

## Indiana Judge Rules State's Right To Work Law Unconstitutional

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Indiana

A Lake County Indiana judge recently determined that Indiana's right-to-work law violates a provision in the state constitution barring the delivery of services "without just compensation."

On Feb. 11, 2013, Plaintiffs – including the International Union of Operating Engineers, Local 150 AFL-CIO – filed a judicial complaint alleging, among other things, that Indiana's Right to Work Law violates Article I, Section 21 of the Indiana Constitution. Article I, Section 21 provides: "No person's particular services shall be demanded without just compensation." According to Plaintiffs, the statute precludes Local 150 from receiving "just compensation" for particular services it provides to all of its employees.

In finding the law unconstitutional, the Court observed that unions are required by federal law to process grievances for non-members, negotiate contracts on behalf of members and non-members alike, and otherwise provide services to non-members, regardless of a non-members' failure to pay dues. Under the enactment of Indiana's Right to Work law, however, it becomes a criminal offense for a union to receive "just compensation" for services federal law demands it provide. Accordingly, the law bypasses the constitutional safeguard set forth with Article I, Section 21 of the Indiana Constitution.

What is the immediate impact of the Court's ruling? The Court's decision will allow the law to stay in effect pending an appeal to the Indiana Supreme Court. According to a spokesperson for the Indiana Attorney General: "The State will take an immediate appeal to the Indiana Supreme Court of this declaratory judgment which [it] contend[s] is incorrect, in light of the fact the same court granted the State's motion to dismiss on four other counts."

We will keep you posted. In the meantime, the Court's decision can be found [here](#). Additionally, the *Indiana Business Journal's* article regarding this development can be [found here](#).

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