

STUDY COMMITTEE ENDORSES “RIGHT TO WORK”

The 2011 Interim Study Committee on Employment Issues met for the fourth and final time on October 26, 2011. It issued its final [report](#), which recommended that the legislature consider right-to-work (RTW) legislation.

The Committee gave five reasons for its recommendation. Four of the five reasons assert, in one form or another, that a RTW law would attract businesses to Indiana. The Committee stated that businesses often “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.” However, the Committee did not identify any specific employers that chose not to locate in Indiana because of RTW.

RTW laws clearly limit the financial resources available to a union and therefore the ability of the union to negotiate higher wages and benefits for workers in its bargaining unit – an effective way to limit the “higher costs” found in non-RTW states.

But at the Study Committee’s public hearings, many people testified that trying to attract businesses to Indiana on the basis of lower wages and benefits is a poor idea. Workers who are poorly paid buy less from local businesses and pay less in local taxes. Local economic growth and job creation are negatively affected, and local governments have less ability to improve infrastructure, job training, education, and the quality of life – all important considerations in the site location decision.

As the Higgins Labor Studies Program [report](#) pointed out, trying to attract businesses to a state based on low wages is the “low road” to economic development. It is a “trickle-down” approach that leads to a “race to the bottom.” It undermines living standards for most workers and, in a globalized environment, is unlikely to lead to a long-lasting increase in economic growth.

Most people would agree that lowering wages and benefits for Indiana workers is not the best way to promote economic development in Indiana. RTW advocates seem to recognize this and go to great lengths to deny that RTW laws lower wages and benefits. In a section in its report titled, “Testimony Supporting RTW,” the Committee states that “RTW states have . . . higher wages when adjusted for cost of living . . . than non-RTW states.” But this line of argument is hard to sustain. In the very next sentence in its report, the Committee states that “RTW lowers the cost of doing business and makes labor costs more affordable.” Now how is it possible for RTW states to have higher wages when RTW “makes labor costs more affordable”?

The truth of the matter is that RTW laws do lower wages and benefits – for all workers in RTW states. In a thoroughly documented and well-researched [study](#) (which, by the way, adjusts for the cost of living), economists Elise Gould and Heidi Shierholz demonstrate that workers in RTW states make \$1,500 less in wages annually compared to workers in non-RTW states.

One other point about the Study Committee Report should be noted. In its section on testimony supporting RTW, the Committee repeats, without comment, the following statement: “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.”

This statement, however, represents a misunderstanding of the relevant legal principles under the National Labor Relations Act. Section 9(a) of the NLRA provides that any unions selected or designated for purposes of collective bargaining “shall be the exclusive representatives of *all* the employees in such unit. . .” [emphasis added]. Moreover, the U.S. Supreme Court has held that a union owes a duty of fair representation to all employees in the bargaining unit (union members and non-members alike), and it is because of that duty that the Court has sanctioned the imposition of fees “to the extent necessary to ensure that those who enjoy union-negotiated benefits contribute to their cost.” *Communications Workers of America v. Beck*, 487 U.S. 735 (1988). In addition, if a union has not been designated as the exclusive representative of all employees in the bargaining unit, then the employer is under no statutory obligation to collectively bargain with the union.

It might also be useful to point out another misleading statement about unions in the Committee report. Its first “finding of fact” states the following: “Based on the principles of freedom of speech and association, individuals should be able to choose whether or not to associate with unions.” There is no requirement under current labor law for any worker to join a union. The “fair share” clauses that RTW laws would ban do not require workers to become members of a union; they only require workers who benefit from the results of a collective bargaining agreement to contribute to the costs of negotiating and administering that agreement. The Supreme Court established this principle in *NLRB v. General Motors Corp.*, 373 U.S. 734 (1963) and further defined it in *Communications Workers of America v. Beck*, 487 U.S. 735 (1988).