NEVADA LEGISLATIVE COUNSEL BUREAU
OFFICE OF RESEARCH BACKGROUND PAPER

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RIGHT TO WORK

Nevada's so called "right to work" statute has historically been a politically sensitive and sharply contested issue. It was described as the central issue of the Laxalt-Reid 1974 U.S. Senate campaign in a Las Vegas Review Journal editorial (January 7, 1975, p. 16).

The law, NRS 613.230-613.300 was first passed in the general election of November 4, 1952, by a margin of 1,034 votes out of a total of over 75,000 votes. It was presented in the form of an initiative petition to the 1951 legislature, which decided to take no action and referred the question to a vote of the electorate. As the enclosed election history of the issue reflects, initiative petitions were presented on two other occasions and two additional elections resulted. The law was affirmed by Nevada voters in each election. The history also reflects that the issue has been presented to the Nevada legislature on several other occasions, the most recent being two bills introduced during the 57th session. The first, A.B. 945, would have repealed NRS 613.230-613.300. The second, A.B. 956, would have permitted union shops. Both bills died in the Assembly Committee on Labor and Management.

Nevada's Statutes--A brief summary (NRS 613.230-613.300).

NRS 613.230 defines the term labor organization as an organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, rates of pay, hours of employment or other conditions of employment.

NRS 613.250 prohibits agreements which deny a person the opportunity to obtain or retain employment because of nonmembership in a labor organization and prohibits agreements which exclude persons from employment because of nonmembership in a labor organization.

NRS 613.270 makes it unlawful to compel a person to join a labor organization, to compel him to strike or to threaten him and force him to leave his employment.

NRS 613.280 prohibits conspiracies which cause the discharge of any person or the denial of employment because he is not a member of a labor organization.

NRS 613.290 provides that any person who brings about the discharge or denial of employment to another person because of nonmembership in a labor organization shall be liable to the person injured and may be sued.

NRS 613.300 entitles a person injured or threatened by illegal practices to injunctive relief.

History.

NRS 613.230-613.300 was passed pursuant to provisions granted states in the 1947 passage of the Labor Management Relations Act, also known as the Taft-Hartley Act. The passage of this act followed by 12 years the passage of the National Labor Relations Act, or Wagner Act, of 1935. This act, among other things, protected by federal statute the right of employees to organize and bargain collectively and thereby encouraged the amicable adjustment of industrial disputes by legislating equality in their bargaining positions with that of employers.

The Taft-Hartley Act was passed to strike a balance in the relations of unions and management by amending the Wagner Act to give management a more equal bargaining position in relation with unions. Union membership had greatly increased during the period between 1935 and 1947, from 5 million members to about 15 million members. Union bargaining strength and influence had grown proportionately. Violence in bargaining, criticism of the closed shop, strikes in certain public utilities and coal mines, and the use of secondary strikes and jurisdictional strikes gave rise to the fear that unions were too powerful and that their activities should be subject to further regulation.

According to Senator Robert Taft (R-Ohio), as printed in the Report of the Senate Committee on Labor and Public Welfare, the purpose of the act was to correct labor activities outside the pale of federal law, to insure a nonpartisan National Labor Relations Board, to abolish the closed shop and to provide safeguards for union membership.

Among the several provisions of the act was section 14(b) which states:

> Nothing in this act shall be construed as authorizing the execution or application of agreements requiring

membership in a labor organization as a condition of employment in any state or territory in which such execution or application is prohibited by state or territorial law.

The effect of the law is summarized in the Statutory History of the United States--Labor Organizations. It states that section 14(b) permits states to outlaw any form of compulsory union membership irrespective of the provisions of the National Labor Relations Act. Nearly one-fourth of the states, largely non-industrial, have enacted and enforced so-called "right to work" laws under the provisions of 14(b). It further states that the law has had a minimal adverse effect on unions, they were not destroyed and their ability to make significant gains for members was not seriously affected. Whatever damage unions suffered was, by and large, confined to the smaller and weaker unions and to states with right to work laws.

It is the opinion of persons knowledgeable about Nevada labor relations that Nevada's statutes concerning this question stem from a bartenders' strike which caused a slowdown of business in Reno on July 4, 1948. The strike served as a catalyst which led first to an amendment (underlined) to the old "Yellow Dog" statute (RL 6792; NCL 10473; NRS 613.130) which states:

> Section 2. It shall be unlawful for any person, firm, or corporation to make or enter into an agreement, either oral or in writing, by the terms of which any employee of such person, firm or corporation, or any person about to enter the employ of such person, firm or corporation, as a condition for continuing or obtaining such employment, shall be required not to become or continue a member of any labor organization, or shall be required to become or continue a member of any labor organization.

Secondly, The strike contributed to the success of the initiative petition which resulted in the election vote of 1952.

Present opposition to the provisions contained in NRS 613.230-613.300 and 613.130 centers on four main areas.

1) Union spokesmen feel that because nonunion employees share in the fruits of collective bargaining conducted by the union in their behalf, the employees should become members and contribute to the cost of these efforts with their dues. Union benefits include negotiated wage scales, working conditions, work hours, and benefits--medical care, dental care and pension plans.

2) The statutes reduce the effectiveness of the unions by forbidding union shop agreements. Union shop agreements are collective bargaining agreements requiring all employees in a bargaining unit to be, or to become, members of the labor organization representing the employees of such unit. Spokesmen opposed to the provisions of NRS 613.230-613.300 feel that the statute allows division within the union and impairs the freedom of contract between union and management in collective bargaining, thereby decreasing the collective strength of the union at the bargaining table.

3) Because of the reduced strength of unions mentioned above, the statutes protect lower wage rates and poorer working conditions in some sectors of the economy.

4) Opponents of the provisions of NRS 613.230-613.300 also feel that the law denies majority rule by forbidding the mandatory membership provisions allowed in non right to work states. That is, even if the majority of the membership desires a union shop agreement, they are denied the ability to effect it because of the law.

Opponents are not so much in favor of repealing the present statutory arrangement as in amending it to provide for what they term "union security agreements" and "fair share agreements." These amendments would be permissive legislation to allow the employees of an establishment to vote on whether they desire to have a union security agreement written into the contract being negotiated with management. A union security agreement, once ratified by a majority vote of the employees would make it mandatory for all employees to become members of the union within a certain number of days following their hiring. The purpose of such a bargaining contract provision would be to allow a strengthened labor position, give solidarity to the union's position and allow for the equitable assessment of the costs of the negotiation.

A fair share agreement, advanced by public employee groups, is similar in part. Under this proposal, management and the employee group negotiator can stipulate in their bargaining contract that all employees affected by the contract must pay a fair share for the cost of the negotiation and the representation. This measure is similar to statutes in effect in Oregon and Hawaii. Employees are not required to join the union.

Arguments cited in favor of retaining the present wording and meaning of NRS 613.230-613.300 and NRS 613.130 may be summarized as follows:

1) In his report to the House Committee on Education and Public Welfare, (April 11, 1947), Representative Fred Hartley (R-New Jersey) stated that the bill's purpose was to prevent a worker from being forced into organizations against his will, thereby depriving him of his dignity. Hartley was further opposed to forcing the worker to commit funds to the union which the union leadership could donate to political candidates. Charles Bailey, of the National Right to Work Committee stated that such statutes as NRS 613.230-613.300 and 613.130 protect the worker's freedom to choose for themselves whether or not they desire to belong to the union.

2) Mr. Bailey further cites Bureau of Labor Statistics figures which show that 66 percent of the manufacturing jobs created in the period 1962-72 were in the 19 states which had provisions similar to Nevada's statutes. He stated that the conditions protected by these statutes made these areas attractive to new business.

3) Senator Taft, in the above cited Senate report, stated that one effect of the law could be that it also protects employees against discharge from their job if a union denies or terminates their membership for capricious reasons.

4) In a pamphlet produced by the National Right to Work Committee, America's Choice: Right to Work, the questions of majority rule, cost and apportionment are addressed. "Federal law provides that if 51 of 100 employees vote for a particular union to represent them, the union is certified as the 'exclusive bargaining agent' for all 100 employees. The minority of 49 is forced to accept the same union as its bargaining agent. Members of the minority are thereby stripped of the right to bargain for themselves. Spokesmen for labor unions have repeatedly demanded the privilege of representing both union members and nonmembers. They recognize the monopoly power which is granted to them by 'exclusive bargaining rights.'" (p. 15.)

SUGGESTED READING
(Available in Research Library)

Congress of Industrial Organizations; The Case Against Right to Work.

Keller, Rev. Edward A.; The Case for Right to Work Laws, The Heritage Foundation, 1956.

Koretz, Robert F., Ed.; Statutory History of the United States--Labor Organizations, McGraw Hill, 1970.

National Right to Work Committee; America's Choice: Right to Work, 1964.

Opinion Research Corporation; Public Attitudes and the Right to Work Issue, 1962.

Opinion Research Corporation; The Public Looks at 14(b) and the Right to Work Issue, conducted for Nat'l RTW Committee, 1966.

NEVADA

RIGHT TO WORK LAW - HISTORY

1951 Statutes of Nevada - 1951	--SB 79, approved March 14, 1951. Chapter 95. Present NRS 613.130.
1951 Assembly History (1951)	--Initiative Petition to establish a right-to-work law presented to the legislature. January 15, 1951. --Mostion carried to take no action. Feb. 22, 1951 --To ballot in November, 1952.
1952 Election, November 4, 1952	--Question No. 1, Initiative Petition to establish a "Right-to-Work" law. --Canvass of the vote: Yes 38,823 by 1,034 votes No 37,789
1953 Statutes of Nevada - 1953	--Chapter 1 (Initiative Petition) Text of law.
1953 Journal of the Assembly (1953) P. 4	--(Inadvertently left out of Assembly History for 1953) --Initiative Petition to repeal the R. to W. law, presented to the legislature. January 19, 1953. --Motion carried to place on Chief Clerk's Desk. --To ballot in November, 1954.
1954 Election, November 2, 1954	--Question No. 1, Initiative Petition to repeal "Right-to-Work" law. --Canvass of the vote: Yes 36,434 No 38,480 by 2,046 votes
1955 Assembly History (1955) p. 144	--Initiative Petition to repeal the R. to W. law presented to the legislature, No. 1, January 17, 1955. --Initiative Petition to amend constitution on on R. to W. issue presented to the legis. No. 3, Jan. 17, 1955 --Both initiatives were placed on the Chief Clerk's desk and no further action taken. January 17, 1955 --Both initiatives to ballot in November, 1956.
1956 Election, November 6, 1956	--Question No. 1, Initiative Petition to repeal "Right-to-Work" law. --Canvass of the vote: Yes 42,337 No 49,585 by 7,248 votes --Question No. 2, Initiative Petition to amend constitution relative to "Right-to-Work" provisions. --Canvass of the vote: Yes 38,554 No 51,047 by 12,493 votes

1958 Election, November 4, 1958	--Question No. 2, Initiative petition to repeal "right-to-work" law. Ordered removed from ballot by order of District Court No. 1 for insufficient signatures on original petition.
1959 Assembly History (1959)	--A.B. 359, Amending right-to-work law. Failed
1961 Assembly History (1961)	--A.B. 321, Amending right-to-work law. Died in committee.
1971 Assembly History (1971)	--A.B. 740, Amending right-to-work law. Died in committee.
1973 Assembly History	--A.B. 945, Repeals right-to-work law. Died in committee.
	--A.B. 956, Permits "union shops" in Nevada. Died in committee.