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## Indiana eAuthority

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### **Indiana Enacts Right-to-Work Law: Becomes the Only Right-to-Work State in the Central Midwest**

by [Asheesh Agarwal](#)

On February 1, 2012, Governor Mitch Daniels signed into law a bill that makes Indiana the nation's 23<sup>rd</sup> right-to-work state. The bill's legislative supporters describe the law as "a victory for job creation and individual freedom for workers to decide for themselves if they want to financially back a union." The bill's supporters envision "a surge in economic development interest" in Indiana because Indiana is now the only right-to-work state in the central Midwest.

Under the new law, individuals are neither required to nor prohibited from becoming members of a union. The law makes it a Class A misdemeanor to require an individual to become or remain a member of a labor organization, or pay dues, fees, or other charges to a labor organization, as a condition of employment. The law also establishes a private right of action for violations, including the ability to obtain damages, civil penalties, and attorneys' fees.

The law becomes effective immediately, but does not abrogate existing collective bargaining agreements. The law extends to all contracts entered into, modified, or renewed after March 14, 2012, but does not retrospectively invalidate existing union contracts. The law also does not apply to governmental employees or employees subject to the Railway Labor Act. Finally, the law does not prevent unions from collective bargaining or striking.

The law ends a two-year struggle over the right-to-work issue in Indiana. Business groups, including the Indiana Chamber of Commerce, vigorously supported the measure. Unions strongly opposed the effort. In 2011, the bill's legislative opponents left the state for several weeks in order to deny a quorum to the bill's supporters, and earlier in 2012, the bill's opponents walked off the legislature's floor for a few days. Ultimately, however, large legislative majorities supported the right-to-work law.

According to Chuck Baldwin, a shareholder in Ogletree Deakins' Indianapolis office and member of the firm's Board of Directors, this new statute will likely lead to questions from employees concerning how the new law impacts them. Regardless of whether employers are in the midst of a union campaign or

collective bargaining, they are encouraged to consult with labor counsel prior to making statements to employees about what the law may mean for their specific workplace. This should result in more consistent communications with employees, as well as reduce the risk of being accused of engaging in unfair labor practices under the National Labor Relations Act and/or breaching the terms of an existing collective bargaining agreement.

Baldwin also stressed that the right-to-work law should attract new employers to Indiana. "Indiana has developed one of the best business climates in the country," he said. "With the new right-to-work law, any employer in the country will have to put Indiana at the top of their list of places to do business."

### **Additional Information**

Should you have any questions about Indiana's right-to-work law or what employers are allowed to communicate to their employees about the law, please contact the Ogletree Deakins attorney with whom you normally work, or the Client Services Department at 866-287-2576 or via email at [clientservices@ogletreedeakins.com](mailto:clientservices@ogletreedeakins.com).