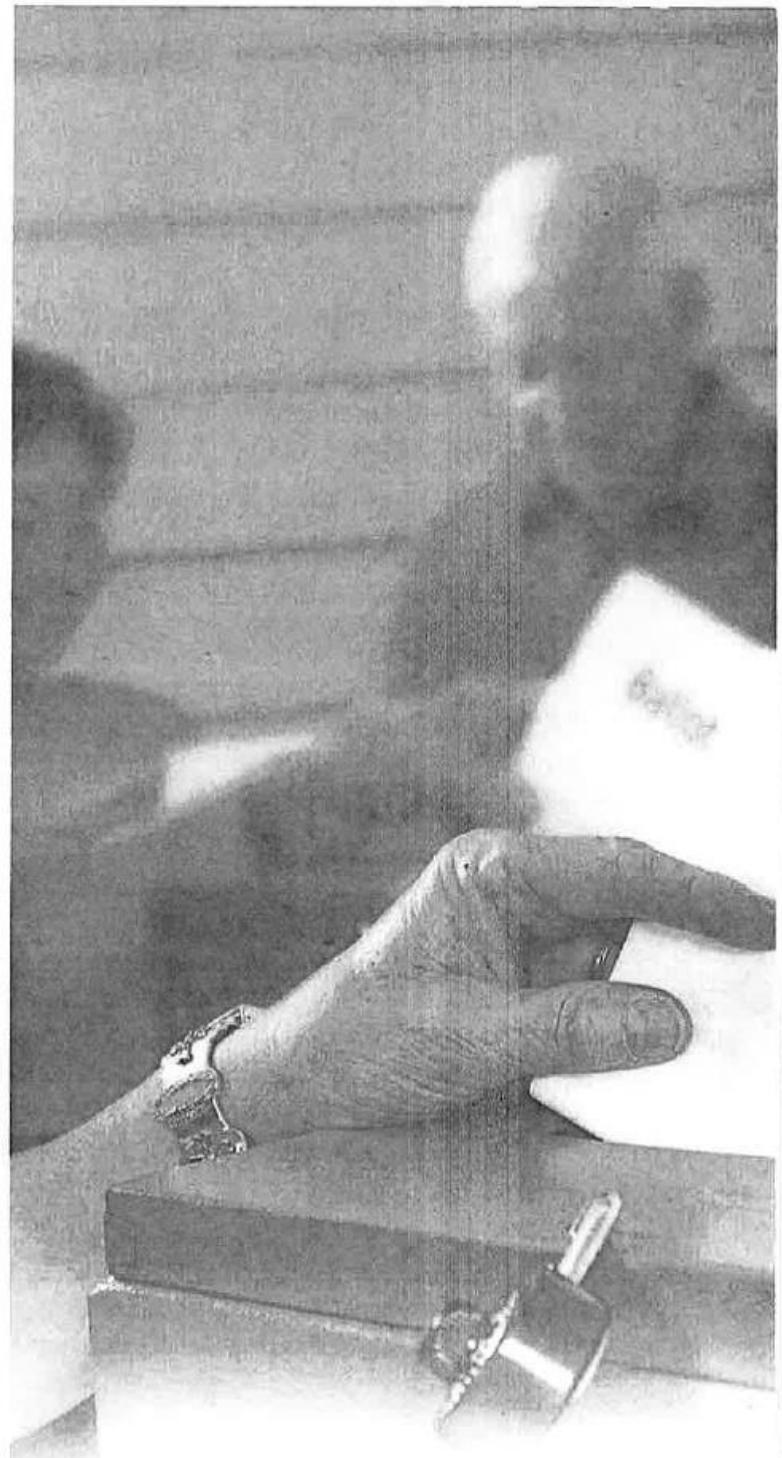


State Workplace Freedom

TOOLKIT



 STATE POLICY
NETWORK
State Solutions. National Impact.

Now is the Time for Union
Reform in Your State.

Learn Why and Discover
How to Make it Happen.



Trevor Bragdon
Senior Policy Advisor, State Policy Network
bragdon@spn.org

State Workplace Freedom Toolkit

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• • • Overview/How • • • to Use This Toolkit

THIS GUIDE IS DIVIDED INTO THREE SECTIONS:

- **LANDSCAPE**—Where and How Unions Have Gained and Lost Influence
- **STRATEGY**—Blue and Red State Strategies: Determining the Best Reform Tactics for Your State
- **TACTICS**—Four Policy Prescriptions for Effective Union Reform Model Legislation

WHY UNION REFORM NEEDS TO HAPPEN NOW

Public sector unions consistently create big obstacles to job creation, innovation, workplace freedom, and efficient use of taxpayer dollars. Public sector unions thwart state-based programs and pro-worker reforms at almost every turn.

Union chiefs can do this thanks to nearly inexhaustible financial and political resources gained via unfettered access to millions of workers' paychecks. According to the National Institute for Labor Relations Research, unions spent more than \$1.7 billion of workers' money in the 2012 election cycle to push big-government agendas and promote progressive candidates in every state.¹ Most of the workers who provided that \$1.7 billion had no say in how the money was spent.

Union reform is not only necessary but is the first step toward creating an environment where state lawmakers can effectively advance responsible, limited government reforms that truly help their constituents.

WHY THIS GUIDE IS IMPORTANT

This guide equips policymakers with effective policy options to turn the tide of undue union influence and power in their state. It provides legislators with simple, effective workplace reform tactics that are primed to succeed in their specific states.

LEVERAGING THE STATE POLICY NETWORK IN YOUR STATE

SPN's extensive research on successful and unsuccessful union reforms nationwide shows that the only way to curb union influence is through systematic reform efforts targeting multiple states. Success does not hinge on a single reform tactic.

SPN also has talented and experienced partners in policy, law, and communications. Consider these assets when you review the following strategies and tools.

WHAT YOU'LL LEARN

This Toolkit outlines four key reform ideas—both defensive and offensive plays—that have the best chance of achieving meaningful state-based reforms: worker voting rights, union opt-out campaigns, right-to-work (RTW), and worker's choice.

This guide will help you select the best reform based on your state's political and cultural environment. Additionally, SPN and state think tank subject matter experts are available to help advise your reform choice and tailor it to the unique requirements of your state.



We encourage you to read through the guide to familiarize yourself with the contents. Our goal is to provide you with a powerful resource that you and your staff can use on a regular basis when addressing union reform and workplace freedom. We hope you will join the legislators nationwide who work with SPN and the network of independent state-based think tanks to achieve meaningful union reform across the states.



Landscape

Where and How Unions
Have Gained and Lost Influence



Summary Review

Most public sector unions were established in the last four to five decades to provide workers with fair representation in their workplace. Traditionally, public sector workers accepted lower pay than they might get in the private sector in return for the security of a government job. Union leaders saw this as a disparity and went to work to change it. They succeeded.

While union organizations' power and political influence have grown exponentially, their accountability and commitment to dues-paying union members have greatly diminished.

In non-Right to Work states, joining the established union is a non-negotiable condition of employment. Union leaders, how-

WHAT UNIONS ARE SAYING

The Washington Post

July 1, 2015

"I Think we took things for granted. We stopped communicating with people, because we didn't feel like we needed to.

That was the wrong approach, and we don't want to fall back into that trap," said AFSCME President Lee Saunders.

WHAT UNIONS ARE SAYING

LABORNOTES

Steward's Corner:
March Edition
March 2, 2015

"Unions were starting to ask the uncomfortable question - why do so many workers jump ship when they get the chance?"

A hard look in the mirror reveals the deep disconnect between most members and their unions.

That's the underlying problem labor must solve if we hope to tackle the enormous challenges of our day..."

ever, do not consider Impartial representation of members' best interests as a mandatory requirement in return. Nor do union leaders respect the political differences of their members.

Instead, the union hierarchy spends its time and members' money to promote policies that increase the size and cost of government, and to support progressive state-level policymakers who favor such growth. These unaccountable government union leaders, whose pockets are lined with forced member dues and who enjoy unbridled access to politicians, work to advance an anti-freedom agenda that blatantly disregards the interests and values of many of their dues-paying members.

Private sector union membership has declined, but public sector unions have been a growth industry. In fact, according to government data aggregated at UnionStats.com, from 2010 to 2015, public sector unions have seen some of their largest growth in conservative, Right to Work states.



Strategy

Blue and Red State Strategies:
Determining the Best Reform Tactics for Your State

Persuasive Language: Matching Effective Messaging with Your Audience

No lawmaker wants to invest time and resources to pass short-lived reforms. This toolkit provides state lawmakers with a path to long-term success. SPN has intentionally left out “Band-Aid” reforms that unions can easily circumvent or quickly re-adapt. That said, some of these short-term measures may be useful tactics as part of a larger strategy.

Union reform needs to be meaningful, measurable, and most of all, lasting. We have selected and refined these four key public sector union policy prescriptions for real, long-term reform nationwide.

Core Messaging Principles: Using Research Findings to Determine Messaging and Persuasive Language

While an exhaustive report on SPN’s public sector union reform messaging research findings would be prohibitive for this guide, we do highlight key polling data and corresponding analysis to determine messaging.

Messaging that Resonates: Effective Language

From analysis of SPN’s polling data, we’ve identified five key messaging principles to use when discussing public sector union reform.





Messaging Do's and Don'ts Cheat Sheet

DO

- **Be pro-worker, not anti-union.** Fairness and accountability are the key benefits for individual union members. Frame union reform from the point of view of the members and how the reform helps them have a greater voice in their union.
- **Remember the messenger matters (sometimes even more so than the message).** Use union members—past and present—to talk about reform. These individuals are the most influential and credible to both union and non-union households, and they help convey actual union member desire and demand for union reform.
- **Highlight choice, fairness, and trust.** Effective arguments and messages that convey these key elements resonate with voters and should be used to communicate the benefits of reform laws.
- **Use everyday language.** Use words and phrases intended for laypeople, not legislators and policy wonks. The more clearly people understand your union reform, the easier it is to sell these ideas. For example, avoid the clunky term “union recertification”—which no one understands. Instead, use “worker voting rights,” a phrase that immediately frames what the law does for union members.
- **Communicate broadly.** While reform laws are more relevant to current union members, most non-union audiences respond to the same messaging themes. This provides an opportunity for clear, consistent messaging across the board on reform issues. Most people don't think about union issues but do sympathize with the need for pro-worker reforms.

DON'T

- **Rant against unions.** We've all been frustrated by the actions of public sector unions to block pro-freedom reforms, but publicly venting these feelings is counterproductive.
- **Overcomplicate the issue or lose focus.** The weakest messaging involves discussion of union leaders or complicated language and jargon.
- **Use heated, hyperbolic rhetoric.** Using terms like “union fat cats,” “corrupt union bosses,” and other overly negative language reduces support for reform. To pass reform, focus on gathering broad public support, not appealing to a narrow base.



Tactics

Four Policy Prescriptions for Effective Union Reform:
Proven Union Reform Policies and Model Legislation



Worker Voting Rights

What It Does

Worker voting rights is a policy also known as "union recertification." First passed in Wisconsin in 2011, worker voting rights gives union members the right to vote every one to three years on whether they want to maintain or replace their current union.

Most public sector unions were voted into existence over 30 years ago. This means nearly every current union member has never had the right to vote for their union. These workers are living with the consequences of a single vote cast decades earlier.

Worker voting rights creates a new check and balance for the union. It allows members the ability to periodically reflect and decide if their union is providing value for the significant dues the members pay. It also allows union leadership to be more accountable and responsive to members' needs when they know a union recertification election is in the future.

Where this policy has been enacted, the workers' choice is clear. Hundreds of unions have been decertified and ceased to exist because members felt they did not receive enough value from their union for the dues they paid.

The general public also widely supports this policy. Multistate polling SPN conducted in late 2015 found more than 7 out of 10 voters supported requiring unions to run for re-election every two years. In some states the support was as high as 84 percent.

WHAT UNIONS ARE SAYING

The New York Times

With Fewer Members, a Diminished Political Role for Wisconsin Unions

By MONICA DAVEY FEB. 27, 2015

Dave Eisner, an Aflscme leader here, has battled with Mr. Walker for decades, since the governor was the Milwaukee County executive.

"Do we have less boots on the ground? Yeah," Mr. Eisner said. "Do we give the same amounts of money to the candidates? No."

Worker Voting Rights Highlights

- Requires government unions to allow union members to vote every two to three years on whether they want to maintain or replace their current union.
- In these elections, union members have the option to renew their current representation, choose new representation, or choose to have no exclusive representation.
- Government unions failing recertification are decertified and may not recertify for a set period of time, at least one year. This does not prevent other unions from attempting to organize employees.



Best Suited for States Where...

- Worker voting rights reforms are viable in states that are both RTW and non-RTW. It is not recommended for states (such as Virginia and North Carolina) that do not have collective bargaining rights for public sector unions
- States with legislative majorities and executive branches that support union reform are the ideal candidates for this legislation.

The Research: Polling/Messaging That Resonates

Based on recent multistate SPN polling, the following data were found regarding worker voting rights:

1. Support for the recertification is initially high, and slightly higher when positioned as a benefit to union members.

- To gauge voter support, pollsters defined the proposed law in two ways: it would require unions to run for re-election and seek the support of their members every two years, or it would provide union members the ability to vote to maintain or replace their union.
 - Nearly 8 in 10 voters in each state initially support the proposed law regardless of its definition.
 - Eight in 10 voters initially agree union members deserve a voice in choosing their union and that empowering them with a vote will help to ensure their concerns are addressed and the union remains fiscally responsible.

2. Support for recertification remains strong and increases in intensity after these supportive messages:

- Union members deserve the right to vote for their union representation, just as the general public has the right to vote for their representation in government.
- Reforming union recertification will give workers a say in deciding who best represents their interests.
- While it is important to protect the culture and heritage of unions in the United States, the best interests of union leaders should never be placed above the best interests of union members.

Common Arguments: What the Other Side Says and How to Counter

- **“Worker voting rights or recertification is nothing more than an attack on the rights of workers to have a voice.”**
 - False: Worker voting rights allows union members the opportunity to vote for their union representation just like voters have the opportunity to vote to elect lawmakers.
- **“Recertification sets an impossible election standard that denies representation to members even if a majority of voters approve of a representative organization.”**
 - False: To maintain the union and prevent low election turnout, worker voting rights legislation requires 50 percent plus 1 of those covered to vote to recertify the union. If half of those covered don't vote to continue, then the union is decertified.
- **“Union elections are expensive and put an unnecessary burden on unions.”**
 - False: Research shows unions can host elections for less than \$2 a vote using third-party phone and online voting services. These systems are run by objective third parties and are secured using military-grade encryption to maintain election integrity.²



WORKER VOTING RIGHTS

Starting a new job, most public workers in Ohio have no choice as to which union will negotiate their pay and benefits. Joining the established union is often a mandatory term of employment with no available choice for members to decide who would truly work in their best interest.

Over 93% of union members have never had the opportunity to vote for their union representation.¹ When most public sector unions were voted in, often over 30 years ago, it established that organization to represent workers indefinitely. This means that newer members have never had a say in their union representation. Decertification is technically an option, but the process is restrictive and virtually impossible.

Union recertification elections provide Ohio workers a voice and more equitable representation for current members as well as new hires.

84% of Ohio Voters Support Worker Voting Rights

A recent Heart + Mind Strategies poll shows that a majority of Ohio voters support worker voting rights to allow educators to vote on their unions every two years.²



PROVIDING WORKERS A VOICE IN UNION ELECTIONS

Purpose

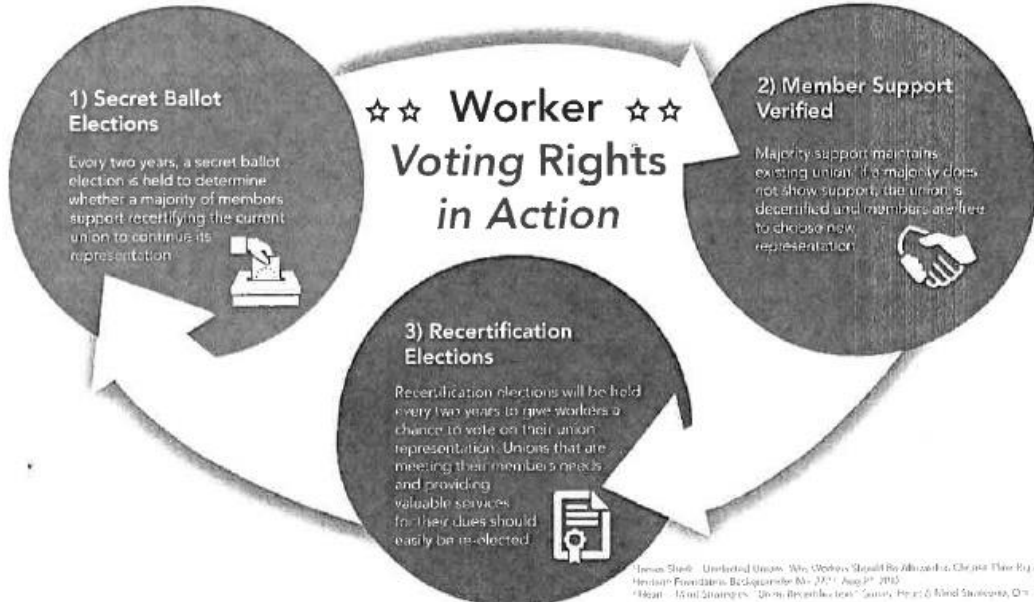
Ohio workers deserve a voice in deciding who best represents their interests

Why it's needed

- Most workers have never had the opportunity to vote on or certify their union representation.
- Once a union has been certified as the exclusive representative, there are limited options for changing representation.

What it would do

Unions would be required to be recertified every two years by members. Workers would have the option to renew their current representation, choose new representation, or choose to have no exclusive representation.



¹James Shadbolt, "Unaffiliated Unions: Who Workers Should Be Allowed to Choose Their By-arrangement Health Plan?" *Foundations Backgrounder* 33-2271, Aug 27, 2013.
²Heart + Mind Strategies, "Ohio Recertification" Survey Report, © Mind Strategies, OH - 2014.



Harris v. Quinn/Union Opt-Out Campaign

Harris v. Quinn is a favorable Supreme Court decision that allows “partial-public employees” like state-subsidized home care aides and family childcare providers to opt-out of union membership and cease paying dues. In right-to-work states, traditional public employees like state workers and teachers already have this ability.

However, to get employees to opt-out of their union, they first need to know they have a choice. A direct marketing campaign to union represented public employees that combines mail and digital outreach helps raise awareness and increase opt-out rates. Well-run opt-out campaigns can cause public-sector unions to experience 5-20% declines in membership, costing hundreds of thousands or even millions of dollars in dues money. Public-sector unions generally spend a high percentage of their budget on political and ideological activity — as much as 50% for some partial-public employees’ unions.

To combat opt-out campaigns, public-sector unions must work to prevent their members from resigning and attempt to persuade members that opt out to re-sign up for union membership, causing them to devote additional staff and resources to organizing. This can affect the resources and attention available for union leaders to devote to political action campaigns.

It is crucial to leverage the Harris v. Quinn ruling as much as possible, as a legal challenge is likely if the next high court justice is moderate or liberal.

Best Suited for States Where...

- Opt-out campaigns can be run in any state, since they do not require the passage of any legislation.
- Ideal states for this effort have active SPN affiliate think tanks with a strong litigation arm.
- Access to lists of union members is essential to this project. Obtaining lists is a state-specific process. The most common means of obtaining lists is through requests made under state public records laws.

Common Arguments: What the Other Side Says and How to Counter

- **Opt-out marketing efforts are just attacks on the union by anti-union groups.**
 - False: Opt-out efforts simply inform union members of their rights to not participate in a union if they don't feel they are currently getting value equal to the cost of their dues. No one is forcing employees to opt out of their union, just informing them of their ability to do so. If a union is providing value to its members, it shouldn't have anything to worry about.



UNION TRANSPARENCY AND REFORM PROJECT: SEIU OUT \$8 MILLION

Thanks to Freedom Foundation's Union Transparency and Reform Project, thousands of home healthcare providers and family childcare workers have learned about their Constitutional right to leave the Service Employees International Union (SEIU). SEIU's loss of members as well as its ongoing battle with the Freedom Foundation to keep its captive members from learning the truth is taking a tremendous financial toll on the union. The overall cost to SEIU 775 and 925 from January to August 2016 is \$8.7 million.

FINANCIAL LOSSES SEIU WASHINGTON JAN - AUG 2016

2,000 Home Health Care Providers Opted Out - 2016	1.0M
5,000 Childcare Providers Opted Out - 2015	2.5M
Legal fees fighting Freedom Foundation	1.5M
INITIATIVE-1501 - SEIU's ballot measure to muzzle Freedom Foundation	1.2M
Northwest Accountability Project (NWAP) SEIU front group attacking Freedom Foundation	1.0M
Lobbying costs to oppose Freedom Foundation Legislation	.5M
Fines for campaign finance violations	.071M
Staff time/resources	1.0M

TOTAL

\$8.771 MILLION

1. DSHS Union Membership Report
2. DSHS Union Membership Report - Loss to SEIU for each opt out is \$500 per year
3. Department of Labor LM2 reports
4. Public Disclosure Commission - Campaign Finance Disclosure
5. Estimated costs from 1,000's of meetings, phone calls, videos, website development, protests, staff salaries, consulting fees
6. Public Disclosure Commission - Lobbying Disclosure
7. Washington State Attorney General - Legal Action Against SEIU
8. Estimate based on interviews with former SEIU staff



Right to Work

What It Does

Right to Work (RTW) legislation is the most well-known union reform policy. Twenty-six states currently operate under RTW laws. In the past six years, four states have passed RTW: Indiana, Michigan, Wisconsin, and West Virginia.

RTW legislation does not outlaw or prohibit unions but simply allows that workers are not forced to join a union as a condition of their employment.

Right to Work Highlights

- Forbids unions from getting a worker fired for not paying them union dues.
- Does not change collective bargaining in any other way.
- Could be seen by job creators as a message that the state is not bound to special interests, consequently fostering job and economic growth. Recent states that have passed RTW have actually seen union membership increase.

Best Suited for States Where...

- Ideal states are current non-RTW states with supportive executive branch or supportive legislative bodies with veto-proof levels of support.

The Research: Polling/Messaging That Resonates

National polling conducted by Gallup in 2014 found that 71 percent of people support RTW.³ This corresponds with more recent state polling that showed 60 percent support in West Virginia before RTW's passage in 2016.⁴

Common Arguments: What the Other Side Says and How to Counter

- **"Right to work is just the 'Right to work for less.' Right-to-work laws cause wages to decrease and harm workers."**
 - False: According to research by the Heritage Foundation, RTW laws have little effect on overall wages.⁵ Most RTW states are located in the south, where the average cost of living is much lower than many non-RTW states.
- **"The phrase 'right to work' is a misnomer due to the fact that no current law exists that deprives anyone of the right to work."**
 - False: In states without RTW laws, you can be fired for not joining a union. This deprives an individual of their right to work.
- **"Right-to-work laws impose a burden on labor unions in representing free riders and non-paying members."**
 - This is true, but laws like worker's choice (covered in the next section) fix the free rider problem and allow non-paying members to represent themselves for contract negotiations.



Worker's Choice

What It Does

In states that have passed RTW laws, unions still bargain and negotiate contracts that cover both union and non-union members. This has been called a “free rider” problem, where people who have opted out of the union still benefit from its collective bargaining. Worker's choice fixes this so-called free rider issue and allows non-union members to negotiate their salary and working conditions packages independently and on their own behalf.

- Builds upon RTW laws and allows workers under a collective bargaining agreement to opt out of their union and represent themselves individually.
- Allows individual contracts to have merit pay and other individual worker benefits and protections included.
- Permits managers to give bonuses and other recognition to employees without union consent.
- Makes no major changes in collective bargaining. One union in a worksite still represents all union members, but non-union members represent themselves.
- Renders the union “free rider” or “forced rider” argument against RTW laws null.
- Protects against union legal arguments which could overturn RTW throughout the country.

Best Suited for States Where...

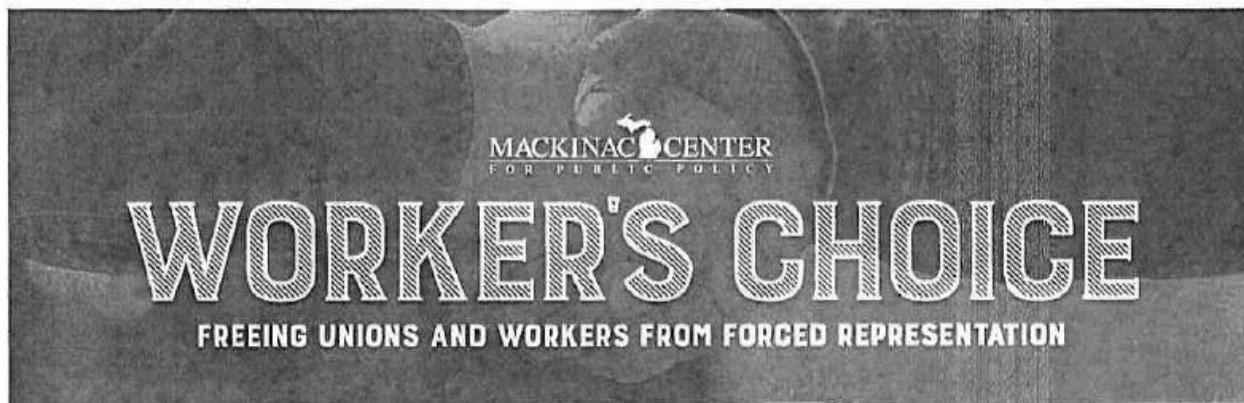
- Worker's choice is best suited for RTW states looking to further expand worker freedom, as well as states on the cusp of passing RTW.

The Research: Polling/Messaging That Resonates

Based on a 30 state poll released in August 2016, shows 66.9% of union members and union households would support Worker Choice.⁶ While most union members surveyed said they would stay in their union, they believed it was important to have the option to opt-out of a union contract.

Common Arguments: What the Other Side Says and How to Counter

- “Worker Choice will create chaos for employers and lower wages for employees with multiple employees negotiating their own compensation contracts.”
 - False: Workers in the private sector right now negotiate their own compensation packages. Worker Choice simply treats former union members as the 87% of workers in America who do not have union representation or a union contract.



THE PROBLEM

Where there's a unionized workplace, there's forced representation. That's true regardless of whether a state is right-to-work or not. Even if a union can't get a worker fired for not paying dues, the worker is still bound by union representation.

Unions call these workers – trapped by collective bargaining agreements – “free riders.” But unions have actually lobbied for this requirement and use it to claim the moral high ground. They say, “We are not given what is ours: the right to be paid for the work we are required to perform.”

Building on this argument, unions have recently brought several court cases challenging right-to-work. Having to represent workers who don't pay them, they say, is a violation of constitutional takings clauses.

Depending on the makeup of the U.S. Supreme Court, unions could use this argument to overturn seven decades of precedent, killing right-to-work for the entire nation.

THE SOLUTION

Worker's Choice would end the issue of free or forced riders.* Worker's Choice would let workers who opt out of a union in a right-to-work state represent themselves before employers. It would also free unions from having to represent nonpaying workers.

Congress can amend the National Labor Relations Act to enact Worker's Choice for private sector employees. States can amend their own labor laws to enact Worker's Choice for public sector employees.

Worker's Choice gives unionized employees the choice of two options:

1. Be a union member and accept the working conditions negotiated by the union;
2. Leave union membership behind, negotiate for compensation and working conditions independently, and provide your own representation in grievances and other dealings. That's what over 87 percent of workers – those without union representation – do already.

With Worker's Choice, each worker can stay in the union that is in the workplace. Alternately, they can negotiate for salary, benefits and working conditions independently.

With Worker's Choice, unions are freed from having to represent workers who are not paying them and workers are freed from accepting forced union representation.

SAFEGUARDS

- **One-or-none** – Worker's Choice does not change collective bargaining for unionized workers in any way. If there's a union presence in a workplace, it's one union that will still represent all the unionized employees there. The one-or-none provision



safeguards against having multiple unions at a worksite.

- **It imposes no new duty to bargain on employers** – Workers who wish to exercise Worker's Choice are treated as nonunion and the employer is under no duty to negotiate with them, mirroring the job creators who employ over 87 percent of nonunion workers in the rest of the economy. An employer may, if he or she wishes, negotiate individually with these employees as a way to attract and retain top talent.
- **Unions cannot affect individual contracts** – Worker's Choice prevents unions from basing their contract off the independent employees' contracts. For example, unions cannot say that the highest paid independent employee must be paid lower than the lowest paid union employee.

BENEFITS OF WORKER'S CHOICE

1. **Addresses the main union objection to right-to-work:** Worker's Choice eliminates the free/forced rider issue, one of union's most powerful objections to right-to-work.
2. **Protects legal challenges to right-to-work:** Worker's Choice would negate the main legal argument for overturning right-to-work, the argument of violating the takings clause.
3. **Rewards employee productivity:** Under Worker's Choice, employers can reward higher performing employees without being limited to a collective bargaining agreement.
4. **Advances personal flexibility:** Worker's Choice lets workers represent themselves and negotiate their own contracts, which are driven by personal needs rather than collective ones.
5. **Makes unions more responsive:** Worker's Choice will require unions to be more responsive to the needs of their members or risk losing them.
6. **Provides the above benefits to employers without imposing new obligations:** Worker's Choice does not create any new burdens on employers; its one-or-none provision safeguards against multiple unions. The employer does not have any more increased obligation to employees exercising Worker's Choice than employers in a nonunionized worksite, i.e. no duty to bargain.

WORKER'S CHOICE WOULD LET WORKERS SAY 'NO, THANKS' TO UNION REPRESENTATION AND LET UNIONS SAY 'GOODBYE' TO PROVIDING SERVICES TO NONMEMBERS.



The Mackinac Center for Public Policy is dedicated to improving the understanding of economic and political principles among citizens, public officials, policymakers and opinion leaders. The Center has emerged as one of the largest and most prolific of the more than 50 statebased free-market "think tanks" in America. For more information about the Mackinac Center and its publications, call 989-631-0900, or see our website, www.mackinac.org.



Conclusion

This toolkit builds on the extensive research and countless lessons learned by SPN and the state think tank network over the last several years.

We've seen firsthand the way public sector unions block free-market policies and fight workplace freedom reform.

But it doesn't have to be that way. Union reform should be a goal for every state.

It's time for lawmakers to free themselves and union members in their state from the undue influence of government unions.

We know what works and how to get it done. We are confident and strategic in our approach. SPN is ready to help. But it can't happen in your state without you. Give us a call and see how union reform could look in your state.

APPENDIX/SUPPORTING LINKS

Worker Voting Rights Model Legislation
Right to Work Model Legislation
Worker Choice Model Legislation

(ENDNOTES)

- 1 "Big Labor Spent 1.7 Billion on Electioneering & Lobbying in 2011-2012". *National Institute for Labor Relations Research*. August 29, 2013. <http://www.nilrr.org/2013/08/29/big-labor-spent-1-7-billion-on-electioneering-lobbying-in-2011-2012/>
- 2 John Wright. "The Low Cost of Labor Reform." *Show-Me Institute*. Last modified October 22, 2015. <http://www.showmedaily.org/publication/government-unions/low-cost-labor-reform>
- 3 Jeffery Jones. "Americans Approve of Unions but Support Right to Work". *Gallup*. Last modified August 28, 2017. <http://www.gallup.com/poll/175556/americans-approve-unions-support-right-work.aspx>
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- 5 James Sherk. "Right to Work Increases Jobs and Choices". The Heritage Foundation. Last modified November 9, 2011. <http://www.heritage.org/research/reports/2011/11/right-to-work-increases-jobs-and-choices>
- 6 "2016 Survey Results." National Employee Freedom Week. Accessed, September 19, 2016. <http://employeefreedomweek.com/survey-results/>



APPENDIX A | Worker Voting Rights Model Legislation

Union Recertification

No existing **[collective bargaining representative / exclusive representative]** as defined in **[labor statute]** shall continue to represent **[public employees]** in a unit without the concurrence of a majority of all **[public employees]** in the unit.

1. The **[board/ commission]** shall direct a secret ballot election to certify the existing **[collective bargaining representative / exclusive representative]** retains support of a majority of all **[public employees]** in the unit.
 - a. The **[board/ commission]** shall promulgate rules to preserve the purity of elections and to preserve the secrecy of the ballot.
 - i. The **[board/ commission]** shall determine whether elections shall be conducted in-person, by mail, by telephone, by internet-based systems, or by any other means determined by the **[board/ commission]** to be fair, confidential, and reliable. The board shall allow represented **[public employees]** to cast ballots for a period of **[seven days/ time prescribed in labor statute.]**
 - ii. The **[board/ commission]** may establish a fee schedule from **[collective bargaining representative / exclusive representative]** participating in elections conducted under this section for the purpose of funding of the elections.
 - b. Should the existing **[collective bargaining representative / exclusive representative]** receive affirmative votes from a majority of all **[public employees]** employed in the unit the pre-existing certification shall continue. If the existing **[collective bargaining representative / exclusive representative]** fails to receive affirmative votes from a majority of all **[public employees]** employed in the unit, the **[board/ commission]** shall decertify the **[collective bargaining representative / exclusive representative]** and the **[public employees]** shall be unrepresented.
 - c. In the event of a termination of certification, the terms of any pre-existing contract between the **[collective bargaining representative / exclusive representative]** and the **[public employer]** shall continue and remain in effect for the remaining contract term except for any provisions involving, in any manner, the **[collective bargaining representative / exclusive representative]** including but not limited to union security, dues and fees, and grievance and arbitration.
2. Following the decertification of a **[collective bargaining representative / exclusive representative]** **[Public employees]** may certify a new **[collective bargaining representative / exclusive representative]** in accordance with **[labor statute]** so long as the **[public employees]** are not included with a substantially similar or affiliated **[labor organization or bargaining representative]** to the decertified **[labor organization or bargaining representative]** for 12 months from the date of decertification.
3. The **[board/ commission]** shall start directing elections to certify majority support of existing **[collective bargaining representative / exclusive representative]** not less than two and not more than three years after the effective date of this act and every even numbered year thereafter; elections shall occur no earlier than August 1st and no later than December 1st.

Model Legislation from collaboration with State Policy Network and the Mackinac Center for Public Policy



Right to Work Act

Summary

ALEC's model Right to Work Act provides that no employee need join or pay dues to a union, or refrain from joining a union, as a condition of employment. The Act establishes penalties and remedies for violations of the Act's provisions.

Model Policy

{Title, enacting clause, etc.}

Section 1. { Title.} This Act may be cited as the Right to Work Act.

Section 2. {Declaration of public policy.} It is hereby declared to be the public policy of the State of {state}, in order to maximize individual freedom of choice in the pursuit of employment and to encourage an employment climate conducive to economic growth, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

Section 3. {Labor organization.} The term "labor organization" means any organization of any kind, or agency or employee representation committee or union, that exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.

Section 4. {Freedom of choice guaranteed, discrimination prohibited.} No person shall be required, as a condition of employment or continuation of employment:

- (A) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;
- (B) to become or remain a member of a labor organization;
- (C) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;
- (D) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or
- (E) to be recommended, approved, referred, or cleared by or through a labor organization.

Section 5. {Voluntary deductions protected.} It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer.

Section 6. {Agreements in violation, and actions to induce such agreements, declared illegal.} Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and employer that violates the rights of employees as guaranteed by provisions of this chapter is hereby declared to be unlawful, null and void, and of no legal effect. Any strike, picketing, boycott, or other action by a labor organization for the sole purpose of inducing or attempting to induce an employer to enter into any agreement prohibited under this chapter is hereby declared to be for an illegal purpose and is a violation of the provisions of this chapter.

Model Legislation from American Legislative Exchange Council



APPENDIX B | Right to Work Model Legislation (Continued)

Section 7. {Coercion and intimidation prohibited.} It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee's or prospective employee's parents, spouse, children, grand-children, or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to an employee's or prospective employee's property, to compel or attempt to compel such employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or otherwise forfeit any rights as guaranteed by provisions of this chapter. It shall also be unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employees.

Section 8. {Penalties.} Any person who directly or indirectly violates any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding (insert amount) or imprisonment for a period of not more than (insert time period), or both such fine and imprisonment.

Section 9. {Civil remedies.} Any employee harmed as a result of any violation or threatened violation of the provisions of this chapter shall be entitled to injunctive relief against any and all violators or persons threatening violations and may in addition thereto recover any and all damages, including costs and reasonable attorney fees, of any character resulting from such violation or threatened violation. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this chapter.

Section 10. {Duty to investigate.} It shall be the duty of the prosecuting attorneys of each county (or the attorney general of this state) to investigate complaints of violation or threatened violations of this chapter and to prosecute all persons violating any of its provisions, and to take all means at their command to ensure its effective enforcement.

Section 11. {Prospective application.} The provisions of this chapter shall apply to all contracts entered into after the effective date of this chapter and shall apply to any renewal or extension of any existing contract.

Section 12. An emergency existing therefore, which emergency is hereby declared to exist, this Act shall be in full force and effect on and after its passage and approval.

Section 13. {Severability clause.}

Section 14. {Repealer clause.}

Section 15. {Effective date.}

Approved by the ALEC Board of Directors in January 1995.

Reapproved by the ALEC Legislative Board, January 28, 2013.



Appendix A: Worker's Choice Model Legislation

Definitions:

(A) "Independent bargaining" or "to bargain independently" means to bargain between a public employer and a public employee with respect to rates of pay, wages, hours of employment, adjustment of grievances or other terms and conditions of employment without the intervention of an employee organization, bargaining agent, or exclusive bargaining representative.

(i) Independent bargaining does not grant any greater or lesser rights or privileges to public employees who have chosen to represent themselves in a unit with an exclusive representative than those public employees in a unit without an exclusive bargaining representative.

(ii) Independent bargaining does not grant any greater or lesser duties or obligations for a public employer to public employees who have chosen to represent themselves in a unit with an exclusive bargaining representative than those duties or obligations the public employer owe to public employees in a unit without an exclusive bargaining representative.

(B) "Employee organization" means any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

(C) "Public employee" means a person holding a position by appointment or employment in the government of this State, or any of its political subdivisions, including, but not limited to, public schools, and any authority, commission or board, or in any other branch of public service.

(D) "Public employer" means any state or local government, government agency, government instrumentality, special district, joint powers authority, public school board or special purpose organization that employs one or more persons in any capacity.

(E) "Collective bargaining" means the performance of the mutual obligation of the representatives of the public employer and the employee organization designated as an exclusive bargaining representative to meet and bargain in good faith in an effort to reach written agreement with respect to wages, hours, and terms and conditions of employment.

(F) "Exclusive bargaining representative" means any employee organization that has been certified or designated by the [state agency] pursuant to the provisions of [insert applicable state labor law] as the representative of the employees in an appropriate collective bargaining unit to represent the employees in their employment relations with employers.

Public employee choice guaranteed.

(A) Public employees shall have the right to independently bargain in their relations with the public employer.

Model Legislation from Mackinac Center for Public Policy



APPENDIX C | Worker Choice Model Legislation (Continued)

(B) No provision of any agreement between an employee organization and a public employer, or any other public policy, shall impose representation by an employee organization on public employees who are not members of that organization and have chosen to bargain independently. Nothing in any collective bargaining agreement shall limit a public employee's ability to negotiate with his public employer or adjust his grievances directly with his public employer, nor shall a resolution of any such negotiation or grievance be controlled or limited by the terms of a collective bargaining agreement.

(C) There shall be not more than one exclusive bargaining representative designated by the [state agency] pursuant to the provisions of [state labor law] as the representative of the public employees in an appropriate collective bargaining unit.

(D) No provision of any agreement between an employee organization and a public employer, or any other public policy, shall impose any wages or conditions of employment for members of an employee organization which are linked or contingent upon wages or conditions of employment to public employees who are not members of an employee organization.

