MiBiz west

Time to reform America's secret collectivism

The system of compelled union representation

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A young teacher reads about a job opening at a local school. She applies, completes an interview and is told she will be hired. But there is a catch. In order to have the job, she must pay a certain percentage of her wages to an organization that promotes views different from her own – many of which are on issues entirely removed from those affecting her job. Nearly half of the people working at the school share her opinion of the organization, but the law states that the tribute must be paid by everyone who works there. To make matters worse, every public school in the district is affiliated with this organization.


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Consider another scenario: A long-time employee of a manufacturer discovers that just over half of his coworkers have decided to support a new organization. Individual dues to this group are several hundred dollars per year, and its agenda runs counter to his own beliefs. To make matters worse, he likes his employer and has always been treated fairly. He is not alone. But that's too bad; the law compels him to pay the fees and allow the organization to represent him. He must pay the fees or find another job, forgoing years of accumulated goodwill and benefits.

What nation would require people to contribute to or join an organization as a requirement of certain jobs? Cuba? The People's Republic of China? No, this infringement on the right of free association takes place right here in the United States.

Today, 12.5 percent of American workers are forced by law to negotiate through a union. Yet few Americans understand just how a union operates or how it achieves its position. This is unfortunate, for if more freedom-loving Americans were aware of this situation, they might champion the rights of those whose liberty is being trampled.

Federal labor law, which is mirrored by Michigan law, was established in the midst of the Great Depression and has at its core radical provisions that were enacted as a response to difficult times. The law stipulates that if only 30 percent of workers in a firm publicly call for union representation, they are entitled to a secret ballot election to decide whether to certify a union. If more than 50 percent vote in favor of certification, the entire group of employees becomes bound to union representation. Dues must be paid to the union, and people can be fired for refusing to comply.

It is not difficult to see how federal and state labor law came into being. Times were tough and politicians were eager to try almost anything to restore economic prosperity. But in the decades since, and in light of the fact that there is now a body of state and federal laws protecting workers in everything from discrimination to reasonable pay periods, it is hard to see the benefit of compelled union representation for workers.

Indeed, our principles as Americans demand that we ask why and how it is that in the land of the free an employee can be compelled as a condition of employment to pay fees to a union they determine they don't want or need?

One answer is that most unions are historical vestiges. They have been in existence for decades and the law makes it difficult to decertify them. A decertification election can only be held when a negotiated bargaining agreement has expired. If the union files an unfair labor practice charge against an employer, this too can delay decertification. Consequently, most union members have never voted to certify the union to which they pay dues or fees.

Secondly, the unions are entrenched. Organized labor is big business. For decades, union bosses — supported by forced unionization — have collected fees from members and built up huge cash reserves, as well as a number of individuals with vested interests in the union's continued existence. As such, employees seeking to decertify a union can simply be overwhelmed by a union's economic might.

Fortunately, the federal judiciary has noted the anti-freedom aspects of this system. The U.S. Supreme Court has confirmed in several cases that the federal Constitution prohibits forced membership, thereby allowing an employee to resign. However, employees who refuse to join a union may still be required to become a "fee payer." A fee payer, while not a union member, must pay an agency fee to the union for representing his or her interests in contract negotiations.

This fee is substantial, and often constitutes an amount almost as large as the full union membership dues.

Even so, acquiring fee-payer status is no easy feat. Peer pressure on reluctant union members can be intense. Resigning from the union is also procedurally difficult. For example, teachers who belong to the Michigan Education Association can only resign from their union during the month of August. Such withdrawal "windows" have been upheld in Michigan as a reasonable administrative requirement.

The statistics bear out the difficulty of becoming a fee payer. With 157,000 members, the MEA recently reported that it has only 683 fee payers.

Like the federal courts, the U.S. Congress has set some boundaries on federal labor law. Title VII of the Civil Rights Act of 1964 prohibits union membership in situations where it conflicts with an employee's religious beliefs. But even in these cases the employee is usually required to surrender an amount equivalent to dues to a charity approved by the employee and the union.

Michigan has also attempted to limit some of the more egregious aspects of American labor law. In 1994, the Michigan Legislature enacted several amendments to the Michigan Campaign Finance Act. These changes, known as "paycheck protection," were designed to prohibit automatic employee contributions to a labor organization's political activities. While the amendments covered involuntary political contributions, it did not address the full range of non-workplace related expenditures, or provide the kind of transparency necessary for an employee to discover the full range of expenditures being funded by the dues.

Today's unions were constructed in a bygone era, and the collectivist ideologies that were their underpinning have been widely discredited both in theory and in practice. The American ideal of individual liberty and the realities of the 21st century global marketplace call for an overhaul of the compulsory aspects of the union system.

There are several options:

1. Establish Michigan as a "right to work" state. Federal law already allows for the state Legislature to prohibit the forced payment of fees to unions. Twenty-two states have protected workers from being compelled to make such coerced contributions. In cases where they desire it, workers should also be permitted to negotiate their own terms of employment directly with employers.

2. Require regular certification elections, regardless of bargaining status. Employees should be permitted to decertify their union any time they see fit. Annual elections would be more democratic than perpetual terms of union authority.

3. Establish union-free zones. Where a particular industry is in financial trouble — facing bankruptcy, for example — companies could be allowed to operate without a collective union presence for a fixed period of time.

4. Move to a system of voluntary unionism. It is time for Michigan workers to throw off the shackles of a labor system that diminishes the value of the individual. Employees should be free to choose whether they want union representation, or would rather negotiate directly with their employer.

From its very foundation, America deemed liberty to be paramount. This respect for the individual and his or her ability to make independent choices has helped create the greatest economic engine on earth. America's secret collectivism — set forth in laws designed to entrench forced unionism — must be brought to light and reformed.

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