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THE FIGHT AGAINST RIGHT TO WORK

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ABSTRACT

Right to work laws are laws establishing that no employee can be forced to join a union as a condition of their employment. The name “right-to-work” is an intentionally misleading term by business advocates. Despite what its name suggests, it does not guarantee anyone a right to a job. RTW laws strip unions of their power by creating a free riding problem in which all employees receive the benefits from a union without paying any dues. There are 28 states with RTW laws enacted. These laws cause unionization rates to fall significantly. Decreased union power leads to a number of other issues including a higher concentration of jobs in low-wage occupations, increased number of discrimination charges, lower rates of employee sponsored health insurance, and an average annual wage that is \$1,500 lower than in N-RTW states. Even though these laws have been around since the 1940s, there is still a political fight over RTW laws. During the 2022 Midterm Election, Tennessee voters approved an amendment that codified their state's existing RTW law into the state constitution which will make it significantly harder for voters if they ever want to repeal this RTW. This policy memo recommends supporting the PRO Act which would repeal RTW legislation on the national level and return power to unions.

INTRODUCTION

Despite what its name might suggest, state Right-to-Work (RTW) does not give an individual the right to a job. RTW laws ban union security agreements, or agreements made between employers and labor unions that require non-union workers to contribute to the costs of union representation. A “Right-to-Work” state means it has enacted legislation that stipulates no individual can be forced to join or pay dues or fees to a labor union. RTW laws entitle all employees to the benefits of a union contract, including representing any grievances against employers, regardless of membership or contribution to union costs. This creates a “free-rider” problem in unionized firms and undermines the ability of unions to organize workers and their financing. Rather than conferring an individual's literal right to work, Right-to-Work laws dilute unions’ bargaining capabilities and collective strength, making it harder for worker’s organizations to financially support themselves.

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POLICY BACKGROUND

Anti-labor laws often come in response to demonstrations of labor power, and the formation of RTW laws is no different. The National Labor Relations Act, commonly known as the Wagner Act, was passed in 1935 as a part of Franklin D. Roosevelt's "Second New Deal". The Act legalized the right for workers to establish a union, engage in strikes, and collectively negotiate contracts to establish equal contract terms. It established that a workplace could be one of four types: a closed shop, a union shop, an agency shop, and an open shop (Baird, 1998). Closed and union shops dictated that employees must be a union member, immediately for a closed shop and in an agreed upon period for a union shop. Agency and open shops could hire union or non-union workers, with agency shops requiring non-unionized employees to pay fees to cover collective bargaining costs (Shermer, 2021).

Following the passage of the Wagner Act, the U.S. experienced a major boom in union membership, which led to several large strikes and other displays of union power (Bowen, 2011). These displays of power caused corporate interests to worry about the growing power of labor unions. Combining those fears with the public's fear of communism and socialism pushed lawmakers to create laws to weaken labor unions (Bowen, 2011). In 1947 Congress passed amendments to the Wagner Act known as the Labor Management Relations Act of 1947, or the Taft-Hartley Act. These amendments repealed many aspects of the act, outlawing closed shops, keeping earlier the same Collective Bargaining Agreement regardless of membership status. Section 14(b) of the Taft-Hartley Act permitted union and agency shops only when permitted by state law and when agreed to by a majority of workers. The states that outlawed these shops became known as RTW states.

While most states with RTW laws passed them following the Taft-Hartley amendments in the 40s and 50s, a wave of RTW legislation has spread over the past ten years, starting in Indiana in 2012. Wisconsin, Indiana, West Virginia, Kentucky, and Missouri all passed RTW laws in the 2010s (Ballotpedia, 2022). In the 2022 midterm elections, Tennessee voters approved an amendment that codified their state's existing RTW law into the state constitution. This did not change anything about Tennessee law but will make it significantly harder for voters if they ever want to repeal this RTW (O'Brien, 2022). Much of the modern push for RTW legislation, including in Tennessee, is motivated by Republican leaning Governors and legislatures who want to appear "pro-business." The current political fight is based in Michigan where the Democratic party is pushing to repeal the state's RTW law (Gardner, 2022). There is precedent for this, with Missouri having repealed their RTW law via statewide referendum in 2018.

CONSEQUENCES OF RTW LEGISLATION

RTW laws cause unionization rates to fall significantly, dropping by an average of 4% in the 5 years after a RTW law is passed (Page, 2022). This directly impacted sectors with previous high unionization the most. Construction, education, and public administration saw unionization drop by 13% and wages fall by 4% over a 5 year period (Page, 2022: n.p.). The unionization rates in RTW and non-RTW states were 6.5 and 13.9 percent respectively in 2018 (Combs, 2019: n.p.). Nevada and Michigan are the outliers for RTW states with high union rates at 13.9% and 14.5%, respectively (Combs, 2019: n.p.). Both states have a deep history of unionization.

Decreased union power leads to a number of other issues, including a higher concentration of jobs in low-wage occupations, increased number of discrimination charges, lower rates of employee sponsored health insurance, and an average annual wage that is \$1,500 lower than in non-RTW states (Gould, & Kimball, 2015). Figures 1 and 2 show comparisons between minimum wages and worker protection dimension scores (which is calculated based on a state's labor regulations) in RTW and N-RTW states. Both of these measurements are significantly lower in states with RTW laws.

Millions of Americans feel that the economy is not working for them. In 2021 only 24% of people polled by the Federal Reserve felt that the economy was working well, a number that has been steadily declining (Thompson, 2022). This feeling comes from the large disparity between the wealthiest and average Americans. From 1980 to 2017, average incomes for the bottom 90% of households increased by 1.1% compared to 184% for the wealthiest 1% (Saez, 2019). The highest earning Americans incomes have skyrocketed while the rest of the country tries to catch up. CEO pay has increased 1,322% from 1978 to 2021, as CEOs now make 351 times as much as the average worker (Mishel and Kandra, 2021). This level of inequality should not be the product of a functioning economy. Unions are critical for working people to have a say in their workplace and to increase wages of the hardest working Americans. Unions have proven to increase income for both union workers and the middle class as a whole (Glass, 2022). The government must take a role in protecting the right of all workers to join a union while also holding companies accountable for violating workers' rights and ability to bargain. It is the responsibility of the government to provide the framework for how the economy operates and keep it functioning correctly. These levels of inequality demonstrate the need for government intervention.

RECOMENDED POLICY SOLUTIONS

Because of the negative impacts RTW laws have on worker wages and protections, this policy memo recommends supporting the PRO Act. The main function of the PRO Act is to repeal RTW legislation on the national level (Gonyea, 2022). It is the quickest route to eliminating state level RTW bills and constitutional amendments. A state-by-state attempt to repeal these laws, as is currently happening in Michigan, will be much more time consuming. In addition to repealing RTW legislation, the PRO Act will also introduce meaningful penalties for companies that violate workers' [TK1] rights, prohibit employer interference in union elections, prevent employers from using immigration status to determine their terms of employment, and establish monetary penalties for executives and companies that violate workers' rights (Gonyea, 2022). The PRO Act may reduce the profitability of major corporations, it will come at negligible cost to the taxpayer, and will serve to benefit workers across the country[DBL2] . The Congressional Budget Office estimates that the PRO Act would increase revenues by 14 million USD in the first four years (Congressional Budget Office, 2019).

CONCLUSION

Eliminating RTW laws will increase the power of unions. Increasing union bargaining power will lead to higher wages and better working conditions for workers across the country. It will also help reduce the growing economic inequalities by allowing laborers to advocate for themselves. Increasing union power will stop allowing businesses to steamroll over the needs of their employees. RTW legislation has had overall negative effects on the treatment of workers and negligible effects on the economy. It serves to benefit big businesses at the expense of low level workers. In order to fight against corporate influence in this age of economic inequality, we must rely on the power of unions to advocate for the people.

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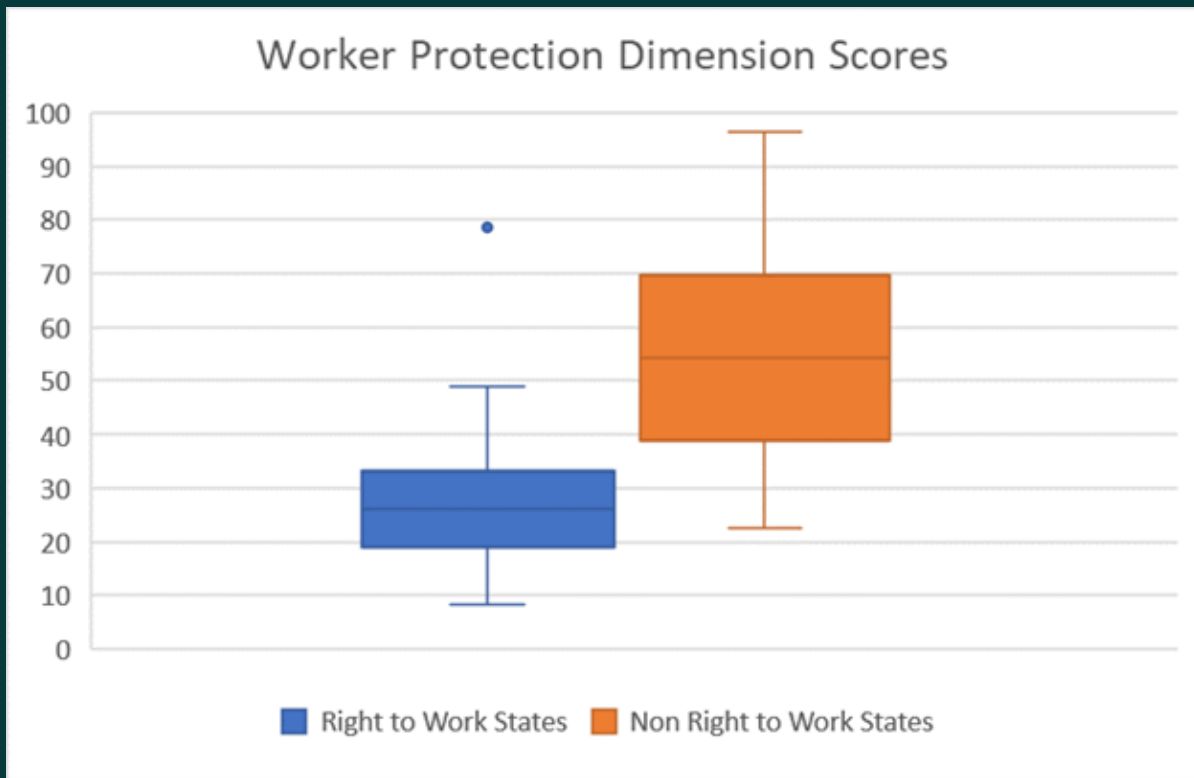
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APPENDIX

Figure 1



The worker protection dimension score is calculated based on a state's labor regulations regarding pregnancy accommodation, equal pay, paid leave, scheduling, sexual harassment, excluded workers and heat standards. Scores range from 0 to 100 with higher scores denoting greater protection. North Carolina has the lowest Worker Protection Dimension score of 8.33.

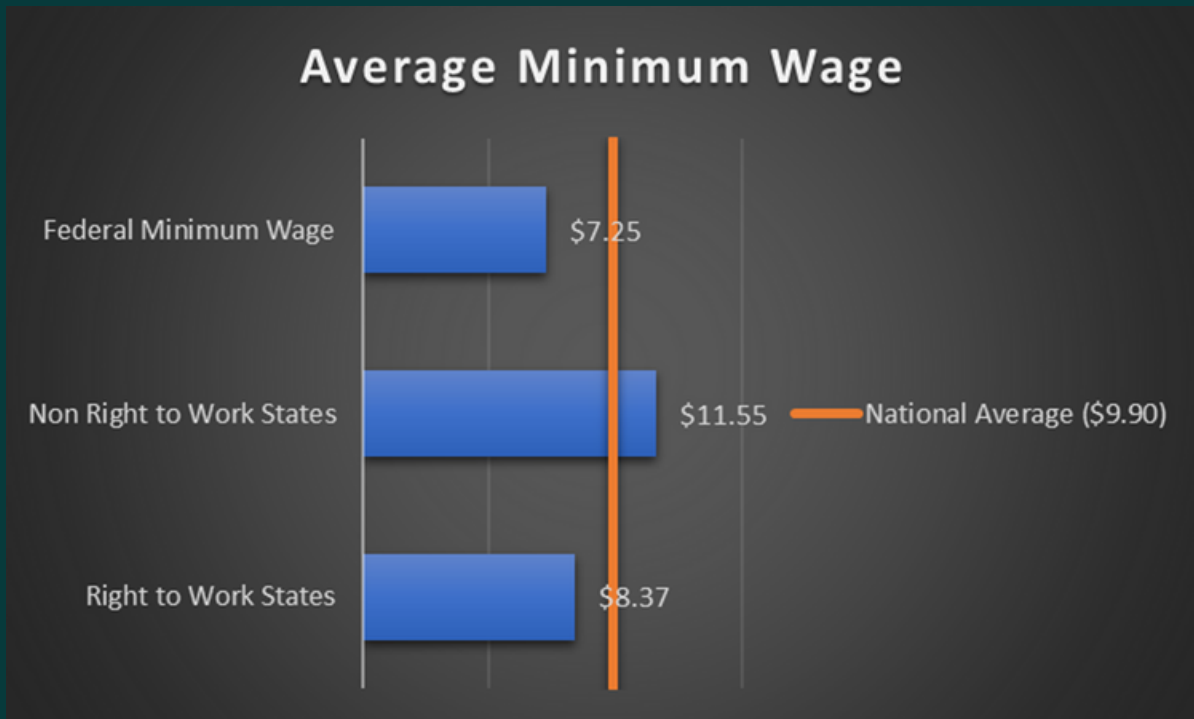
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APPENDIX

Figure 2



Data Source:

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