Michigan’s Right to Work Law and the effects of Employees Wages, Hours, Working Conditions, and the Economy

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Right to Work (RTW) laws are promoted as pro-worker choice legislation, but tend to create an atmosphere of reducing union power and influence on several levels. RTW laws need to be overturned to assure the safety and financial security of working people paired with restoring a level playing field for labor and management. The primary design of the law is framed to give workers an option to be represented by a union or not. This choice does not absolve unions from representing the employee even though they are not required to participate financially. The collective bargaining process, discipline representation, and lobbying for labor friendly laws are all expensive ventures. Eliminating the dues payment requirement affects unions significantly because they cannot affectively represent its members to obtain fair wages, hours, and working conditions. The implementation of RTW has caused the rapid decline of union membership as well as decreased worker safety, wages and hours worked. The implementation of RTW in Michigan will create conditions favoring management, which causes labor leaders to feel Michigan will follow in the same direction as other RTW states. If history is any indicator, Michigan will have increases in work place injuries and deaths paired with lower compensation and benefits.

The labor movement in the United States was derived out of necessity to protect workers’ interests. Labor efforts helped stop child labor, provided health benefits, assured injured workers were taken care of and provided retirement security. Since the industrial revolution, labor and management have struggled to find common ground to effectively provide safe working environments, good wages, hours and working conditions while still allowing the organizations to be profitable. This power struggle grew and in the beginning of the 1830’s a workingmen’s party formed a group for advocating for workers rights, which was an effort continued through the 19th century (History n.d.). In 1881, the Federation of Organized Trades and Labor Unions created a labor’s lobbying arm in Washington, which was designed to help derive laws promoting employee wages, hours, and working conditions, along with worker health and safety (History n.d.). The inception of collective bargaining began after the Great Depression with the momentum from the New Deal, which created an opportunity for collective bargaining legislation (History n.d.). After World War II, between 1945 and 1970, the collective bargaining process was working well and wages tripled in the manufacturing sector along with contractual protections increasing safety. (History n.d.).

Unions represent a wide variety of occupations in the public and private sectors. Occupations with dangerous working conditions have higher rates of unionization. Public sector unionization rates are much more prevalent compared to the private sector. Public sector union membership accounts for 35.2 percent of the public workforce (7.2 million workers), which is more than five times higher than in their private sector counterparts (United States Department of Labor Bureau of Labor Statistics, 2015). Local government occupations, such as teachers, police officers, and firefighters have the highest rates of public sector union membership (41.3%) (United States Department of Labor Bureau of Labor Statistics, 2015).

The private sector has been hit the hardest accounting for only 6.6 percent (7.6 million workers) of the workforce, which is a staggering decline from the 1950’s membership high of 35 percent (Liu, 2013). This level of union participation is at its lowest point since the Great Depression. In the private sector, industries with the highest unionization rates include utilities (21.4 percent), transportation and warehousing (18.9 percent), educational services (13.7 percent), telecommunications (13.3 percent), and construction (13.2 percent) (United States Department of Labor Bureau of Labor Statistics, 2015).

The demographics for union members slightly favor men (36.3%) compared to women (35.5%) (United States Department of Labor Bureau of Labor Statistics, 2015). Union rates by ethnicity shows African American workers are more likely to be unionized than Caucasian, Asian, or Hispanic workers; 14.4 percent of African American workers are unionized compared to 12 percent of Caucasians, 10.9 percent of Asians, and 10.6 percent of Hispanic workers.

The collective bargaining process is based on negotiations between the organization and a union. The purpose of collective bargaining is for unions and management to come to an agreement, a called contract or Collective Bargaining Agreement (CBA). CBAs are designed to create appropriate wages, hours and working conditions favorable to both labor and management. Negotiations are a cyclical process and new contracts are negotiated after the CBA expires. Contracts spell out in detail about wages, discipline, promotions, and the process used to resolve issues when there is an impasse.

Unions need to have members to survive, so in an effort to maintain or increase membership, unions created the union shop model. A union shop model requires workers “to join the union within a certain time period of joining the organization”, which creates security for its members (Dias, 2011, p. 350).

In 1947, the Taft-Hartley Act gave states an option to create Right-to-Work legislation (National Right to Work Legal Defense Fund. 2016). In some states the union only shops are illegal, whereas employees are not required to be union members to maintain full-time employment. These states, which have outlawed membership requirements, are called RTW states. RTW laws prohibit any requirement to pay dues, fees, or join a union. This has caused some organizations to skirt the law by establishing agency shops, which are similar to union shops whereas employees are not required to join, but still have to pay dues. Agency shops are illegal in many RTW states. Closed shops were a method for assuring consistent work through the requirement of membership. The RTW law decreases union membership causing the average workers to earn $5,333 less than workers from non-RTW states (Dais, 2011). From the early 1970’s, the union’s political power began to weaken. In 1980, during Ronald Reagan’s presidency, a new anti-union movement was created and by 1985, union membership declined by 25 percent (History n.d.). 1983 was the first year comparable union data was tracked and the union membership rate was at 20.1 percent with a total of 17.7 million workers being represented by unions, but this rate continues to slowly decline (United States Department of Labor Bureau of Labor Statistics, 2015). Since 1985, Idaho (1985), Oklahoma (2001), Indiana (2012), Michigan (2012), and West Virginia (2016) have created legislation to become RTW.

Prior to RTW laws, employees had the option to decline full union membership, but still had an obligation to pay part of the union dues. The part of the dues paid by people declining full membership cannot have any money earmarked for political functions or other non-bargaining activities (Blum, 2013). When RTW laws are implemented only members who sign a dues check-off authorization card shall continue to have dues deducted from their pay. This law will only take effect after a contract has expired, therefore people wishing to stop paying union dues will have to wait until the expiration of the contract.

There are ways to insure the employer continues to deduct union dues after passage of RTW laws. In Michigan employees who signed a valid dues check-off authorization, which is common in RTW states, will continue to have the union representation dues deducted from their paycheck. The Michigan Employment Relations Commission (MERC) will likely view the check-off authorization as a separate agreement, which inhibits employers, or the any provisions to the RTW law, to inhibit dues collection. If the employee’s have signed the dues check off authorization and the employer has agreed to the check-off authorization “in the collective bargaining agreement, the employer may have a contractual obligation to continue to remit monthly dues to the union” (Blum, 2013, para 5). This process is not a common practice in non-union states, but the addition of this language into contracts would allow union dues deductions even after the implementation of RTW. This provision does not inhibit workers to rescinding their right to stop paying dues at anytime. The revoking of union dues payment only requires a process to be in accordance with the language on the authorization form and any applicable laws effecting the contractual agreement.

At the inception of the labor movement, the design was not politically motivated. In the beginning the labor movement was a non-partisan program focusing on policy not politics. This non-partisan approach did not last long and “as far back as the Progressive Era, organized labor” was drifting toward the Democratic Party (History, n.d, para 9). This drifting was due to the Democratic Party being much more accepting of cultural diversity, and with the influx of immigrants in the labor market, it seemed to be a natural progression to associate with the party who supported ethnocultural union members. Roosevelt’s New Deal in 1936 assured that the Democratic Party could count on labor unions for campaign resources (History, n.d). After Roosevelt’s New Deal, Democrats relied on the votes and financial support of the labor organizations for the party’s success.

In November of 2012, Michigan’s labor community lost a big battle when it attempted to get collective bargaining rights placed into the State of Michigan’s constitution. Lawmakers in Michigan took the opportunity, after the failed constitutional amendment attempt, to frame an argument for Right to Work (RTW). The argument was presented that the people of Michigan want to have RTW, because the labor unions constitutional amendment failed. Lawmakers quickly prepared a bill to fast track RTW. Governor Rick Snyder, who initially stated RTW was not on his agenda, now wanted to have a thoughtful discussion after he felt unions tried to back door legislation (Right to Work in Michigan, 2012). Republicans had complete control of the Michigan House of Representatives, Senate, and Governor and were being told by different conservative groups that not having RTW laws was causing businesses to avoid coming to Michigan. Two companies moved operations to Indiana (Toyota and Amazon) after the passage of its RTW law. Indiana’s success with RTW gave Michigan’s Republican leadership more evidence of the laws importance to remain competitive and argued not implementing RTW would be detrimental to Michigan’s economy (Right to work in Michigan, 2012). December 11, 2012, Governor Rick Snyder signed RTW into law making Michigan the 24th state to implement RTW.

Michigan’s RTW law prohibits requiring employees to join or support a labor organization, engage in, or refrain from, collective bargaining activities, to pay dues, assessments, or any other thing of value to a labor organization (Right to Work in Michigan, 2012). The law also makes it illegal to require any payments to third parties by its members. The RTW law covers all public sector employees including ones employed by the State and public school systems. Police officers and Firefighters were exempt from this legislation due to the “unique nature of their jobs” (Blum, 2013, para. 3). When the legislation passed, there were disagreements about the legality of how the State applied the RTW law for state employees. There were also legal opinions that the law was not valid, because it wasn’t constitutional in its application to state workers.

Michigan’s union membership has been on the decline since 1980. The implementation of the Right to Work laws has significantly accelerated the decline of union membership. The Bureau of Labor Statistics states, “ the percentage of unionized workers nationwide fell from 11.3 percent in 2013 to 11.1 percent in 2014” (Shepardson, 2015, para. 6). In Michigan the RTW law has caused a more significant decline in union membership from 16.3 percent to 14.5 percent, which was a decrease of 48,000 members even though the workforce grew by 44,000 workers in same time period (Shepardson, 2015). Union members do not have an option to withdraw from the union until after their contract expires, so these numbers are expected to continue to decline, which will be directly attributed to the new RTW law. RTW has already caused Michigan to drop to the 11th most unionized state from being the seventh.

“Roland Zullo, an assistant research scientist at the University of Michigan Institute of Labor and Industrial Relations, said the impact of right-to-work legislation is to weaken unions” (Shepardson, 2015, para. 7). Union membership declines creates reduced workers’ wages plus fewer benefits and changes in worker safety.

The real crux to RTW law is if employees decide to not participate in the union it does not change the terms or conditions of their employment. The “union will still be legally obligated to represent” the employee irrespective of their membership status and or payment of dues (Blum, 2013, para.6). While non-members do not pay for any of the benefits derived from the union’s efforts they still receive all the fruits of the collective bargaining process (wages, hours, and working conditions). This desertion from the union has no legal recourse and any retaliation or discrimination against the non-member is unlawful. It is considered an Unfair Labor Practice (ULP) if unions fail to fully represent members and non-members equally (Blum, 2013). The process has been nicknamed “freedom to freeload” because you receive all the union benefits without being obligated to pay for them.

Increases in work place injuries are associated with non-union groups and RTW cause union membership to decline, so we can anticipate increases in workplace injuries in Michigan. A Stanford Law School professor, Alison Morantz, did a study comparing union and non-union coal mining groups. Her study focused on safety records from 1993-2010 from the Mine Safety and Health Administration (Raza, 2014). The study found a correlation between unionization and decreases of fatalities and traumatic injuries when compared to non-union operations. The article cited non-union miners had up to 30 percent more traumatic injuries paired with 83 percent more fatalities (Raza, 2014). The study also showed a higher volume of reported injuries in union mining operation, but this is due to stringent injury reporting requirements of union shops (Raza, 2014). A study in the American Journal of Public Health came to the conclusion that “higher rates of fatal occupation injury were associated with state policy climate favoring business over labor, with distinct regional clustering of such state policies in the South and Northeast” (Loomis, Schulman, Bailer, Stainback, Wheeler, Richardson, & Marshall, 2009, para. 8). The study looked at the overall effect of other variables, but concluded the most significant factor predicting higher worker injuries and fatalities were from anti-worker laws like RTW.

Supporters for RTW based their arguments on American workers should have the right to work for a living without being compelled to belong to a union. They explain employment-requiring unionization, called a closed shop or an agency, is a complete contradiction of RTW principles (National Right to Work Legal Defense Fund, 2016). The supporters of RTW believe it is unfair for people who do not support collective bargaining ideology to have to financially support union activities. The concept of RTW is based on every individual having the right to unionization, but should not be required to join a union. Some workers are against unions, because labor groups typically support Democratic candidates who may support laws such as affirmative action, prochoice, and increasing gun safety laws, which prospective union members are opposed to and do not want to support financially. RTW laws guarantee no one will be required, as a condition of employment, to join a union. Another issue advocates of RTW are concerned with is employees being unable to bargain for themselves due to “the special coercive privilege given by federal law” (National Right to Work Legal Defense Fund, 2016, para. 9). This privilege empowers union officials the power to represent all employees in the bargaining unit. The National Right to Work Committee bases its position from what appears to have no evidence or based on any independent studies. They also claims RTW states have higher standards of living, have greater after-tax incomes creating more purchasing power than in non- right-to-work states (National Right to Work Legal Defense Fund, 2016). RTW proponents claim official Department of Labor statistics show RTW states have more economic vitality and have faster growth in manufacturing. They also claim the evidence supports the position that RTW states have lower unemployment rates and fewer work stoppages.

RTW advocates are concerned that advances in compulsory unionism because they claim it is responsible for a tax and spend ideology in the United States Congress. They also believe the coercive powers of union officials who are able to use the 4.5 billion in annual dues collection, which creates a mechanism to funnel unreported campaign funds to elect and control members of congress (National Right to Work Legal Defense Fund, 2016). They also feel this process becomes cyclical when their party controls majorities in the legislature whereas they create legislation positively effecting unions and harming businesses.

Unionization has reached a 97-year low and the declining union membership appears to have a snowball effect causing reductions in union membership over time (Liu, 2013). The reasoning for declines in union membership is hypothesized to be from people who do not feel unionism affects them. This dissociation from union membership is believed to be from people who lack familiarization with unions. Not knowing the unionization process creates a disconnect for prospective members and they do not realize how importance unionization is on wages, hours, and working conditions for both union and non-union members (Liu, 2013).

The average worker does not believe unionization is their problem, because they do not see the benefits of being in a union. This ambivalence towards unions is wrong in two critical ways. The first critical error is people do not realize when unions prosper the economy is more successful. Unionization drives raising wages causing increases in overall workers purchasing power, which helps to drive the economy (Liu, 2013). This purchasing power spurs economic growth triggering the need for hiring more workers to support the new economic demands. The second critical error is non-union members do not realize when union wages increase it causes overall wage to rise. Irrespective of union membership, the overall increase of union wages is proven to have a direct relation to high prevailing wage in the area where the union is located (Liu, 2013).

Michigan’s RTW law has already caused accelerated decreases in union membership, which is expected to continue over the next few years. Even though the law is framed to give workers the choice to join a union, it appears this is just giving lip service and avoiding the true reason for the law, which is designed to decrease the unions’ power. Evidence shows RTW laws cause decreases in union and non-union employees’ salaries paired with decreasing benefits and workplace safety. The law is not fair because it requires unions to represent workers who are not financially supporting the process, which causes a weakening of the union’s ability to negotiate effectively. For the aforementioned reasons these RTW laws need to be overturned and restore power to unions to create an even playing field between labor and management.

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