



Florida Poised to Be Pacesetter in Workplace Democracy Reform

F. Vincent Vernuccio **SENIOR FELLOW, MACKINAC CENTER FOR PUBLIC POLICY AND SENIOR POLICY ADVISER, STATE POLICY NETWORK**

Chantal Lovell **DIRECTOR OF STRATEGIC COMMUNICATIONS, STATE POLICY NETWORK**

Over half the country has laws on the books protecting workers from being fired for not paying union dues, and now a handful of states including Florida are stepping up to usher in the next wave of labor reform.

In March, the Sunshine State took a bold step forward when Gov. Rick Scott signed an education reform package that included a provision granting public educators a greater voice in the workplace. Teachers at unionized schools will automatically be

given the opportunity to vote on whether the current union should remain in place, or if another should step in to represent educators in the event membership falls below 50 percent of eligible employees.

For teachers who may want to belong to a union but, for example, disagree with the current union's quality of representation or stances taken on issues outside the collective bargaining agreement, this will be a method by which they may voice this opinion. For many, it will be the first time they've been given such a voice in their careers.

Yes, they have periodically had the opportunity to vote on the officers who lead their union, but that's little more than a consolation prize compared with having the right to elect the organization that represents them. The limitation Florida educators – and most members of government unions – have faced would be akin to allowing a person to only choose his or her cable television package but withholding the ability to choose the cable or satellite company or the option to cut the cord entirely.

Florida has long prevented unions from having workers fired for not paying them through its right-to-work law, but the state has otherwise allowed government unions to operate without the consent of its current members. Once in place, a government union can reasonably expect to represent a workplace without challenge, as is the case in most states. Short of dropping membership altogether – likely giving up the ability to vote in union elections, losing services a member may want, risking alienation from colleagues, or surrendering something else – teachers have had virtually no ability to challenge a union's customer service, value,

or direction.

By establishing worker voting rights, Florida has given educators a way to signal dissatisfaction in the organization that represents them and perhaps choose one that will be more responsive to their needs and wants.

Florida's embrace of union recertification, as this reform is called, places it among only a couple of other states, including Wisconsin and Iowa, that have become pioneers in bringing democracy to the workplace. In states like these where workers already have a choice in union membership, legislators are beginning to find ways to give them a voice.

Wisconsin started the trend back in 2011 when Gov. Scott Walker signed Act 10 into law, reforming the state's collective bargaining laws, addressing pension debt, ending automatic union dues deductions, and other policy reforms. The law included what is currently the gold standard of workplace democracy: a requirement for annual recertification, meaning unions must frequently and regularly show value to their members or be shown the door.

The Wisconsin victory sparked renewed interest in workplace freedom reform, leading a handful of other states – notably union-strong Midwest states including Michigan and Indiana – to successfully enact right-to-work laws. The momentum continued after the 2016 elections, when voters in multiple states elected policymakers who went on to pass right to work and other related reforms.

While states without right-to-work protections were understandably focused on establishing this fundamental legislation, states that already respect their workers'



right to choose whether to pay a union have worked to replicate the democratic elements of Wisconsin's Act 10. Several states attempted to pass such reforms and, at the federal level, Florida Congressman Francis Rooney tried to enact similar reform through the Current Employee Representation Act, of which he was the chief sponsor. Had it passed Congress, this would have given workers the opportunity to vote on which union represents them if membership falls below 50 percent; management would have been allowed to call for a decertification vote under such circumstances, as well.

These attempts were largely unsuccessful but brought awareness and acceptance to the idea that unions should

be more transparent and democratic to the employees they purport to represent.

In February 2017, Iowa logged the first major win in years on the workplace democracy effort, approving what is possibly the most sweeping government union reform since Wisconsin's Act 10. House File 291 places limits on government collective bargaining and prohibits using taxpayer dollars to collect union dues. Additionally, the law includes a provision establishing worker voting rights, allowing public employees to vote on whether a union should represent them before a new contract is negotiated. A year later, Florida followed suit by affording teachers workplace voting rights but basing the right on union membership rates instead of time

or linking elections to the contract alone.

What comes of the workplace democracy debate – as well as the broader labor reform efforts – largely depends on a pending U.S. Supreme Court decision. The justices are expected to issue a decision by the end of June in the case of *Janus v. AFSCME* – a lawsuit challenging whether forced unionism of public employees is a violation of their First Amendment rights to free speech and association. If their decision is in favor of plaintiff Mark Janus, as many expect it to be, all government workers in the country will enjoy right-to-work protections, freeing up more states to explore a new frontier of labor reforms, as Florida has.

Beyond giving workers the opportunity to vote regularly on the union that represents them, lawmakers in Florida and elsewhere should consider implementing Worker's Choice. This policy solution solves the "free/forced rider" issue that exists in right-to-work states, whereby unions must represent all employees in a workplace, even non-members, and where all employees must accept that representation, regardless of whether they want it. Worker's Choice

allows people who've chosen to leave a union to negotiate with an employer on their own and frees unions from having to provide representation to people who don't pay for that service.

States should also consider various reforms to expand on the freedom afforded to employees, such as requiring workers to opt in to union membership, rather than opt out; requiring unions to collect their own dues instead of using taxpayer resources to collect dues on unions' behalf, as is commonly the practice; and codifying regular union elections for all public-sector unions, rather than those triggered only when membership falls below a certain percentage. Regardless of how the Court rules, Florida has great opportunity to continue expanding workers' rights to have a voice in their unions, and in making them transparent. Decades of dedication to establish school choice policies have made Florida the stand-out state when it comes to 21st century education, and now is its opportunity to build on its own momentum and become the nation's leader in workplace rights.