2011.) Even Governor Daniels has said that Indiana can prosper with the labor laws we have.

RTW has already failed in Indiana. Indiana adopted a RTW law in 1957 based on the same claims about business location decisions as are being made today. Afterward, *TIME Magazine* reported that there had been no dramatic increase in location opportunities for Indiana, but that Indiana had experienced a loss of sixteen industrial employers. (“Right to Work Laws: The Results Do Not Justify the Trouble,” *Time*, Nov. 24, 1958.)

Findings of Fact and Recommendations

Fact: There is a distinct lack of statistically valid information proving any true benefit of RTW policies on Indiana’s economy. Further, conclusive data shows that RTW policies not only have no effect on attracting business, but harm local economies by driving down wages.

Fact: RTW will almost totally eliminate the freedom of Hoosier workers and employers to contract for employment.

Fact: There was no direct testimony from any business leader that they declined selecting Indiana due to the lack of a RTW law. Furthermore, evidence in published surveys of business leaders making site selection decisions shows that RTW ranks very low on the list of selection factors and therefore does NOT improve business recruitment.

Recommendation: It is our strong belief that Indiana should not be in a competition for low wages that will lead to job losses, in the name of eliminating collective bargaining rights for all Hoosiers.

Recommendation: The Interim Committee on Employment recommends that the legislature provide NO CONSIDERATION for any RTW legislation or any similar policies.