Testimony of Robert Bruno
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Before the
Committee on Education and the Workforce
U.S. House of Representatives

At a Hearing Entitled, "Compulsory Unionization Through Grievance Fees: NLRB's Assault on Right to Work"

June 3, 2015

Introduction

Chairman Kline, Ranking Member Scott, and Members of the Committee, my name is Robert Bruno and I am a Professor of Labor and Employment Relations in the School of Labor and Employment Relations at the University of Illinois. My testimony today addresses four key points. First, I provide an explanation of what is meant by right-to-work (RTW) laws. Second, I explain why the ostensible focus of the hearing today is mislabeled. Third, I describe how RTW laws raise fundamental equity and fairness issues. And fourth, I show that there is a substantial body of evidence on the largely negative impacts of RTW on workers, opportunities for growing the middle-class, and society at large.

I. What is a Right-to-Work Law?

A "right-to-work" (RTW) law, contrary to what its name would suggest, has nothing to do with the right of an individual to seek and accept gainful employment. Instead, a RTW law is a government regulation that bars employers and labor unions from agreeing to "union security" clauses in collective bargaining agreements. "Union security" clauses ensure that each person in a collective bargaining unit who receives the benefits of collective bargaining (e.g., a higher wage, better health and retirement benefits, grievance representation, a voice at work) also provides his or her fair share of dues or fees. Right-to-work is a government prohibition on a specific type of privately-negotiated contract between workers and employers.

It is important to understand that under current law, workers are not forced to join a union anywhere in America, but labor unions must by law represent all employees in a workplace. In a fair-share collective bargaining state, employers and labor unions are at liberty to negotiate a range of union security clauses. They may, but are *not* mandated to, agree to a union security clause that requires all persons covered by the contract to pay dues or fees to cover the cost of bargaining activities. In these states, covered employees are only required to pay for bargaining costs and are not required to finance political or other non-bargaining activities. This has been the law ever since the Supreme Court's 1988 decision in *Communications Workers of America v. Beck*.

II. Buckeye Florida Case Before the NLRB

Pending before the National Labor Relations Board (NLRB) is a case involving a provision that allows the union to require the payment of a service fee when it handles a grievance or arbitration on behalf of a worker in the bargaining unit who is not a member of the union. (United Steel, Forestry and Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1192 (Buckeye Florida) (Case No. 12-CB-109654). The administrative law judge in the case ruled that the fee collection practice violated the National Labor Relations Act. In April of this year, the NLRB invited the public to submit briefs on various questions relating to whether unions should be permitted to charge non-members for the cost of grievance and arbitration services. Briefs are due in July.

In my opinion, it is very premature to be commenting on the elements that may or may not be at play in the Buckeye case. As is its prerogative and consistent with decades of past practice, the Board has simply requested that interested parties submit briefs on a set of questions. Additionally, it is very important to point out that whatever the cumulative findings of the Board turn out to be, the current case does not revisit or affect in any way the standing of RTW laws. Section 14(b) of the Taft-Hartley Act specifically authorizes states to adopt RTW laws. Nothing in the Buckeye case affects the power of a state to adopt such a law or affects any such laws currently on the books. Rather, the narrow question in Buckeye is the appropriateness of the union charging a fee to process a grievance for a non-member covered by a collective bargaining agreement.

III. Equity Concerns About RTW

RTW raises serious equity issues. In RTW settings, workers can choose to receive 100% of the sizeable benefits of a collective bargaining agreement, while making no contribution to the cost of providing those benefits which include negotiating the contract, administering it, handling grievances and arbitrations, and less formal issues under the agreement. This arrangement violates one of the most cherished values of American society – the fairness principal. RTW, contrary to basic social tents of individual autonomy and responsibility, celebrates – even encourages – shifting the burden of sustaining an equitable employment relationship onto others, who have already freely made the decision to pay their fair share. In practice, by permitting some workers to "free-ride" on the contributions of others, RTW policy is a misguided means to individual advancement at the expense of others.

In the remainder of my written testimony I will address six (6) critical findings from the economic and social science research on the impacts of RTW and provide a brief conclusion.

IV. Economic and Social Impacts of RTW

(1) Right-to-Work Has Inconclusive Effects on Job Growth and Business Growth

Proponents of RTW make *testable* claims about the regulation's impact on the labor market. The most important claim is that right-to-work laws incentivize businesses to locate in states with right to work laws, thereby reducing unemployment, increasing job growth, and possibly raising worker incomes. As of June 2015, there are 25 states with "right-to-work" laws and 25 states (plus D.C.) where fair-share agreements are permitted. This difference in statewide labor policy creates a natural laboratory in which economic researchers and social scientists can analyze these claims.

Studies done in 2012 and 2014 by the Congressional Research Service find that the "existing empirical research is inconclusive" and that the isolated impact of right-to-work on employment outcomes is mixed (Collins, 2012, 2014). While some studies have suggested that RTW increases manufacturing employment (Kalenkoski & Lacombe, 2006), recent research finds no discernible effect on manufacturing employment and calls the prior results into question (Eren & Ozbeklik, 2011). In addition, a review of the extant literature finds that right-to-work laws have between a modest negative (-1.2 percent) to slightly positive (+1.4 percent) effect on employment growth (Manzo, Zullo, Dickson and Bruno, 2013). A meta-analysis of the peer-reviewed studies demonstrates that the preponderance of research finds no statistically significant impact of RTW laws on overall employment in a state economy (Stevans, 2009; Hogler, 2011; Collins, 2012, 2014).

Surveys of corporate decision-makers also reveal that right-to-work laws are not a defining factor in business location decisions. Labor skills, state and local tax incentives, highway accessibility and infrastructure investment, energy costs, and proximity to major markets with high consumer demand are far more important to corporate executives (*Area Development*, 2014). Reports that find that RTW laws increase job growth are typically methodologically unsound, failing to control for these and a litany of other extremely important factors that actually impact employment (Vedder, 2010; Zycher et al., 2013). For example, these studies generally fail to account for the impact of educational attainment and skills acquisition on the labor force, for the types of industries and occupations in a given state, or other public policies.

(2) Right-to-Work Lowers Worker Earnings

Proponents of RTW further contend that restricting union membership will increase worker incomes. But any assertion that right-to-work laws improve worker incomes is false based on the academic research. While some reports find no evidence that RTW impacts worker incomes (Moore, 1980; Eren & Ozbeklik, 2011; Hogler, 2011), many recent economic studies find that the policy causes a loss in worker earnings. Gould and Shierholz (2011) control for almost all demographic and macro-economic state factors, and estimate that RTW reduces wages by 3.2 percent on average, while lowering employer-sponsored health insurance benefits by 2.6 percent. The 3.2 percent drop in hourly wages associated with RTW has been replicated in two recent studies using new data (Bruno & Manzo, 2014; Gould & Kimball, 2015). Furthermore, and often ignored in the debates over RTW, is that the law has also been found to reduce the wages of the most vulnerable nonunion workers by 3.0 percent (Lafer, 2011).

However, RTW has been found to redistribute wealth from employees to employers. Stevans (2009) used an advanced statistical analysis to find that worker wages and per capita income are both lower, on average, in RTW states. He went on to demonstrate that RTW lowers wages by 2.3 percent, but increases proprietor income by 1.9 percent, indicating that RTW is a transfer of income from workers to owners with "little 'trickle-down' to the largely non-unionized workforce in these states" (Stevans, 2009). Additionally, as recently as 2012, "compensation of employees," which includes wage and salary income plus employer contributions for employee pension funds, employee insurance funds, and government social insurance, was 54.4 percent of total gross domestic product (GDP) in collective-bargaining states but just 51.5 percent of total GDP in right-to-work states. By contrast, "gross operating surplus," which includes proprietor income, corporate profits, net transfer payments from businesses and governments, and fixed capital depreciation, is 39.1 percent in collective-bargaining states but 41.7 percent in right-to-work states (Bruno & Manzo, 2014). This information supports Stevans' conclusion that a RTW law transfers income from labor to capital.

It is worth noting that RTW is increasingly found to have the largest negative impact on the construction industry. Right-to-work laws reduce all construction worker earnings by 22 percent (Manzo, Zullo, Dickson and Bruno, 2013). Zullo (2011) also has found that RTW laws "result in the underfunding of union safety training or accident preservation activities," statistically increasing the construction fatality rate by 0.3 to 0.7 per 100 workers compared to collective-bargaining states with high union density. Data from the BLS Census of Fatal Occupational Injuries report that construction fatality rates in RTW states averaged 13.1 deaths per 100,000 workers from 2008 to 2010. In collective bargaining states, on the other hand, fatality rates are much lower at 9.6 deaths per 100,000 workers. In addition to lost wages, RTW statistically increases the likelihood of lost lives at work.

(3) Right-to-Work Increases the Number of Workers on Government Assistance

The downward effect of right-to-work laws on worker incomes has a consequential impact on the public budget. By lowering worker earnings by around 3 percent on average, RTW is associated with a fall in tax revenues. A RTW law statistically lowers the after-credit federal income tax liability of workers by 11.1 percent on average. Revealingly, 46.6 percent of workers in RTW states paid no federal income taxes from 2011 through 2013, compared to 44.5 percent of workers in collective-bargaining states (Bruno & Manzo, 2014). RTW leads to workers earning less, so they *contribute* less in income taxes, sales taxes, and property taxes.

Moreover, when workers earn less, they are more likely to *receive* supplemental income assistance from government programs. Indeed, RTW statistically increases the poverty rate among workers by approximately 1.0 percentage point. Accordingly, despite paying less in taxes, workers in RTW states receive 18.9 percent more in tax relief from the Earned Income Tax Credit and 14.1 percent more in food stamp value than workers in collective-bargaining states. A RTW law also lowers both the share of workers who are covered by an affordable employer provided health insurance plan by 3.5 percentage points and the share of workers who are covered by a pension plan at work by 3.0 percentage points on average. When workers do not have their own health and retirement plans, they are often forced to turn to public programs for assistance in times of need.

The conclusion is that by earning higher incomes, contributing more in tax revenues, and receiving less in government assistance, workers in collective-bargaining states are subsidizing the low-wage model of employment in RTW states. (Bruno & Manzo, 2014). This is a larger-scale version of the model used by low-wage employers, like Wal-Mart and McDonalds, which socializes employment costs onto taxpayers (House CEW, 2013).

(4) Right-to-Work Significantly Reduces Unionization Rates

One area where economic research is unanimous on right-to-work laws is that the policy restricts union membership. The work that labor unions perform is not costless. Organizing members and negotiating and administering contracts, requires that unions in right-to-work states expend substantial resources even while getting by with fewer financial resources. As a result, RTW unambiguously lowers union membership: Moore (1980) approximates a 5 to 8 percentage point drop, Davis and Huston (1993) find an 8.3 percentage point fall, Hogler, Shulman, and Weiler (2004) estimate an 8.8 percentage point reduction, and Manzo and Bruno (2014) find a 9.6 percentage point decline in a state's unionization rate due to RTW. Paired with the previous economic impacts, the fact that right-to-work limits labor unions has led one researcher to assert that the true intent of RTW laws is based on ideological motivations: "less influence for unions, less bargaining power for workers, more wealth for the wealthy, and more misery for the immiserated" (Hogler, 2011).

Although the effect needs to be more precisely studied, data from the Current Population Survey by the BLS does suggest that curbing collective-bargaining rights for public sector workers (which is similar to RTW) has an even more negative impact on unionization rates. Since 2011, when Wisconsin limited collective bargaining for state government employees, the union membership rate for state workers has fallen from 40.2 percent to 24.6 percent, a 15.6 percentage-point drop. Over the same timeframe, state worker unionization rates in Illinois and Minnesota were relatively unchanged, hovering around 50 percent (Bruno et al., 2015).

(5) The Personal and Societal Benefits of Labor Unions and Collective Bargaining

There are many personal benefits to being a union member. In the early 1990s, two leading labor economists found that unions raise worker wages by between 10 and 17 percent (Freeman, 1991; Card, 1992). This union wage premium has held over time (Hirsch & Macpherson, 2006; Schmitt, 2008; Bruno et al., 2015). Additionally, the United States Bureau of Labor Statistics (2014) reports that 79 percent of union workers participate in workplace-based medical plans, while less than half of nonunion workers do so. The comparison of union to nonunion employees with retirement plans is similar. When controlled for all measurable factors, on average, union membership improves the likelihood that a worker will have employer provided health insurance coverage by 6.4 percentage points and pension coverage by 12.5 percentage points, while reducing reliance on food stamps by 1.1 percentage points, and lowering the probability that a given worker is below the official poverty line by 2.9 percentage points (Bruno & Manzo, 2014). Unions also institute democratic workplaces, giving workers a voice, protecting them against the abuse of managerial authority, and standardizing safety procedures (Rees, 1989).

The deep importance of work for families and communities means that debates over public policies that create valuable outcomes for society must not overlook work, the workplace, and the employment relationship. University of Minnesota Professor, John Budd (2014) has persuasively noted that, "labor unions feature prominently in the analyses because they are the most visible nonmarket institution for creating publicly valuable outcomes relating to work." Work is recognized by economists, philosophers, sociologists, and religious scholars as a fully human activity that determines, in Budd's terms "how we earn a living, build a material world, develop (or lose) our self-esteem and social identity, interact with others least like ourselves, and experience society's power imbalances" (2011).

It should then come as no surprise that in households with at least one union member, individuals report higher levels of happiness than their counterparts in nonunion households. Results from the General Social Survey from 2000 to 2012 indicate for example that, compared to individuals in nonunion households across America, those in union households are more likely to have an advanced (i.e., master's, professional, or doctorate) degree and more likely to work more weeks and hours. The result is that people in a union household report being marginally happier, than those in households without a union member (Manzo & Bruno, 2014).

Additionally, empirical evidence confirms that job satisfaction is a primary determinant of overall life satisfaction. Research done by Pfeffer and Davis-Blake (1990), demonstrated that "unionization has a significant positive effect on job satisfaction." Notre Dame Political Scientist, Benjamin Radcliff (2013) went further and examined data from the World Values Surveys for all OECD Countries and found that "both [union] members and nonmembers lead better lives, on average, when more workers are organized." Most directly relevant to the policy effects of RTW, he applied his analysis to the American states and found that citizens reported that their life satisfaction increases as the share of workers organized into unions increases. And the impact of unionization was "a huge effect in substantive terms." Recognizing the defining and aspirational effects of work in a person's life, strongly recommends protecting those institutions, like collective bargaining, that raise job satisfaction and thereby contribute to feelings of a life well lived. Contrarily, by weakening organized labor, right-to-work laws diminish the positive personal effects of unions and subsequently, reduce social levels of wellbeing.

(6) The Economic Benefits of Labor Unions and Collective Bargaining

The United States has experienced an era of privatization and deregulation, which has seen public policy changes in the labor market that have contributed to income inequality. Increasingly lax employment and enforcement of laws have led to frequent wage theft violations amongst vulnerable and misclassified low-income workers (Bernhardt et al., 2009). Changes in CEO compensation have increasingly rewarded executives, who now earn 272.9 times the amount of their average workers (Mishel & Sabadish, 2013). These CEO pay adjustments have occurred despite a general lack of association between actual year-to-year firm performance and CEO (Lin et al., 2013) compensation. The declining real value of the minimum wage, which is not pegged to inflation, has further increased inequality (U.S. Congress Joint Economic Committee, 2010), particularly among women (Gordon & Dew-Becker, 2008).

In terms of labor market institutions and their influence on wage and income inequality, by far the largest factor has been the gradual, long-term decline in labor union membership among American workers. In 2008, the union hourly wage premium was 11.9 percent for the average worker nationwide (Schmitt, 2008). The union wage premium was 13.7 percent for the median worker in America, but for workers earning below the median, the wage effect was 15.0 to 20.6 percent. Accordingly, "unions benefit lower- and middle-wage workers most," helping to reduce wage inequality (Schmitt, 2008). Wage dispersion has also been found to be 25 percent lower in unionized firms than in nonunion workplaces. As a result, in the 1980s and 1990s, unionization reduced wage inequality in the national economy by as much as 10 percent (Freeman, 1996).

Conversely, recent research has demonstrated that the decline of organized labor has contributed to the growth in inequality. A comprehensive multi-nation International Labour Organization (ILO, 2015) study finds that "a growing number of studies attribute the rise in wage inequality in these countries to the decline in union density and influence." The increase in the 50-10 ratio for men (i.e., higher wages at the median compared to the poorest 10 percent of earners) was caused mainly by shrinking unionization (Gordon & Dew-Becker, 2008). Western and Rosenfeld (2011) discovered that unions equalize the wage distributions of both union members and nonunion workers by instituting norms for fair pay. They estimate that the decline in unionization rates explains a fifth to a third of the growth in inequality in America, growing inequality by between 8 and 13 percent. Finally, research by the International Monetary Fund (IMF) found that "[t]he decline in unionization is strongly associated with the rise of income shares at the top," "is associated with less redistribution of income," and explains about half of the rise in income inequality (Jaumotte & Osorio Buitron, 2015). By significantly reducing union membership rates, policies like right-to-work laws contribute to income inequality both at home and globally.

IV. Conclusion

Economic and social science research generally finds that right-to-work is bad public policy. Right-to-work laws have no discernible impact on job growth or business growth, lower worker earnings, and have negative impacts on the public budget by reducing the tax contributions of workers while increasing reliance on government assistance programs. Economic research is unanimous in concluding that right-to-work laws significantly reduce unionization rates and the relative power of labor unions, thereby reducing the number of workers who will have a health insurance and a retirement plan.

Finally, the gradual decline in unionization has been found to be a driving force in the increase in income inequality both in the United States and across the world. By lowering union membership, right-to-work laws contribute to the redistribution of income from workers to employers, from labor to capital, and from middle-class taxpayers to the wealthy. When workers are encouraged to accept the higher standards of living that flow from unionized workplaces, while also opting out of making any financial contributions to the contracts that protect them, then the capacity of unions to lift up all workers will be compromised. In the end, RTW increases the unilateral authority of employers to determine how men and women should labor and be compensated for their daily bread.

RTW should be rejected as a policy tool because it is grounded in a view of the American economy that depends on reducing the income of workers. It presumes that the American economy can only function effectively and generate broad benefits across all economic levels by reducing labor costs. Collective bargaining and unionization however channel the dynamism of the free-market in a democratic state to generate equitable opportunities for middle class prosperity.

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