

Seventh Circuit Upholds Indiana Right To Work Law – Indiana Supreme Court To Weigh In Next

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The Seventh Circuit today issued its long awaited decision affirming a lower court ruling that upheld Indiana’s right to work law under federal law. The Indiana General Assembly passed the Indiana Right to Work Act on February 1, 2012, and then-Governor Mitch Daniels signed it into law. Local 150 of the International Union of Operating Engineers filed suit in federal district court in Indiana challenging the law on federal preemption and federal Constitutional grounds. Nearly one year after hearing oral argument in the case, the Seventh Circuit issued its opinion today upholding the law. The majority opinion was authored by Circuit Judge John Tinder, who previously served as a district court judge in the Southern District of Indiana. The 59 page opinion contains a very thorough analysis of the multiple issues raised by the Union. We will provide a more detailed analysis in further blog posts, but the Court’s conclusion summarizes the opinion as follows:

“We noted at the outset that this legislation prompted vigorous debate, both in the general public and the Indiana Statehouse. But the legislative history and context of the Taft-Hartley Act make clear that the controversy is one that ought to be addressed and resolved at the level of legislative politics, not in the courts. The statutory question posed is whether Indiana’s new law is preempted by federal labor law, or threatens the Union’s First Amendment rights. The answer is an emphatic no. Right-to-Work laws like Indiana’s have existed since before the passage of the Taft-Hartley Act and the inclusion of Section 14(b) of the NLRA. Congress specifically reserved to the states the power to write and enforce laws of this nature, in accordance with individual states’ needs and wisdom. It is not our province to wrest this authority, which has been intact and undisturbed for over sixty-five years, from the states and erase the distinction between right-to-work states and non-right-to-work states.”

Chief Judge Diane Wood authored a dissent arguing, “Today’s decision is either incorrect or it lays bare an unconstitutional confiscation perpetuated by our current system of labor law.” The dissent seems to focus on the “free rider” argument advanced by the Union:

“[N]onmembers must pay for the services that the unions are required by law to render to them. Supreme Court precedent, Board precedent, and the legislative history of the statute all

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support this approach. And if it is wrong and the majority is correct, we have a constitutional problem on our hands. In our country, the state is not entitled to force private organizations or persons to render uncompensated services to others.”

A copy of the decision can be found [here](#). Meanwhile, on September 4, 2014, at 9 a.m., the Indiana Supreme Court is scheduled to hear oral argument on Local 150’s parallel lawsuit attacking the right to work law on State Constitutional grounds. The Union filed suit in Lake County, Indiana, and the trial court ruled that the law violated the Indiana Constitution because it required services from unions without just compensation. The trial court stayed the decision pending appeal. You can view the [live stream of the oral argument](#) before the Indiana Supreme Court. Finally, the Steelworkers also filed suit in Lake County, Indiana, and another trial court there also struck down the law in a July 24, 2014, decision. That court refused to issue a stay of the ruling while the State appeals. The Attorney General has sought to consolidate the argument on the two cases. However, in an order issued late Friday August 29, 2014, 08-29-2014, the Court unanimously refused to consolidate the two cases and stated that oral argument will continue as scheduled on September 4.