

## Right To Work Challenge Dismissed In Federal Court

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### Indiana State Flag

Operators Local 150 has been soundly tossed out of federal court in its effort to overturn Indiana's Right to Work Act. In a decisive 24-page opinion, Judge Philip Simon of the Northern District of Indiana examined and dismissed every challenge to the Act raised by the Operating Engineers.

The Union challenged the statute under the Contracts Clause, the Ex Post Facto Clause and the Equal Protection Clause of the U.S. Constitution. They further challenged the Act as being pre-empted by the National Labor Relations Act and finally raised issues with it under the Indiana Constitution. Simon dismissed all of the federal constitutional challenges as failing to state a claim. He dismissed the state constitutional claims without prejudice on federalism grounds under the 11th Amendment noting clear authority from the United States Supreme Court that claims against state officials under state law cannot be considered in federal court.

Simon concluded that “For better or worse, the political branches of government make policy judgments. The electorate can ultimately decide whether those judgments are sound, wise and constitute good governance, and then can express their opinions at the polls and by other means. But those are questions beyond the reach of the federal court, which instead is limited to analysis of particular legal arguments that the challenged legislation runs afoul of preemptive federal labor law or the U.S. Constitution.”

A copy of the opinion is [available here](#).

The Associated Press has quoted Union Spokesman Ed Maher as saying that they are considering an appeal of Simon's decision.

Though the Operators' Local 150 challenge has been dismissed, a challenge brought under the state constitution by the Steelworkers Union continues in state court in Lake County, Indiana. That case contends, among other things, that the statute violates an Indiana constitutional protection that bars demands for services from someone “without just compensation.” Judge George Parras denied the state's motion to dismiss that action last October. (You can see our discussion of that decision [here](#).)

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