



Written by [Steve Byas](#) on June 1, 2017

Is the End Near for Forced Union Membership in America?

If U.S. Representatives Joe Wilson (R-S.C.) and Steve King (R-Iowa) and Senator Rand Paul (R-Ky.) have their way, the days of forcing American workers to join a labor union in order to keep their jobs will soon come to an end. These pro-right-to-work lawmakers have sponsored legislation designed to end the practice of forced union membership in the United States. In addition, there are pending lawsuits in lower federal courts, challenging the practice of forced unionism.



The legislation (H.R. 785 in the House and S. 545 in the Senate) would make it against federal law for an American to be forced into membership in a labor union against his will. Cases presently making their way to the Supreme Court might make such legislation moot for public employees.

Before the death of Supreme Court Associate Justice Antonin Scalia, it was expected that the High Court was going to strike a death blow to forced public employee unionism, in a case known as *Friedrichs v. California Teachers Association*. The case was brought by several teachers who contended that forcing them to pay union dues violated their constitutionally protected rights. Without Scalia's vote, the court divided 4-4.

Had Scalia been on the court, it is generally conceded that a ruling would have made it so no government employee could be forced to join a labor union. Even Greg Junemann, president of the International Federation of Professional and Technical Engineers, believes that the forced-union-membership side would have lost, 5-4, had Scalia not died. "There's not a doubt in my mind that the clock is ticking on that one," Juneman said, after Neil Gorsuch took Scalia's place on the bench.

The American Federation of State, County, and Municipal Employees (AFSCME) has 1.6 million members, but their leaders have concluded that should a case such as *Friedrichs* reach the U.S. Supreme Court again, and then be decided against forced union membership, they would lose a large percentage of those members. Based on conversations with about 600,000 of its members, they expect to retain about 35 percent, with about 15 percent likely to leave the union. About half are considered undecided. Lee Saunders, president of AFSCME, lamented that they had mistakenly believed most of their members were strong supporters of the union.

The legislation pending in Congress would make a fundamental change in national labor law, making right-to-work laws the national standard. During his presidential campaign, Donald Trump endorsed the effort. Of course, it can be expected that Senate Democrats would mount a filibuster to stop passage of any such national right-to-work law.

Labor union laws passed during the New Deal years of President Franklin Roosevelt were quite friendly to the unions, for two principal reasons. First, FDR was an advocate of the idea that higher wages led to prosperity, an important consideration in the depths of the Great Depression. And second, Roosevelt also enjoyed the financial resources that came his campaign's way from the treasuries of powerful labor



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unions. For instance, the Congress of Industrial Organizations (CIO) gave his 1936 campaign over a half-million dollars — an incredible sum of money during the Depression.

The Depression-era labor laws legalized what were known as “closed shops.” Under a closed shop, people could not even be considered for a job unless they were members of the union that had a contract with the employers. This, of course, gave union leaders tremendous power over their members: If they did not follow the direction of the union leaders, their union card could be pulled. Or they might not even get one in the first place.

Then in 1947, Senator Robert Taft (R-Ohio) authored the famous Taft-Hartley Law, which outlawed the closed shop. Union shop — requiring someone to join a union *after* getting a job — became the national standard. Taft-Hartley, under section 14-B, also allowed states to enact “right-to-work laws,” which would also ban union shops. This created what is known as “open shops,” under which union membership is a free choice for the employees to make.

Under 14-B of the Taft-Hartley Law, a state would allow union shop unless it specifically outlawed it with a so-called right-to-work law. With the present legislation being considered by Congress, the national standard would be the open shop — or voluntary membership — unless a state enacted a law allowing union shop.

After the passage of Taft-Hartley, over President Harry Truman’s veto, many states in the Deep South quickly enacted right-to-work laws. These laws have spread to midwestern states such as Wisconsin and Michigan, and are presently in place in 28 states.

Labor union leaders argue that right-to-work laws are unfair. The AFL-CIO tweeted, “Right to Work drives down wages, raises the poverty rate and makes us less safe at work. It’s wrong for working families.”

Perhaps the strongest argument used by labor unions against open shop — voluntary union membership — is that it is only fair to require all workers to join the union, because their collective bargaining wins benefits to all workers in the business. It should be noted, however, that it has generally been labor union leaders who have insisted upon covering all workers in a work place, and that individual employees should not be allowed to individually negotiate.

Labor union membership has been in decline for several years, even without any changes to outlaw the union shop nationally. Only about 11 percent of all U.S. workers are members of unions. If employees were not forced to pay union dues, this would seriously deplete union treasuries and no doubt lead to a decline in their political clout.

While in college and working a summer job in the paint shop of Halliburton in my home town of Duncan, Oklahoma, I told a union advocate that I did not think it was right for labor unions to get involved in political issues that have little or nothing to do with working conditions for their members. I specifically cited that the unions had supported George McGovern in the past presidential election, and he had lost 49 states. On the contrary, he told me, some workers are just not smart enough to know what is good for them, and the union must protect them from their own ignorance. This attitude is common among political activists who work their way into leadership in labor unions: They see the union as a way to promote their leftist political views, and forced union membership gives them greater political clout.

That political clout took a tremendous blow recently, when Wisconsin Governor Scott Walker won statewide elections three times in only four years over the intense opposition of unions. In recent years, unions have also had to deal with claims by right-to-work advocates that such laws are an important



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tool in recruiting new industries to a state.

Matt Patterson, director of the anti-union Americans for Tax Reform's Center for Worker Freedom, cogently summed up the problem facing labor unions today, stating, "People aren't scared of them the way they used to be."



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