

The Construction User 2.0 - Episode 5

The Anti-Worker Right-To-Work Law: A discussion with Senator John Cherry

Welcome to The Construction User 2.0 from the Association of Union Constructors. In this podcast we explore the latest labor trends, industry insights, and important issues in the world of construction. Join us for conversations with industry leaders, subject matter experts, and innovative visionaries as we discuss how we are building the world of tomorrow.

Kirk: What is the last song that got stuck in your head that you just couldn't break free from?

John: I expect this will give your listeners a laugh because I have a six-year-old daughter. There's some genie cartoon that she watches. She always wants to listen to the music from it. Whatever the theme song is for this genie show. What is it called? I can't remember what it's called. It's these little girls singing about genies. That's the last one that's stuck in my head because it's been played in my house repeatedly for the past three weeks.

Kirk: As a father of small girls myself, I will say that yeah, those get stuck in your head, and they just won't let go. When researching to talk to you, I saw your grandparents were members of the United Auto Workers. You came up in the union world. Tell me about the union impact in your life and growing up.

John: Beyond just my grandparents. My mom was an AFSCME member and president of her local. My dad was the political director for AFSCME before he was elected to office. Actually, in relation to the trade, his grandfather, my great grandfather, was actually an international rep for the HOD Carriers Union in Michigan, the predecessor to the Laborers or LIUNA back in the 1940s.

I'm from Flint, Genesee County. You grew up in Genesee County, which is, we view ourselves as the birthplace of the UAW, given the sit down strike. The connections to unions are very strong. You have some sort of family connection to one union or another. In my case, it's a variety of them. I myself am a former UFCW member from my college years. When I worked at the DNR, I was an SEIU member. Lots of unions in my family.

Really, I look at the experiences that I know about from different family members and their experiences growing up. I think about my grandma, my mother's mother, who worked in the shop as a UAW member. She was a single mother raising three kids. She was able to do that and provide a good childhood for her kids because she had a union job in a metal fab, one of the plants here in Flint.

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I think about my great grandfather, the HOD Carriers Union, he died of a heart attack when my grandmother was young. They were able to get by because there were survivor benefits and support that came because of his job.

Kirk: You come from a strong union stock. It's a legacy.

John: Right. What unions have afforded my family is economic security and bullish Billy for me to have opportunities when I grew up and for my parents to have had opportunities. That's really what, from my perspective, what unions are about. It's making sure that if somebody puts on an honest day's work, they have the ability to support their family, offer opportunity to their children. First off, work in a safe environment. But then if something bad does happen, there's some sort of support there so that their family is able to survive in a reasonable way.

Kirk: We obviously absolutely agree. Obviously, most people know, but just for those that might not, can you explain what right-to-work is? We have this big bill that just got repealed in Michigan, but let's start off with what it was and what right-to-work is.

John: I like to call it the Anti-Worker Right-To-Work law. We make sure that people understand what it actually is. What it essentially is is it says, if you are in a state that has an Anti-Worker Right-To-Work law, then if you are hired into a union shop or a union workplace, not only do you not have to join the union, you do not have to pay a fee for the services that the union provides. You essentially get to receive all the services of the union without paying any dues or any fees to actually support those services.

Kirk: For the devil's advocate here, how is that not supporting them? Hey, if you get a job, you're qualified for the job, and they want to hire you, why is that not a good thing?

John: Why is it not a good thing that you don't have to pay the dues? You have to support those services in some way. You can make all sorts of analogies. You move into a condo. You don't have to join the condo association, but they get to come do all the stuff for you for free. It doesn't make sense. It's not a sustainable way to operate any organization.

Think about it. If we look at it in terms of government. I would love to just not be able to choose, to not pay my taxes, but it's not fair to everybody else who is. You got to pave the roads somehow. Being able to just opt out because I want to opt out is not exactly fair to everybody else.

Kirk: Right. You were elected to the Senate fairly recently, correct? The Michigan State Senate?

John: Yes.

Kirk: Okay. Please correct my timeline, my research, but having the Michigan Right-To-Work legislation repealed was one of the very first things that you did in office here just in the last few months.

John: Yeah. Democrats took the majority for the first time in 40 years in both chambers of Michigan's legislature at the November election. We officially took office in January. When we took office, both caucuses, the House Democratic Caucus, the Senate Democratic Caucus, introduced a series of bills that outlined major priorities that we wanted to accomplish out of the gate. Those included a wide variety of things that have really been important to Democrats and folks who supported us.

I'll just run down through them. Michigan, under Rick Snyder a decade ago, increased taxes on seniors in order to give giant business tax cuts to corporations. While we repealed the retirement tax, we expanded. He also curtailed the earned income tax credit in the state of Michigan. We expanded that tax credit. Those were two of the first bills.

We repealed the 1931 Draconian Abortion Law that exists in the state of Michigan that suddenly came into force because of the US Supreme Court. We also expanded the Elliott-Larsen Civil Rights Act to cover LGBTQ folks. We also introduced a repeal of the anti worker right to work law, which was enacted under Rick Snyder in 2012. We introduced bills and passed a reenactment of Michigan's Prevailing Wage law. Actually, the bill that we sent to the governor that was signed by the governor is actually a stronger prevailing wage law than we previously had had before it was repealed under Snyder.

Kirk: Wow. Those are pretty amazing accomplishments, especially as just the protection and concern for the people and the citizens. That's pretty admirable. I have a question just specifically referring to the right-to-work or as you're calling it the Anti-Worker Right-To-Work Law, which I liked. That has a good ring to it.

I was really excited when I heard it. I was like, this is fantastic, this is amazing. I was talking to some industry people, some union guys, and they're like, yeah, it's good. But it's a little bit posturing, it's a little bit posture, it's a little bit beating our chests. I don't think it's going to change anything. The union shops are still running the way they were, the non unions are still running the way they were. This isn't really going to change anything.

I'd love to hear why that might be the perception. It sounds so great the way you say it. Why are there hard union guys who are like, ah, it didn't change anything? Why is that the case?

John: In relation to the trades, if you look at where right-to-work impacted unions, the trades were probably some of the least impacted. I talked to my business managers here. They may have one person who exercises right-to-work options. If you look at other unions, the impact was much more significant. It diminishes the financial capability of a union to organize.

You're not having an impact that is immediate. But the more unionization that we have across industries, the greater strength there is to achieve pro worker policy. That's both not only on a political level, but on a negotiation level.

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When we're raising standards around the workforce, it puts pressure on other companies when they go into negotiations to raise the standards for their workers as well because you're not going to have access to talent. Sometimes I'll hear folks say, why should somebody working at McDonald's make \$15 an hour? That means we can't hire people. You know what, that puts pressure on your employers to increase the pay rate for your employees and your members.

Kirk: Tide raises all ships kind of thing.

John: Exactly. When other workers are doing well, your workers are going to benefit too because you're going to have an increased ability, increase leverage in negotiating power to get things that your members need, to represent your members, and make sure that they're earning a good living.

Kirk: Yes, I would definitely agree with that. I think there's definitely a lot of good to it. You're right, maybe there's only one or two people that some of these business managers are referencing. If we were just talking about labor, and obviously, you're a senator for a whole state, there are other things that aren't just labor, but what can we do to increase the union footprints, to get more organization, to get more buy-in?

John: Let me step back because I will say, despite the fact that this has a bigger impact on SEIU or UFCW, some of them are the strongest advocates in Michigan on repealing the Anti-Worker Right-To-Work Law. We're folks from the trades.

I'll tell you what. Laborers, operating engineers, IBEW, carpenters, they were constantly making sure that legislators knew that this was a big thing that we needed to get done. I really appreciate the fact that while it didn't have an immediate significant financial impact on them, they understood the long game and realized how important it was generally. We're huge advocates for repealing that law.

I don't think it's one thing. When you look at the decline in union membership across our nation, it's been a 40-year, 50-year decline. It wasn't one thing that happened that caused that. It's been a series of things over time that have really continued that trend.

In Michigan, like I said, it's the first time Democrats had a trifecta in 40 years. I think we need to understand that reversing that decline isn't going to be a silver bullet, it's going to be one thing after the other. We, a decade ago, banned local units from entering into and requiring PLAs. That's going to have an impact, isn't that right?

Kirk: Yeah, a little bit.

John: We need to take care of that piece. There's a whole series of things that have been acted out over time, and we need to start chipping away at that. Let me distinguish. We have good businesses that are good actors, and we have businesses that are, in my opinion, bad actors. The bad actors have been very good over time in figuring out ways to attack unionization.

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Let's take and learn some of the lessons on what they've been doing, whether it's the ability to force employees to come listen to propaganda when a union drive is occurring. Let's understand what the tools are that they're using to push down unionization rates and what's next in policies to take away those tools or give ourselves new tools to address it. I think part of it is also making sure people understand the benefits of being in a union.

When you're talking about trade unions, that's huge. As a rep for four years before I was in Senate, I remember sitting down with my business agent for the roofers. We're talking about his history. He started out as a non-union roofer. He thought he was making good money, but then he experienced or learned what actually being a member of the roofer union is going to do for him in terms of having a pension, the health benefits. Whereas you're getting paid without any benefits in one instance, and then you're getting paid a similar wage plus all the other benefits.

When you have a kid, and you want to make sure that your kid and your family has health insurance, you want to make sure when you're old, you're not putting a burden onto your kids to support you because you have a retirement that can support you, all these things that unions, particularly trade unions provide to workers, who wouldn't want to be in union?

I chair the Labor Committee in the Senate. We had the hearings. It was the same hearing on repealing the Anti-Worker Right-To-Work Law and reenacting prevailing wage. What I did is I brought in union members themselves to testify, what the differences between a union workplace and a non-union workplace. We had an operating engineer who had that same experience, who talked about having worked non-union and then going to a union, and now being able to do things and make sure he's protecting his family.

We had a member from Plumbers & Pipefitters Local 370. He was an apprentice who's coming in and talking about the difference when he worked non-union and being an apprentice there, versus going into the plumbers union, the training he's getting at that local, and the fact that his dues supports that training. We're talking about right-to-work. Should you be able to freeload on that when the dues are what's paying for your training?

There's all these pieces that we need to be more effective when we're organizing about, what is the actual benefit of being a member of a union in its immense. I tried to make sure that as I'm talking to folks, we knock on a lot of doors. When you're running for office, you knock on a lot of doors to talk to people. People talk to me about good jobs.

I'm welding at whatever small tool and die shop, but I am not able to make enough. Why? Let me ask you. Have you thought about taking your skills, going to the ironworkers local down there, and just drive? I bet you'd be able to get a better living if you're working with them as opposed to where you're working now.

Kirk: I love all of that. It's very true and it resonates with us a lot. Let's flip it around real quick. Instead of looking not down at, but looking at the ground level at that guy. Let's look up. If

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you're one of these people at the big car company, you have a lot of industry and industrial. You have lots of manufacturing in Michigan.

You have lots of things that need to be built and things that need to be crafted. You're a big owner. You have an opportunity to hire company A at X dollar, or sign this PLA at Y dollar, and Y dollar is a little bit more. I got to explain that to my board. Why union construction?

John: It's a great question. It's actually an issue that we addressed in the committee hearing too when we're talking about prevailing wage. Why are we going to pay more to workers on these public projects that could cost taxpayers more? Actually, in the end, it cost the taxpayers less. Not only are you doing the right thing, making sure people are getting paid a good wage, and they're getting benefits, you're actually reducing the cost of the project.

The labor cost, when in terms of a total construction project, you might be talking about 25% of your cost. Maybe you're going to pay a little bit more on that labor cost, but the amount that you're going to have to redo is going to be a lot less than when you're hiring unqualified or unskilled workers to do a job that they don't have the capacity to do right. It's the same reason that I wear Carhartts. It's because I know the coat that I've had for 10 years is a good coat that was made well. I could have bought a cheaper coat, but I would have had to probably buy five coats instead of just the one that lasted me.

It's the same thing with construction. You're paying qualified workers a good wage and with benefits, but it comes out in the quality of the product and the quality of the work that they're doing that in the end reduces your own costs.

Kirk: It's the poor man's tax. You buy a \$50 pair of boots every six months or a \$300 pair of boots every 10 years. That math doesn't math if you only have \$50. I agree. It's about getting the work done right the first time. I guess in conclusion, you guys have done this big thing. Like you said, it's not a thing, it's one of things.

John: Can I step back from this? There's another benefit. When we're talking about using union labor, there's another benefit to companies. If you're not using union labor, you're probably paying for all that training yourself. When you're using union trades, that training is done by the trade through their dues.

I've been to the labor training center, I've been to operating engineers, I've been to carpenters. There's no company that has training centers like these. You are essentially having your workforce training costs subsidized by your workers. Not only that, the training that they're getting is head and shoulders above anything that you're ever going to be able to do. Maybe if you're a giant multimillion dollar corporation, if you wanted to invest, you could do something at that level, but I just don't think you can beat the value proposition for a company.

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Kirk: I would tend to agree with you, but we are The Association of Union Constructors, so I would say I'm probably not the most unbiased person. Here at TAUC, we deal exclusively with the construction industry. I agree with what you said earlier. It's not going to be one thing. It's not going to repeal this law, and that's the magic button that fixes everything.

There's a lot of things moving forward. With what you guys have done, repealing Anti-Worker Right-To-Work Law, is a step in the right direction. Do you think this is signaling a shift or positive movement in the right direction? What's that next step? What's the vote that people need to make next that we do?

John: First, I think there's a lot of things that are signaling a shift across the country. We have been on a long trajectory of decreased unionization rates, but we're really turning a corner. When you look at public opinion and polling on unions, it's been in my lifetime. People are realizing the value of unions, and they're wanting to join unions more than they have in a very long time.

Each state is a little different. The road that we need to hoe in Michigan is a little bit different than what it might be in New York, and that's going to be different than what needs to happen in North Carolina. Every state is in a different place.

We have a long list of things over the past 20 years that have been enacted. There's restrictions on local government's ability to put in provisions that make sure workers under their contracts are being treated fairly. There's restrictions on PLAs. We need to make sure that when we're doing our economic development projects, the labor that's being sourced for building the next EV or electric vehicle plant, battery plant, as we're putting out taxpayer dollars, that those developments are being done by workers who are receiving appropriate compensation and benefits.

Quite frankly, we're in a generational shift right now when it comes to our energy sourcing. The big thing happening is all these solar farms that are being developed and all the renewable energy developments that are occurring are on a nationwide basis. I'll tell you, a year and a half ago, the development just one county over along the county line adjacent to my district, they were shipping people up from St. Louis, Missouri that were non-union doing that development.

We need to make sure that we're putting requirements into place when we're going to be rebuilding our electric infrastructure that this is being done the right way in compensating the workers appropriately with benefits and preferably done by union. I have bills that have been referred to a committee that deal with these various issues. I've introduced bills making sure that we're using licensed folks for work because when we're shipping them all out of state, they're not licensed to do work in Michigan.

We're talking about our licensed trade. In Michigan, one of the issues we have is we may have the laws, but we're not enforcing them. We have local building inspectors who are not making

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sure that apprentice, journeyman ratio is there for this work, or that the apprentices are actually being supervised. Are they even apprentices?

There's a lot we need to do on enforcement of laws that we already have that were put in place to protect folks and make sure that construction is being done right. There's a long list on the construction side. There's also long lists on other stuff. We're also working on a bill. Where are you from by chance?

Kirk: I'm a military brat. If you were to throw a dart at a map of a globe, frankly, I've lived probably within about 100 miles of wherever you hit. I've been to 47 states, nine countries, everywhere.

John: A lot of folks from other states are shocked to hear that our correction officers, the folks who work in our state prisons, back in the 90s, were moved over to defined contribution plans, and they lost their pensions. I introduced a bill with a couple of my Senate colleagues to move them to our State Police Retirement System. When you talk about state government jobs that are rough, being a prison corrections officer, when you're talking physically, mentally, emotionally, hugely demanding, probably one of the most demanding jobs in state government.

We can't retain our corrections officers. I wonder why. We cut all their benefits off. We're spending \$25 million a year trying to recruit people to be corrections officers. We lose half of them the first year that they come in, such a tough job, and the benefits are horrible. Maybe if we invest a little bit more on our benefits, we have to spend less on advertising and on training people. It probably pay for itself.

Kirk: It's funny you bring that up. I'm in the Army Reserve as well. One of the things I do is a similar thing. I'm a public affairs officer. I was working with some recruitment and things like that.

If we fix these problems over here, the problems are not that recruitment numbers are down. The problem is this other thing. If we fix that, the recruitment numbers would go straight up. I hear, sometimes you have to fix the problems, and recruitment isn't the actual issue.

John: It's not a messaging problem, it's a reality problem.

Kirk: Right. It's not a messaging problem, it's a reality problem. Sir, I really appreciate your time today. You have awesome insight. I think you're right. I think we're heading in a new direction. I think it's going to be positive overall.

It's these small victories. It's these small, medium, large victories. Sometimes they're going to be crushing blows, and sometimes they're going to be small things, but it's all moving in the right direction. Thank you for helping.

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John: I'll say, it's the first time in six years that the state has legislatively repealed an Anti-Worker Right-To-Work Law. For me, that's a pretty darn big victory, the fact that we are able to get it done because the opposition is significant. We were able to get it done, it means we're going to be able to get other stuff done too.

It's about creating some momentum to make sure that we're providing greater benefits to workers, really. Not every state has been able to do that. Nevada had a trifecta that they just lost in the recent election because they changed governors. During the time of that trifecta, they didn't repeal their Right-To-Work Law. Same thing in Virginia.

Kirk: Which is where I currently live.

John: Hopefully, with what we've been able to do, we can start to see other states when we do have the opportunity that they will have the willingness to make that change themselves.

Kirk: I certainly didn't mean to imply. This is a huge victory, and this is great. I'm just saying that it's not the light switch of, and we're done. I'm just saying that it's the first step, and it is going to trigger some momentum in the right direction. I really thank you for your time. Hopefully, we get to talk to you again on the next victory and the one after that.

John: I'm looking forward to it.

Kirk: Thank you so much for your time, and we will talk again.

John: I'm not going to let you end this quick because there's another piece that we need to do that I think helps both the workers and union contractors as well. We need to deal with payroll fraud issues that's particularly relevant in construction like the misclassification of 1099s. What that does, not only is it hurting the worker who's getting misclassified, it also hurts the good actors in the business because if the other companies are misclassifying, folks, they get to come off as low costs, and it puts the folks who are doing right by their employees at a competitive disadvantage.

We'll have a summer break that happens in July. I really want to make sure, before we go on summer break, that we're doing some stuff to make sure we're tackling payroll fraud issues because it kills workers and it kills good businesses.

Kirk: I will follow you down that rabbit hole. I am now off script. I don't know where this is heading at all, but let's find out. How big of a problem is that? I don't mean how bad it is, I mean, prolific. How widespread? I don't mean how severe. Is that something that is happening everywhere? Is that happening in a few places, but it's really bad? Talk to me about that.

John: I think we're going to find out soon. I know our Attorney General is working on a lot of stuff on payroll fraud. We were able to previously get some dollars in the budget for our Attorney General to do work on going after folks.

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Part of the problem she's having is our statutes are not strong enough for her to enforce. We will really see the rubber meet the road when we're able to get some changes in the statute to address that. Until you really had the investigation, you don't know how prevalent it is. You hear stories here, and you hear stories there.

I've heard stories about it, folks who didn't get paid and all these things. But until you actually have the investigations that are done, you're not going to be able to know the true scope. I expect that we make changes. Five years from now, we're going to know how bad it was.

Kirk: That's a conversation I will look forward to knowing more about. Again, just in research of things, there's a lot of times that you can point at something and say, that's a horrible problem. You're like, is it? Other times, you don't necessarily see the crack in the foundation until it's a real problem. It'll be interesting to see what that investigation reveals.

Thank you again, sir. This has been great. I look forward to our next conversation.

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