

ISSUE BRIEF

‘Paycheck Protection’ Would Silence Working Families

“Paycheck Protection” legislation would prohibit unions from using any portion of a union member’s dues to fund political or legislative activities without an annually given special advance authorization. The proponents of this legislation argue that unions spend money on legislative and political activities, such as lobbying and get-out-the-vote efforts, without the consent of their members. Unions, however, are voluntary organizations that operate under majority rule, and, in fact, most union members support their unions’ legislative and political activities.

Under the Constitution, unions may use their treasury funds to communicate with their members on legislative and political matters and to advocate for public policy to legislators and the general public. Unions are prohibited, however, from contributing treasury funds directly to federal candidates or to national political parties. Those contributions are made through union political action committees.

Union decisions about legislation and politics reflect the democratic will of voluntary members. Union membership in the private sector is entirely voluntary. Any worker represented by a union at his or her workplace can decide whether or not to join the union, and any union member can resign his or her membership in the union at any time. Workers who join unions enjoy many enforceable participatory rights, including the opportunity to run for office in union elections; attend, speak and vote in union membership meetings; and access information about union finances and operations. Federal law also requires unions to treat their members on an equal and nondiscriminatory basis.

Nonmembers can withhold a portion of their union fees. Even in a unionized workplaces, union members and nonmembers who disagree with their union’s political decisions can withhold a portion of their union dues and, in some states, avoid union dues altogether, and still by law get all the wage and other benefits of union membership. Union members would have to resign their membership, however, to exercise this option.

In the 1988 decision, *Communications Workers of America v. Beck*, the U.S. Supreme Court held that private-sector workers in the 28 states allowing union security agreements can confine their payments to the portion of union fees covering collective bargaining and contract administration. Exercising this so-called *Beck* option allows nonmembers in those 28 states to pay *agency fees* covering their fair share of these costs of union representation, and not the costs of the union’s political, legislative, social and charitable activities.

The remaining 22 states have exercised their option under federal law to enact so-called Right to Work statutes that prohibit workers and employers from negotiating union security clauses. In those states, “free rider” nonmembers can avoid paying any fee whatsoever—even though federal law requires the union to represent them fully.

Unions are required to post a notice to inform workers of their rights under *Beck*. Unions are required to inform all workers they represent of the *Beck* option in the 28 states allowing union security clauses. And, for workers who exercise this option, unions calculate the appropriate reduction and provide for an impartial decision maker if the worker disagrees with the union's accounting.

Union involvement in legislative and political activities reflects the desires and interest of union members. According to a November 2002 survey of union members by Peter Hart and Associates, an overwhelming majority of union members—73 percent—say their unions need to invest time and money in politics and legislation to counter the influence that corporations and wealthy special interests have.

Corporate political contributions are drowning out workers' voices. In the 2000 election cycle, corporations outspent unions 15 to 1, up from 11 to 1 in 1996, according to the Center for Responsive Politics. Preliminary figures for the 2002 election cycle suggest that corporations continue to spend many times more than unions on elections.

The U.S. Congress, state legislatures, courts and voters have rejected “paycheck protection.” In 1998, a bipartisan majority of the U.S. House of Representatives voted 246 to 166 against national “paycheck protection” legislation. California voters in 1998 and Oregon voters in 1998 and 2000 defeated “paycheck protection” ballot initiatives, with union members voting overwhelmingly against them.

A Nevada state court also barred a “paycheck protection” initiative from appearing on the ballot in 1998, finding that it violated the First Amendment rights of union members to freely associate with each other and engage in legislative activity. Other courts also have held that union members' First Amendment rights would be breached by extending a *Beck*-type option for union members to opt out of certain union activities in non-“right to work” states.