



MAINE AFL-CIO

A Union of Unions Standing for Maine Workers

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**Testimony of Maine AFL-CIO Executive Director, Matt Schlobohm, in Opposition to L.D. 1707
"An Act to Allow Workers to Work Without Having to Pay Labor Organization Service Fees"
and LD 1636 "An Act to Ensure the Right to Work Without Payment of Dues or Fees to a Labor
Union"**

Senator Tipping, Representative Roeder and members of Labor & Housing Committee, my name is Matt Schlobohm. I'm the Executive Director of the Maine AFL-CIO. We represent 40,000 working people in the state of Maine. We work to improve the lives and working conditions of our members and all working people. We testify in opposition to LD 1707 and LD 1636.

Right to work for less bills are designed to weaken and undermine the effectiveness of workers' organizations – unions. The impact of this policy change would be to dramatically undercut workers' ability to come together and bargain for a better life. The core mission of unions is to improve the lives of working people, whether black, brown or white. This bill undermines that ability. That is harmful for anyone who works for a living.

Measures like this would hurt Maine workers and our economy through lower wages. When you do rigorous research and factor in all of the variables, the average full-time worker in states with these kinds of laws earns \$1,558 less per year and are less likely to have health insurance or a pension.¹

Current law is a compromise under which no one is required to join a union, but unions are required to represent all workers in a bargaining unit, regardless of whether they are members or not. This requirement falls under the Duty of Fair Representation legal doctrine.

Legal Background & Context

Understanding the context of our current system of law defining labor relations and collective bargaining is essential to engaging in the debate about so called Right to Work laws.

Union membership is voluntary in Maine and every state in the country. For the last seven decades, no employee can be required to be a union member and any union member can resign his or her membership at any time for any reason.

Under federal and state law there is a *Duty of Fair Representation* that means unions are required to represent members and nonmembers equally without preference or discrimination in dealing with their employer.

¹ "Right to Work" States Still Have Lower Wages, Elise Gould and Will Kimball, Economic Policy Institute, April 22, 2015.; Gould and Shierholz, *The Wage Impact of "Right to Work,"* Economic Policy Institute, 2011.

A union operates under a legally enforceable “duty of fair representation,” that is the union must “fairly and equitably...represent all employees...union and nonunion.”² This means a union cannot discriminate or act arbitrarily toward *any* employee due to the nature of their relationship with the union. All employees are equally entitled to the union’s fair and vigorous representation. Moreover, everyone, regardless of their payment of union dues, is entitled to the fruits of the union’s bargaining – wages, benefits, pensions, just cause protection and all other rights and protections – and enjoy full access to the grievance and arbitration process. If a non-member is unfairly disciplined or has their contractual rights violated, the union must give them full representation. Unions can be sued for failing to do so.³

In the private sector, when the employees and employer mutually agree, non-members can be required to contribute to share in the costs of bargaining and contract enforcement only. Presently in Maine, in the private sector, unions and employers can agree to negotiate into a contract a “union security clause” which states that all workers – whether or not they choose to join the union – share in the costs of collective bargaining and representation. For non-members this sharing in the costs is limited to the costs of bargaining and contract enforcement activities and not for the union’s legislative, charitable or other community involvement.

Importantly, a private sector employer has no legal obligation to recognize or deal with a union that doesn’t represent a majority of its workers.⁴

A “Right to Work” law, like LD 1636 or LD 1707, makes it illegal for any group of employees to negotiate an agreement with their employer that requires everyone who benefits from a union contract to pay their share of the costs of administering that contract. These laws make it illegal to negotiate a security clause or a fair share agreement into a union contract.

In states with “Right to Work” laws, a non-member can pay nothing for the union’s representation even though the union is legally required to guarantee that non-member all of the wages, benefits and workplace protections that members enjoy.

Origins and Motivation behind “Right to Work” Laws

“Right to Work” for less laws originated in the South, pushed by white supremacist, discriminatory organizations that sought to weaken unions and preserve the Jim Crow South. They feared that if unions could unite black and white workers, they could undo the racially segregated political economy and political order of the South.⁵

The present-day motivation behind these laws is to drive down wages, to weaken unions and to undermine unions’ bargaining power and their ability to effectively operate. There’s a simple analogy that highlights this. If we passed laws that said that as a member of a town you can access all municipal services – police, fire protection, send your children to school, use the roads and have them

² *International Association of Machinists v. Street*, 367 US 740, 761 (1961)

³ 29 U.S.C. & 158(b)(2); *Steele v. Louisville & Nashville R.R. Co.*, 323 US 192, 204 (1944); *Bowman v. Tennessee Valley Authority*, 744 2d 1207, 1213-14 (6th Cir. 1984). This right to full and fair individual treatment by the union is legally enforceable in court and before the NLRB. *Vaca . v. Sipes*, 386 US 171 (1967); *Plumbers Local 32 v. NLRB*, 50 F. 3d 29, 31 – 32 (D.C. Cir), *cert. denied*, 516 U.S. 974 (1995).

⁴ 29 U.S.C. && 158(a)(5), (d), 159(a)

⁵ See *The Racist Roots of ‘Right to Work’ Laws*, Chris Kromm, Facing South, December 13, 2012.

<https://www.facingsouth.org/2012/12/the-racist-roots-of-right-to-work-laws> and *The Ugly Racial History of “Right to Work,”* Richard Kahlenberg and Moshe Marvit, Dissent, December 20, 2012, https://www.dissentmagazine.org/online_articles/the-ugly-racial-history-of-right-to-work

plowed, etc. – yet contribution of taxes is completely optional, we know what would happen to our towns. In some cases, they would struggle, they would be strained for resources and they would become less and less effective. That is the goal of these bills.

We are opposed to these provisions because they violate a basic fairness principle. Unions are required to represent everyone fully, fairly and equally. Everyone gains some benefit from the action of the whole. It is only logical and fair that everyone shares in the costs in some form.

This kind of Law Lowers Wages, Hurts our Economy and Undermines Workers' Economic Security

When you undermine workers' bargaining power, you undermine the economic security of all workers. By many measures, the quality of life is worse for all workers in states with so called "right to work" laws. After a regression analysis and accounting for all other things being equal, **you find that full time workers in states with these kinds of laws earn on average \$1558 dollars less per year.** These laws decrease the likelihood of getting employer sponsored health insurance by 3% and an employer sponsored pension by 5%.⁶ This is the most rigorous research done assessing these laws because it controls for 42 different factors in each state's economy.

It is not good policy to enact measures which will lower the wages, benefits and working conditions of Maine people. That is what this kind of law does.

Proponents of bills like these use a series of false arguments. One of the favorites is that so called Right to Work laws will assist with job growth and help attract businesses to our state. Rigorous analysis shows that "Right to Work" for less laws have no impact whatsoever on job growth.⁷ Even the chief proponents of these laws, the National Right to Work committee, have conceded as much, stating "We're not purporting to prove that right-to-work produces superior economic performance."⁸

As we know, companies locate in a state for many reasons, but this kind of law is not one of them. Factors like workforce productivity, access to childcare and housing, quality of life, access to markets and key materials, availability of skilled workers, a quality education system, transportation infrastructure and access to highways, proximities to research universities and other factors are the keys to economic success. It simply doesn't pass the straight face test that a business would make its decision about whether to come to Maine based on whether or not it was legally permissible to negotiate a union security clause in a private sector union contract.

In fact, *Area Development* Magazine – a completely non-political publication of the site location industry – conducts an annual survey of manufacturers, exactly the people you'd expect to be most influenced by the availability of cheap labor, that actually ask business decision-makers themselves what are the most important factors in their decision about where to locate. In all the years this survey has been published, so called Right to Work has never ranked anywhere in the top 10.⁹

For all these reasons we urge the committee to vote ought not to pass on LD 1636 and LD 1707.

⁶ "Right to Work" States Still Have Lower Wages, Elise Gould and Will Kimball, Economic Policy Institute, April 22, 2015.; Elise Gould and Heidi Shierholz, *The Wage Impact of "Right to Work,"* Economic Policy Institute, 2011.

⁷ *Does Right to Work Create Jobs? Answers from Oklahoma,* Lafer and Allegretto, Economic Policy Institute, 2011.

⁸ Stan Greer, quoted in Matthew DeFour, "Right-to-work would trim union clout, but broader economic impact unclear," *Wisconsin State Journal,* December 14, 2014.

⁹ 28th Annual Survey of Corporate Executives: Availability of Skilled Labor New Top Priority," *Area Development,* 2014, <http://www.areadevelopment.com/Corporate-Consultants-Survey-Results>