



Michigan Adopts Right-to-Work Law

Date: 12.12.2012

Despite angry protests at the state capitol, Michigan's Governor Rick Snyder signed a right-to-work statute into law on December 11. Michigan joins 23 other states in exercising the 65-year-old option under the Taft-Hartley amendments to the National Labor Relations Act to prohibit "union security" clauses (in general, clauses that require employees to pay dues to a union as a condition of employment) in collective bargaining agreements.

The new "Workplace Fairness and Equity Act" covers most public and private sector employees (with the exception of police and fire) in prohibiting any requirement that an employee join a union, or pay dues to a union, as a condition of employment. The Act applies to any "agreement, contract, understanding, or practice that takes effect or is extended or renewed" after its effective date, which likely will be around April 1, 2013. The full range of other federal labor rights under the National Labor Relations Act, including a union's obligation to represent all bargaining unit employees regardless of whether an employee is a dues paying member, are unaffected by the new Michigan law.

In addition to prohibiting future union security clauses, the statute creates a cause of action against individuals or unions who try to intimidate or otherwise coerce employees in deciding whether to become a union member or pay dues. Damages and actual attorney's fees are provided for a violation of the statute.

As would be expected, unions and their advocates are not giving up. Court challenges to the legislation have already been filed. In addition, if the aggressive protest activity is any guide (a number of schools even closed to permit teachers to attend the rally), protracted political battles will continue in Michigan.

Since the law applies to any "agreement, contract, understanding, or practice that takes effect or is extended or renewed" after its effective date, unions currently in negotiations have a strong incentive to reach an agreement sooner rather than later. The law should give unionized Michigan employers strong leverage in any ongoing union contract negotiations to trade a long-term contract or extension desired by the union for favorable contract language and economic terms. Indeed, at least one union has already proposed a 10-year extension of its collective bargaining agreement with annual economic reopeners in an effort to salvage its union security provisions.

The labor attorneys in the Detroit office are available to assist with any questions about the new law. Please contact Tom Barlow, Rod Gillum, or Maurice Jenkins at (248) 936-1900.

individual circumstances. Reproduction in whole or in part is prohibited without the express written consent of Jackson Lewis LLP.

This Update may be considered attorney advertising in some states. Furthermore, prior results do not guarantee a similar outcome.

Jackson Lewis LLP represents management exclusively in workplace law and related litigation. Our attorneys are available to assist employers in their compliance efforts and to represent employers in matters before state and federal courts and administrative agencies. For more information, please contact the attorney(s) listed or the Jackson Lewis attorney with whom you regularly work.

practices

Labor, including Preventive Practices