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ECONOMY

Right-to-Work Takes Us in the Wrong Direction

By [Karla Walter](#) and Jackie Odum | Posted on May 14, 2015, 9:44 am



AP/Sara Burnett

An overflow crowd of union members protest outside a Livingston County board meeting site in Pontiac, Illinois, April 16, 2015. The board was set to consider the governor's right-to-work efforts.

Anti-union state and local policymakers in communities across the country are attacking an already weakened labor movement by enacting so-called right-to-work laws that inhibit workers

from bargaining for better wages and benefits. Wisconsin became the [25th state](#) to enact a right-to-work law this spring. Following on its heels, the Republican-led [Missouri](#) legislature enacted a similar law yesterday. And where statewide legislation has previously failed, a new strategy has emerged among anti-union lawmakers. These laws are going local in Kentucky and Illinois, with city and county governments enacting ordinances to create local right-to-work zones.

[Numerous studies show](#) that these laws harm all workers—regardless of their union status—without stimulating any additional job creation. Moreover, it is [doubtful](#) that the new, local right-to-work zone ordinances are legal.

If policymakers want to help middle-class Americans and strengthen the economy, they should enact policies to uphold workers' ability to join together in unions—setting high standards at the federal level and encouraging state and local governments to raise standards even higher. With wages stagnant, inequality at record levels, and union membership in serious decline, our country needs a [progressive kind of federalism](#) where states and local governments enact policies that strengthen the middle class above and beyond federal standards—not a regressive federalism, where states race to the bottom.

Right-to-work laws

Right-to-work laws make it illegal for workers and employers to negotiate a contract that requires everyone who benefits from a union contract to pay their fair share of the costs of administering it.

What right-to-work laws do

U.S. labor policy is governed by the [National Labor Relations Act](#), or NLRA, which is supposed to uphold the right of private-sector workers to join together in unions. The preamble of the law [states](#) that it is the policy of the United States to encourage “the practice and procedure of collective bargaining” and to protect “the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.”

Yet this goal is undermined by a labor law system that allows state governments to enact laws that prevent workers in unions from effectively exercising their rights. Federal law already [guarantees](#) that no one can be forced to be a member of a union or to pay any dues to a political cause they do not support. In states without right-to-work laws, workers covered by a union contract can refuse union membership and pay a fee that covers only the costs of workplace bargaining rather than the full cost of dues.

Right-to-work laws allow some workers to receive a free ride, getting the advantages of a union contract—such as higher wages and benefits and protection against arbitrary discipline—without paying any fee associated with negotiating on these matters.

Wisconsin enacted a right-to-work law in March. In Missouri, Gov. Jay Nixon (D) has [signaled](#) that he will veto the similar legislation that the Republican-led legislature enacted yesterday. Other states—such as [Illinois](#), [Kentucky](#), and [New Mexico](#), are considering statewide right-to-work measures as well. Moreover, in states where this legislation has failed, cities and counties are enacting their own right-to-work ordinances. These local measures have become known as right-to-work zones, or empowerment zones. Warren County, Kentucky, became the first local government in the United States to adopt a county [right-to-work ordinance](#) in December 2014. Since its passage, [12 other counties](#) in the state have followed suit.

[Illinois](#) and [Delaware](#) have recently considered proposals that enable local voters to enact their own right-to-work ordinances. For example, legislation to enact Illinois Republican Gov. Bruce Rauner's empowerment zone [proposal](#) is expected to be introduced as [early as this week](#), and the city of Charleston, Illinois, already has embraced this idea through its own resolution. The Charleston City [resolution](#) will allow voters to decide whether to implement a right-to-work ordinance in the area, as well as whether to eliminate the city's obligation to pay fair wages under the Illinois Prevailing Wage Act.

The effects on workers and the economy

Numerous studies show that right-to-work laws are harmful to workers and local economies. Proponents [argue](#) that these laws create jobs and grow the economy based on the incorrect

assumption that high union density hurts the economy. But research has [discredited](#) these arguments and shown that these laws disadvantage all workers, regardless of union status.

It's true that right-to-work laws reduce state-level union membership levels. Academic studies show that right-to-work laws decrease unionization by [up to 9.6 percentage points](#). In the first year after Michigan passed its 2012 right-to-work law, for example, union membership fell by [48,000](#) workers, according to data from the [Bureau of Labor Statistics](#). And a study of the potential effects of right-to-work zones in Illinois estimates a statewide loss of [200,000](#) union members over time.

But declining union membership harms union and nonunion workers alike. According to research from the Economic Policy Institute, wages in right-to-work states are [3.1 percent](#) lower—or about \$1,560 less per year—than those in states without right-to-work laws. The rate of employer-sponsored health insurance is 2.6 percentage points lower in right-to-work states, [and](#) the rate of employer-sponsored pensions is 4.8 percentage points lower. Additionally, workplace safety has become a growing concern for workers in right-to-work states. For instance, worker fatalities in construction are [34 percent higher](#) in right-to-work states than in non-right-to-work states.

Proponents of right-to-work laws claim that these provisions help drive job creation, but research does not bear this out. [Researchers](#) found that Oklahoma's 2001 right-to-work law had “no significant positive impact whatsoever on employment.” In fact, both the number of companies relocating to Oklahoma and the total number of manufacturing jobs in the state fell by about a [one-third](#) since it adopted the law.

Furthermore, research shows that strong unions are essential for a strong middle class. Over the past 30 years, incomes for middle-class Americans have fallen in tandem with the rate of union membership. An [analysis](#) by the Center for American Progress Action Fund shows a strong correlation between the decline in national union membership and the declining share of total national income going to the middle class.

Indeed, some states are using the powers granted to them under existing federal laws to take steps to allow a collective voice for workers who are traditionally barred from union membership,

thereby helping raise wages for working families. California [enacted](#) legislation in 2014 that eases the path to unionization for car wash workers—an industry with rampant wage theft violations. [California](#) and a [handful of other states](#) also have extended collective bargaining rights to agricultural workers. And about [half of the states](#) have comprehensive collective bargaining laws that cover state and local public employees.

Legality of right-to-work zones

Although policymakers in Kentucky and Illinois have embraced local right-to-work zones, the ordinances face [serious legal scrutiny](#)—with their validity hinging on the legal definition of the word “state.” The NLRA was amended in 1947 to allow states to enact right-to-work laws.

[Proponents](#) of the local ordinances argue that the word “state” also includes local governments, but worker advocates, legal experts, the [Illinois attorney general](#), and the [National Labor Relations Board](#)—the independent body governing labor law in the United States—all disagree.

In an interview with the Center for American Progress Action Fund, Charlotte Garden—associate professor of law and the litigation director for the Korematsu Center for Law & Equality at Seattle University School of Law—provided legal analysis, noting that “elsewhere in the National Labor Relations Act, the law references ‘*any State or political subdivision thereof*.’ This suggests that Congress was aware of the difference between a state and its political subdivisions, and that Congress said so when it meant to include both state and local governments.”

Whether local right-to-work zones emerge as a cross-country trend depends, in part, on a case before a federal court on the legality of one Kentucky county’s law. Nine unions have [filed](#) a motion for summary judgment to invalidate Hardin County, Kentucky’s, local right-to-work ordinance, and the National Labor Relations Board has filed a brief in support of the unions’ lawsuit. The [board holds](#) to the common-sense position that “state” includes only actual states and not county governments. This is not the first time that the courts have weighed in on the legality of local right-to-work ordinances in Kentucky. The state’s highest court [struck down](#) a 1965 Shelbyville right-to-work ordinance on similar grounds. Likewise, Illinois Attorney General Lisa Madigan [denounced](#) Gov. Rauner’s right-to-work zone proposal on the same grounds.

Conclusion

American labor law is supposed to ensure that workers can join together in unions, but state and local governments are increasingly enacting policies that function to degrade these rights. Right-to-work laws reduce wages, undermine unions, and weaken bargaining power at a time when wage increases could bolster our middle class and strengthen local economies.

The American federalist system gives states and localities a significant amount of power and flexibility in governing—but without muscular standards at the federal level, union membership rates fall, leaving far too many American workers to fend for themselves. This harms all middle-class Americans and the economy as a whole. If policymakers are serious about raising wages and revitalizing their economies, they need to pursue policies that empower workers and increase unionization rates.

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