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Card Check Will Worsen Pittsburgh's Competitive Disadvantage

Two of the most important economic and demographic developments over the past twenty years or so have been the movement of people away from the Northern and North central states to Right to Work (RTW) states and the much faster job growth experienced in the Right to Work states as compared to the states suffering out-migration. For example, between 2000 and 2007, there was a net outflow of 3.4 million people from large states in the Northern and North Central regions while the five Atlantic seaboard Right to Work states experienced a net inflow of 2.6 million people. During the same period, the seaboard RTW states enjoyed an 8 percent gain in the number of private sector jobs while private sector jobs in the large Northern states actually fell by 2 percent. This overall decline was led by a large drop in Michigan jobs but none of the other states posted a gain of more than two percent.

In RTW states, an employee cannot be forced to join a union or pay dues as a condition of employment with a unionized company. Thus, unions have a much weaker incentive to spend money and effort trying to organize companies operating in RTW states. Non-union companies typically have cost and profitability advantages arising out of managerial flexibility.

There can be little doubt that the Pittsburgh region and Pennsylvania have been negatively affected for many years by the labor climate advantages found in the RTW states. For firms making business location decisions, labor-management issues rank very highly along with the tax and the regulatory environment.

In January, a Democrat president comes into office with Democrats more firmly in control of the House and Senate. The Employee Free Choice Act, commonly referred to as the "*card check*" legislation, will almost certainly be near the top of Congress's agenda. It has been heavily supported by Democrats and their union allies in the past two sessions. Odds of passage have risen considerably and there is no threat of a veto if it does pass.

Briefly put, the Employee Free Choice Act would be the most far reaching union legislation since the 1930s and would represent a monumental attack on the freedoms of both workers and employers. The bill removes the requirement of a secret ballot election to determine whether workers want to be represented by a union and replaces it with the requirement that a majority of employees sign an authorization card affirming their desire to be represented by a collective bargaining agent—i.e., the union seeking to organize the company. Such a change takes away the anonymity of those who do not want a union and makes them subject to coercion by union organizers.

Just as important, the Act also mandates that if a bargaining agreement cannot be worked out in 90 days, a federal mediator can be called in by the union to develop contract terms the company must accept. Little wonder most of the country's business community is adamantly opposed to the "*card check*" bill.

If the bill passes and is signed into law, one of the key questions will be how does it affect the competitive advantages currently enjoyed by RTW states. Or said another way, will the competitive disadvantage currently experienced by the Northern and North Central regions—including the Pittsburgh area and Pennsylvania—relative to RTW states be lessened or increased?

While it is not possible to say absolutely what will happen prior to the event, it is possible to speculate about the probable effects on each region in an environment where "*card check*" has become law. First of all, it is important to bear in mind that the view of unions held by the populace in the non-Right to Work states is generally more favorable than the public's opinion of unions in Right to Work states. Indeed, there are far more union members in the non-Right to Work states. Therefore, a campaign to get signatures on authorization cards at firms in Michigan or Ohio is likely to meet with more acceptance and support from the community than it would say, in North Carolina. Employees at a plant or facility in Michigan or Ohio are more likely to have friends, acquaintances or relatives who are union members.

Secondly, if the organizing union in a non-Right to Work state is able to get a majority of workers to sign an authorization card and thereby becomes certified as the collective bargaining agent, all employees of that company or plant, whether they signed a card or not, must either join the union and pay dues or pay dues as a non-member. Thus, in the non-Right to Work state situation the unions will have a great incentive to go after firms that do not have a union. The upside in terms of the favorable odds of getting a majority of signatures along with the payoff in terms of new members and dues from all employees will make expending significant amounts of money and effort on organizing campaigns worthwhile in a lot of cases in the non-Right to Work states. To be sure, there are companies with very good employee relationships where unions will be stymied in their organizing efforts. And, there are some industries, such as finance, wherein the employees are not as susceptible to unions regardless of which state they are located.

In Right to Work states the dynamics will almost certainly be very different and the outcomes more problematic for the unions. In addition to the less favorable views of unions in the RTW states and the attendant lower probability of getting a majority of employees to sign a card, the fact remains that even if a majority of workers sign an authorization card, the employees who do not sign can enjoy the benefits of any bargaining agreement gains without paying dues. Thus, it would probably not be long before many of those who had joined the union initially began to discontinue their union membership in order to avoid paying dues.

Since neither union membership nor compulsory dues can be required as a condition of employment at any firm in a RTW state, the potential payoff from most organizing attempts will be substantially lower than in a non-Right to Work state. Clearly, there are likely to be a few companies with a history of very poor labor relations that might be targeted. Then too, very large companies—such as the automobile plants with thousands of employees—might be targeted simply because the public relations benefits for the union would be enormous if an organizing drive were successful.

Still, the fact that union members can walk away from their union membership and avoid paying dues while getting the benefits from a collective bargaining agreement will serve as a deterrent to union drives in the RTW states.

To return to the original question; how will competitiveness in RTW states and non-Right to Work states be affected by "*card check*"?, the likely answer is the RTW states will benefit in relative terms as organizing drives in the non-Right to Work states greatly outnumber drives in the RTW states. To the extent organizing drives in non-Right to Work states are successful, the competitiveness gap will widen further. This would cost the Northern states even more in terms of out migration and slower job gains. At that point, Congress would have to consider rescinding the legislation or attempt to eliminate the Right to Work option provided to states in Section 14b of the Taft-Hartley Act. Such an attempt would be the equivalent of a "nuclear" option and would undoubtedly be resisted by many Democrat legislators from RTW states—certainly enough to help Republicans sustain a filibuster in the Senate.

So, for the legislators who are raring to get the Employee Free Choice Act passed, it is time to take a deep breath and consider the economic devastation the bill could bring about in an economy already suffering a severe recession. Unless they are prepared to remove 14b of the Taft-Hartley Act and then watch an even greater flood of jobs leave the country or just disappear completely, it would be a good time to tell union leaders pushing for the Employee Free Choice Act that the costs to the country are simply too high. It would be even better if Congress could recognize the attack on freedom and human dignity the removal of the secret ballot represents.

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