

# Right-to-work: What it could mean for West Virginia

By **BRANDON ROBERTS** Jan 24, 2016 Comments

**HUNTINGTON** - West Virginia workers currently can choose whether to join a labor union at their workplace, and will continue to have that freedom if right-to-work legislation becomes law in the Mountain State.

But if the legislation, Senate Bill 1, is enacted, workers covered by labor agreements will no longer be required to pay any dues or fees to the unions that represent them as a condition of employment.

Opponents of SB 1, which has been dubbed the West Virginia Workplace Freedom Act and has already been passed by the Senate, say the legislation is intended to weaken unions and will result in lower wages, reduced benefits and more unsafe workplaces.

Supporters say right-to-work should be implemented as one factor that could spark much-needed economic growth in West Virginia, which ranks near or at the bottom in most job-related categories. They call the right-to-work law a commitment to giving workers freedom over their wages and making the state more appealing to manufacturers.

Currently, West Virginia abides by the Taft-Hartley Act from 1947, which ended the "closed shop" agreement that made being a member of a union a precondition of employment.

Taft-Hartley allowed states to operate, as West Virginia does, as a "union shop," under which an employer can agree to either only hire labor union members or to require that any new employees who are not already union members become members within a certain amount of time.

Right-to-work states operate using an "open shop" agreement that allows unions to be established if chosen by a majority of the employees. The union may act as a representative of all employees in making agreements with the employer, but union membership is not a condition of employment.

Opponents of the West Virginia's Workplace Freedom Act argue the legislation would make West Virginia a "free rider" state, which means employees pay no union dues or agency shop fees, but benefit from union representation. If workers opt not to pay union dues or fees, unions will have fewer resources to carry out their collective bargaining duties, opponents say.

Supporters of right-to-work laws counter that argument by citing the National Labor Relations Act, which established the "open shop" agreement that does not mandate unions exclusively represent all employees, but permit them to electively do so. Under the act, unions can negotiate "members only" contracts that only cover dues-paying members. Two U.S. Supreme Court Cases - Consolidated Edison Co. vs. NLRB and Retail Clerks v. Dry Lion Goods - uphold the right for unions to negotiate "members only" contracts.

According to the AFL-CIO, West Virginia has about 70,000 active union members, which represents about 9 percent of the state's total workforce

### **Debating the economics**

There are currently 25 right-to-work states.

According to the Bureau of Labor Statistics, right-to-work states overall added nearly 1 million more jobs than states without right-to-work laws between 2010 and 2014. During that same time frame, manufacturing jobs in right-to-work states grew by almost 10 percent, more than doubling the growth seen in states with no right-to-work laws. West Virginia lost more than 1,000 manufacturing jobs in that four-year period.

Both opponents and proponents of right-to-work laws cite various studies and reports whose conclusions vary to support their respective cases.

The AFL-CIO cited a study by the Economic Policy Institute that showed workers in right-to-work states make an average of 3.2 percent less in pay than similar workers in non right-to-work states.

"Through cutting wages, right to work may undermine West Virginia's small businesses, which depend on the state's residents having wages to spend," according to the study.

However, Steve Roberts, president of the West Virginia Chamber of Commerce, says other factors should be considered when comparing wages.

"Compulsory dues states like New York and California tend to have higher costs of living and higher tax rates than right-to-work states like Tennessee and South Carolina," Roberts said. "If you factor in the cost of living and taxes, right-to-work status does not result in wage differentials.

"But most importantly, West Virginia, which is historically one of the most unionized states in the nation, is 49th in per capita income."

The AFL-CIO counters that right-to-work states have an average poverty rate of 14.8 percent compared with 13.1 percent in free-bargaining states. The AFL-CIO also says right-to-work states have worse health benefits and higher workplace fatalities than free-bargaining states.

Opponents of the Workplace Freedom Act often point to Oklahoma to advance their argument, a state that passed right-to-work legislation in 2001. On its website, the AFL-CIO cited the Economic Policy Institute study that shows Oklahoma's manufacturing sector fell from 177,000 to 123,000 jobs in the nine years after establishing right-to-work laws and the legislation had "no positive impact on creating more jobs or attracting new out-of-state firms."

Shane Dillon, business manager of the Laborers Local 543 in Huntington, said right-to-work

laws offer no added benefits to working West Virginians.

"It's a catchy phrase, who doesn't want the right to work," he said. "But, right-to-work legislation doesn't give you any more the right to work than you already have. It is a union-busting tactic. It doesn't spur economic growth or draw industry to the area. What it does is lower pay and benefits for workers, weaken unions and takes power away from working people."

Backers of SB 1 argue that there could well be a plus side if right to work brings more jobs to the state.

Roberts cited an economic study by the National Economic Research Associates that shows states with right-to-work laws see improved economic performance.

Senate Majority Leader Mitch Carmichael, R-Jackson, told the Associated Press the state has nothing to lose by trying something different.

"We're the only state in the nation to have lost population," he said. "If this bill providing workers the freedom to join a union or not join a union, if it gives one person a job, it's worth doing."

### **The governor's position**

Chris Stadelman, director of communications in the office of Gov. Earl Ray Tomblin, said right to work has been discussed for a number of years, although Tomblin has never had a company cite it as a significant issue when considering whether to invest in West Virginia.

"The state continues to see new and expanding businesses locate here," he said. "Gov. Tomblin does not believe West Virginia needs a right-to-work law."

If the bill passes the House, too, Tomblin likely won't be able to stop it from becoming law.

The West Virginia Supreme Court of Appeals ruled Friday that Tomblin must appoint a Republican to a vacancy in the Senate, meaning the GOP will maintain an 18-16 majority. That margin is enough to override a veto by the governor. Republicans have a 64-36 advantage in the House of Delegates.

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