



"Fair Share" is Anything but Fair

By Jonathan J. Miltimore

Today, Iowa is one of 22 states to operate under a “right-to-work” provision. Section 731.2 of the Iowa Code states, “It shall be unlawful for any person, firm, association or corporation to refuse or deny employment to any person because of membership in, or affiliation with...a labor union...or because of refusal to join or affiliate with a labor union”.¹ The implication of this right-to-work provision is simple: Iowa workers cannot be denied employment or fired from their jobs because they choose not to be a member of, or affiliate with, a labor union.

In 1947 Congress overwhelmingly passed — over the veto of President Truman — the Taft-Hartley Act. Taft-Hartley placed restrictions on the legal, political, and procedural mechanisms unions were allowed to employ in strikes and negotiations, and banned “closed shops” — shops that required union membership as a precondition to employment.

The latter condition was a hollow stipulation, however, in that it permitted the continuation of “union shops” — de facto closed shops that require union membership upon a given interval of employment, usually 30 days. However, in a stroke of federalism that would have made James Madison proud, Taft-Hartley allowed states the opportunity to opt out of compulsory unionization by passing what came to be known as “right-to-work laws.”

In 1947, Iowa became one of the first states to pass a right-to-work law. States with right-to-work provisions, quite simply, allow workers to decide for themselves if joining a union is in their interest; they are not forced to join a union as a condition of their employment. Since 1947, 21 other states have passed right-to-work laws; not a single one of these states has repealed the legislation. Yet Iowa Democrats, flush with confidence following their recent electoral successes, are preparing to do just that (although they mentioned not a word of this prior to November elections).

Democrats intend to circumvent Iowa’s right-to-work law by passing so called “fair share” legislation. The bill (SSB1120) would penalize those who fail “to pay membership dues and charges or fair share fees of an employee organization [union]” by forcing employers to “deduct once each month from the wages or salaries of nonmembers of the certified employee organization the amount of the fair share fee and transmit the amount deducted to the certified employee organization within fourteen days of the deduction.”²

“Fair share” legislation, advocates insist, would simply require non-union members to pay normal dues for the union benefits they receive — namely, collectively bargained wages and benefits. The oft repeated mantra of union advocates runs something like this: “Hey, I believe people have a right to choose, but nobody should get a ‘free ride.’”

In reality, the bill would force workers to pay membership dues to an organization they are not affiliated with to account for negotiated (alleged) benefits they did not want or seek. The “free ride” argument becomes even more absurd when one considers that unions are under no legal obligation to negotiate contracts on behalf of nonmembers.

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REPEAT: If a labor contract applies equally to union and non-union workers it is not because the union has benevolently chosen to placate the wishes of nonmembers or because the union is required to do so, **but because the union chooses exclusive representation of all workers.** Supreme Court case law is clear on this point and former National Labor Relations Board Chairman William Gould, appointed by President Clinton, has stated unequivocally that federal law “permits ‘members-only’ bargaining without regard to majority rule or an appropriate unit and without regard to exclusivity.”³

Unions are not compelled to represent nonmembers; they choose to and do not give nonmembers the option of refusal. This is not a “free ride;” it is a forced ride. Unions covet exclusive membership. It grants them unilateral and unmitigated power over worker compensation and labor guidelines, applied in a universal and autocratic fashion. The Supreme Court has noted that if left free to negotiate contracts on their own, individuals may or may not achieve “better terms than those obtainable by the group,” yet unions are within their right to deny workers the right to do so, “as collective bargaining looks with suspicion on such individual advantages.”⁴

Passing “fair share” would benefit the local union brass, yet such action could have severe consequences for Iowa. In a recent *Wall Street Journal* article economist Leo Troy pointed out that “right-to-work laws are strongly correlated with faster growth in jobs and personal income.”⁵

The market is already reacting to the potential legislation. L&L Builders, one of the regions largest manufacturers, recently announced it won’t be building its new complex in Iowa. L&L President Bruce Lewis was blunt in listing the reasons for this: “I don’t think our partners want to invest money here when there is no confidence that there will be a right-to-work law at the end of this year . . . or ten years from now.” The Professional Developers of Iowa in only 12 hours, “were able to identify six projects in five communities that were placed on hold — jeopardizing over 600 jobs and \$110 million in capital investment for our state.”⁶

Iowa’s tax climate is anything but accommodating to business. Property taxes fall disproportionately on commercial property and Iowa’s corporate tax is the highest in the nation. The state’s right-to-work law is one of the few remaining attributes economic developers can trumpet to businesses considering Iowa as a location.

Gutting Iowa’s sixty year old right-to-work law and forcing nonmembers to finance a labor machine individual workers want no part of is not only immoral, it would be disastrous. If politicians want to chase away prospective business investment and drive out what remains of Iowa’s manufacturing base to appease union officials, they could not have fashioned better legislation than “fair share.”

(Endnotes)

¹ Iowa Code, 731.2. <<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=IowaCode>> (February 28, 2007).

² Iowa Bill, Senate File 1120, Labor and Business Relations Committee.

³ William Gould, *Agenda for Reform: The Future of Employment Relationship and the Law*, MIT Press, Cambridge, Mass., 1993, p. 164.

⁴ J. I. CASE CO. v. N.L.R.B., 321 U.S. 332 (1944); “Union ‘Representation’ Is Foisted On Workers — Not Vice-Versa,” *NATIONAL INSTITUTE FOR LABOR RELATIONS RESEARCH*, February 2004, <<http://www.nlrr.org/Members%20Only%20Update%20February%202004.pdf>> (February 27, 2007).

⁵ “Iowa Emigration Act,” *Wall Street Journal*, January 30, 2007, PA16.

⁶ Dave Dreeszen, “Building Firm May Leave Iowa,” *Sioux City Journal*, February 13, 2007; Bill McKim, “Fair Share Already Hurting Iowa,” *The Mount Pleasant News*, February 28, 2007.

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