

Submitted written testimony of

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Committee on Education and the Workforce

Chairman Rep. John Kline

Senior Democratic Member Rep. Bobby Scott

Chairman Kline and distinguished Committee Members: Thank you for providing this opportunity to talk about the importance of Right To Work in the workplace.

I want to start by saying that I am not anti-union!

Unfortunately, I live in a compulsory unionism state, Connecticut, where our elected officials have not seen fit to allow hardworking people the freedom to decide for themselves whether or not to pay union association fees.

However, Congress does allow those of us in non-Right To Work states the option of making our workplace essentially a Right To Work zone, via a “deauthorization” election.

I am the employee who filed a petition to “disassociate” from the union and nullify the forced dues clause from our collective bargaining contract. Along with other members of our union, Office and Professional Employees International Union (OPEIU) Local 106, I filed this deauthorization petition because we believed we had no other choice.

But it now appears that the National Labor Relations Board (NLRB) intends to bypass Congress and the States, and take away employees’ freedom not to pay for an unwanted union without losing our jobs.

Let me provide some background.

I work at the United Way of Southeastern Connecticut, which has a labor contract with OPEIU Local 106. Many of my coworkers and I became highly dissatisfied with unresponsive union officials whose “representation” we are forced to accept.

Under the National Labor Relations Act (NLRA), labor unions are given extraordinary power that can be used for the benefit of employees. Unfortunately, in our case, that power was usurped by one member and used for her own benefit.

Basically, during contract negotiations, OPEIU union officials refused to talk to employees regarding the proposals on the negotiating table, and refused to consider proposals put forth by employees. OPEIU officials even refused to provide employees with information about the issues being negotiated. Most infuriating to employees, union representatives claimed that they had agreed with management to maintain a veil of secrecy and not discuss with the membership anything about the pending contract.

During this period, I stood up at a union meeting and noted employees’ strong displeasure with the secret negotiating process, which limited the union’s ability to communicate with the membership. I stated my belief that the union officials’ failure to communicate with employees prevented them from fulfilling their duty to faithfully represent the membership. In addition, I asked union officials to consider signing a prospective document assuring that never again would they agree to a negotiating process that would limit their ability to communicate with the membership. The union officials declined to make such a pledge.

Other members voiced agreement with me, and noted their displeasure over the entire negotiating process. Employees expressed frustration with the way the union officials were treating employees and had treated them for many years. Employees who dared to question the union were treated very rudely at this meeting!

Indeed, we were amazed that it was possible that this union, tasked with representing a body of people, could speak to us in such a rude fashion, and treat our collective requests with such wanton disregard!

It was the way the members were treated during those meetings that convinced me to disassociate from the union's actions. Longstanding members of our union were belittled and verbally abused for speaking up.

The first impulse I and other members had was to "drop the OPEIU union" and either join a different union that would listen to us, or simply drop the union altogether and negotiate directly as individuals.

A quick Google search provided what we thought would be the answer. We circulated a petition to "decertify" the OPEIU union and quickly collected signatures from in excess of 50% of our members. We thought we could submit this to management and this union would be gone!

We were shocked to discover, however, that we missed a "window period" to submit such a petition under the NLRB's "contract bar" rules, which are used to entrench unpopular incumbent unions and prevent employees from voting them out. Faced with the realization that we had another three years of forced representation in front of us, paying dues to an unpopular union yet having no real voice, we continued looking for ways we might actually be able to force the union to listen to us.

I reached out to the National Right to Work Legal Defense Foundation for help. One of its attorneys, Glenn Taubman, explained that we had another option. He explained that Section 9(e) of the National Labor Relations Act (NLRA) allows employees to vote to nullify a forced dues clause in a labor contract, thereby creating a localized Right To Work environment right in our own workplace. We immediately collected signatures and filed them with the NLRB.

The NLRB oversees deauthorization elections just as it oversees decertification elections, via secret ballot. On April 30, 2015, 21 employees (100% of the total in my United Way of Southeastern Connecticut bargaining unit) voted in our deauthorization election. Those 21 employees voted by a 13-8 margin to negate the forced dues clause in the United Way of Southeastern Connecticut-OPEIU Local 106 contract, thereby asserting our freedom to choose whether or not to join or support a union. That deauthorization election, like Right To Work laws, freed us from being forced to pay OPEIU officials for unwanted and poor quality "representation."

At this time, we are still waiting for the NLRB to officially certify the election results. The OPEIU union has filed an “objection” that is totally baseless and immaterial, all to delay the certification of our victory and hold on to its forced dues power for a little longer. The union claims that there was collusion between our management and me, but this claim cannot be further from the truth! I hope that the NLRB will soon rule that we held a valid election, and will certify the results and allow our small workplace to move forward in the direction that our members clearly wish to head.

Even as we are winning our victory for the right to choose, I understand that the NLRB is gearing up to undo sixty years of settled law and take away the freedom to refrain from *all* compulsory fees that NLRA Section 14(b) grants to employees in Right To Work states. Such an action by the NLRB bypasses Congress, negates Right To Work laws that provide employees like us freedom from compulsory fees imposed by an unwanted or unresponsive union, and undermines NLRA Section 9(e), which allowed us to deauthorize the unpopular OPEIU union.

In closing, I believe that unions’ “duty of fair representation” (to represent all employees fairly) does not impose additional “costs” or burdens on labor unions. Unions gain a thing of value by being allowed the power of “exclusive representation” over all employees in bargaining units whether the employees agree or not, and that value is sufficient compensation for whatever services the unions perform for employees.

Indeed, union officials are not required to exclusively represent anyone, but willingly and voluntarily seek the power of “exclusive representation” to serve their own purposes. The NLRB should not be allowed to undermine employee free choice by allowing unions to squeeze money out of employees under the guise of “fees for grievance representation,” where employees are forced to accept such representation whether they agree or not.

It is my belief that the Right To Work is, in fact, a fundamental right. I also believe that if unions wish to survive, they must embrace Right To Work. If the OPEIU union officials would have talked with us, understood our issues and concerns, and actually worked to faithfully represent us, the members, they would have positively effected our employment landscape and would have no problem attracting us and keeping us as voluntary members!

But without the Right To Work, union officials are all but guaranteed to become complacent and lazy in responding to the wishes of their members. This behavior, borne of the ability to force dues from all employees or get them fired, is guaranteed to cause a rift between the union members and union leadership, and will ultimately result in the collapse of the unions themselves. Any claim of “solidarity” without the Right To Work and freedom to choose is an obvious farce.

The only way individual members can have influence over union officials is through the power of the pocketbook. Our ability to deauthorize the union dues clause from our contract -- in essence a “line-item veto” of compulsory financial participation -- has given us a chance to encourage the OPEIU union to act in the employees’ best interest and earn our voluntary support. I think passage of a National Right To Work Act would strengthen every worker in the United States who works under a monopoly-bargaining arrangement, and I think the NLRB must be stopped as it tries to weaken and undermine these Right To Work laws and the parallel deauthorization process.

Again, thank you for the opportunity to speak with you today.