

MISSOURI LEGISLATURE PASSES RIGHT-TO-WORK LAW

As anticipated, the Missouri legislature has once again passed a right-to-work law. However, unlike the two prior right-to-work measures passed by the legislature but vetoed by former Gov. Jay Nixon, the version passed today will almost certainly be signed into law by newly elected Gov. Eric Greitens. When Greitens signs the law, Missouri will become the 28th right-to-work state.

The key provisions of Missouri's new right-to-work law are as follows:

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No employee may, as a condition of employment, be required to become or remain a member of a union.

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No employee may, as a condition of employment, be required to pay dues or fees to a union (commonly referred to as "union security" or "union security clause").

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Any agreement, such as a collective bargaining agreement (CBA), that violates the law is unlawful, null and void, and of no legal effect.

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Any person injured as a result of a violation of the law may recover damages, including attorneys' fees.

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The law does not apply to employees covered by the federal Railway Labor Act or to federal employees.

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The law does not apply to a CBA entered into before the effective date of the law, but applies to any CBA upon its later renewal, extension, amendment, or modification after August 28, 2017, the effective date of the law.

Independent of the ramifications for unions, Missouri employers – including those that do not have a union workforce – should be aware of several important implications:

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The law does *not* terminate an employer's legal obligation to bargain with a union that represents an employee bargaining unit.

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The law does *not* terminate a union's obligation to provide fair representation to all employees in the bargaining unit it represents, including bargaining and prosecuting grievances, even for those employees who do not pay dues.

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Employees in a bargaining unit who choose not to pay union dues are still covered by the CBA.

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Unions may find that they actually have an easier time unionizing, at least in the short term. Many employees vote "no" simply because they don't want to pay union dues. Unions can now tell those employees that they don't have to pay union dues if they don't think the union is earning its keep. Eliminating this factor can actually create challenges to avoiding organizing, because employees can take a chance on the union without any risk since they can simply choose not to pay dues.

In the short term, we also expect unions to scramble to reopen or obtain multi-year extensions of current CBAs to try to prolong the validity of their current union security clauses, which then may potentially create an opening for employers to obtain more favorable terms, locked in for years, in exchange for agreeing to the extension. While it is too soon to say precisely what the impact of the law will be, in the medium to long term, the law is expected to weaken unions in Missouri by negatively impacting their revenue stream – employee dues – which will then affect the unions' ability to organize campaigns, prosecute grievances and arbitrations, and lobby. Ultimately, employers may even see unions simply walk away from bargaining units.