



## INDIANA EXPERIENCE OFFERS LITTLE HOPE FOR MICHIGAN 'RIGHT-TO-WORK' LAW

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Recently, Michigan Gov. Rick Snyder has pointed to Indiana's economic success since passing "right to work" as a reason for Michigan to adopt similar legislation.<sup>1</sup> Neither the governor nor Indiana officials, however, have been able to provide evidence that "right to work" (RTW) was the determinative factor in even a single company's decision to locate in the state. A close examination of the law and of data provided by the Indiana Economic Development Commission (IEDC)—which served as the basis for Gov. Snyder's comments—suggests that there is little reason to think RTW has significantly impacted job growth.

### It is too soon for the RTW law to have impacted corporate location decisions

Indiana's statute was signed on Feb. 1, 2012, and only applies to labor contracts signed after March 15, 2012. Yet the Indiana Economic Development Corporation began claiming that RTW had attracted jobs to the state on Feb. 29, 2012.<sup>2</sup> On March 12, 2012, Indiana Gov. Mitch Daniels began declaring evidence of RTW's success; on that date, the governor claimed there were 31 companies considering locating in Indiana due to RTW.<sup>3</sup>

However, the reality of business investment decisions is that picking a location for a major new investment is a lengthy process. For instance, Larry Gigerich of the Indianapolis-based site location consulting firm Ginovus,

LLC—commonly cited by IEDC as an authoritative source on the topic—estimates that a typical business location decision takes 4–6 months, while decisions about larger investments take 9–12 months.<sup>4</sup> It is simply too soon for the law to have affected many businesses’ location decisions.

This is all the more true given the legal delays that have accompanied the law’s enactment. The rules for enforcing Indiana’s right-to-work statute were only published on Aug. 29, 2012, and became effective on Sept. 12, 2012.<sup>5</sup> Furthermore, the law is currently being challenged in both state and federal courts. On Oct. 16, 2012, a circuit court judge denied the Daniels administration’s motion to quash the suit, ruling instead that “it cannot be categorically said at this time that IC 22-6-6 does not violate Article I §21 of the Indiana Constitution.”<sup>6</sup> To the extent that businesses require certainty in order to make location decisions, they have not found it regarding right to work.

## Claims of RTW success story refuted by employer cited

On March 12, 2012, Gov. Daniels identified the MBC Group as an employer that he said was creating jobs in Indiana because of RTW. MBC is not an out-of-state firm, but was founded in Indiana in 2009, and opened its Brookville location—the site of the expansion heralded by the governor’s claims—in 2011.<sup>7</sup>

The MBC Group promptly denied that RTW was the reason for its location decision. Indeed, the company’s president stated that he hadn’t noticed the reference to RTW in the press release and probably would have objected if he had. He also insisted that he had long planned to expand in Indiana; RTW “was not going to affect our decision one way or another,” he explained.<sup>8</sup>

The MBC story suggests that Indiana IEDC officials may be drafting news releases praising RTW and presenting them to corporations to sign after awarding them financial incentives. At the least, the company’s rebuttal of

IEDC raises doubts about the commission’s broader claims.

## Companies claimed to be attracted by RTW were actually already located in Indiana

At least four other companies that IEDC claims were motivated by RTW—all of whom received economic incentives from IEDC officials—have a long history in Indiana:

- Busche has been based in Indiana since its founding in 1997, with 14 facilities all in close proximity to one another. The company announced its decision to expand on March 22, 2012, after being offered \$750,000 from IEDC to help create 120 jobs by 2015.<sup>9</sup> Ironically, this company appears to have acquired its first non-Indiana production facility *after* the passage of RTW, in October 2012.<sup>10</sup>
- Steel Dynamics is a longtime Indiana firm with facilities in 19 Indiana cities. In 2011, the company decided to build a new facility in Indiana, without RTW.<sup>11</sup> For its 2012 expansion, IEDC promised the company \$600,000 for creating 50 jobs.
- SealCorp USA is a longtime Evansville, Indiana, business. IEDC provided \$340,000 in incentives in return for the company undertaking an expansion expected to create 35 jobs. Tellingly, the company’s own statement regarding the expansion decision mentions these economic incentives—but not RTW.<sup>12</sup>
- Wayne Supply is another Evansville, Indiana, business that simply expanded its existing operation. Wayne is a distributor of Caterpillar mining equipment, and *all* the company’s facilities are located in either Indiana or Kentucky—a non-RTW state. Indiana’s coal mining has been growing dramatically, so expansion is not surprising. IEDC provided \$450,000 in state funds in return for the company’s adding 50 new jobs. At the same time, the company

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is establishing two entirely new facilities not in Indiana, but in non-RTW Kentucky.<sup>13</sup>

That Indiana officials count each of these companies as firms whose facilities were drawn to the state because of RTW raises serious concerns regarding the reliability of IEDC claims as to the law's impact.

## Not a single company says it came to Indiana because of RTW

IEDC is a vocal advocate for RTW. Yet, while the agency reports that scores of companies have “communicated” that RTW “will factor into their decision-making process of where to locate,” the commission’s *Legislative Update* report does not identify a single company that says RTW made the difference in its decision to locate in Indiana. The commission offers quotes from a number of executives who praise RTW, but not a single one says it made the difference in their decisions.<sup>14</sup>

## IEDC data show that the absence of RTW before 2012 did not keep companies away

IEDC’s *Legislative Update* provides an analysis of all the companies since 2009 that Indiana officials courted but did not succeed in convincing to build in the state. Since the vast majority of these decisions took place prior to RTW, it is instructive to examine whether companies were avoiding Indiana due to its lack of RTW. According to IEDC, however, the vast majority of these companies either chose not to build anywhere, or preferred another state’s cash incentives or site infrastructure. Only 3 percent said their decision was related to labor availability or costs; there is no number at all reported for companies saying they stayed away because of RTW.<sup>15</sup>

## Indiana continues to lose jobs to non-RTW states

The extent to which RTW is discounted in business location decisions is apparent in the significant number of Indiana firms that—since the passage of RTW—continue to choose to invest in other, non-RTW states. A short sample of such decisions includes:

- Manitowic plans to close its Indiana facility and move the jobs to Cleveland, Ohio.<sup>16</sup>
- Diamond Foods plans to close its Indiana facility and move the jobs to California.<sup>17</sup>
- Whirlpool plans to move the jobs remaining in its Evansville, Indiana, facility to Benton Harbor, Michigan.<sup>18</sup>
- Gunite (Accuride) closed its Indiana facility and moved the jobs to Illinois.<sup>19</sup>

## 2012 job growth is due to the economic recovery rather than RTW

To the extent that Indiana has seen job growth, it likely reflects national trends rather than state statute. The number of companies recruited to the state has been increasing every year since the bottom of the recession in 2008. Indeed, IEDC reports that private-sector job creation by companies recruited to Indiana has been lower in 2012 than in 2010, before the law was adopted.<sup>20</sup>

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## Endnotes

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