

“Right-to-Work” Momentum Building in 2017

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In the early months of 2017, right-to-work legislation continues to garner significant attention as a number of states explore legislation. In early January, Kentucky passed legislation prohibiting employers from entering agreements that make union membership and the payment of union dues a condition of keeping or maintaining employment. Missouri followed suit one month later on February 6 by passing its own similar legislation, thereby becoming the 28th “right-to-work” state. In addition to making it illegal to condition employment on the payment of dues to a union, both laws included a grandfather clause protecting existing contracts negotiated before the laws become effective. Additionally, right-to-work legislation has passed the Senate in New Hampshire and is set for a vote in the state’s House of Representatives. On February 9, the House Labor Committee recommended voting against passage of the bill, which will see a vote of the full chamber next week. Governor Chris Sununu supports right-to-work legislation. The proposed legislation would make New Hampshire the first right-to-work state in the Northeast.

In addition to states acting on their own right-to-work agendas after the 2016 election, Congress has revived discussions regarding a national right-to-work bill. Representatives Joe Wilson (R. S.C.) and Steve King (R. Iowa) introduced legislation that would prohibit workers from being required to support a union or pay union dues. Representatives Wilson and King introduced similar legislation in 2015. The current iteration would amend the National Labor Relations Act and the Railway Labor Act to prohibit security clauses that require all employees in a unionized workplace to join a union or pay a fee as a condition of employment. For the past eight years, such legislation stood no chance of overcoming President Barack Obama’s inevitable veto, but President Donald Trump has publicly favored right-to-work legislation.

In addition, local right-to-work ordinances are currently being litigated in the Midwest. In November 2016, the Sixth Circuit Court of Appeals held that local right-to-work ordinances were lawful “state law” and not preempted or invalidated by the NLRA because such ordinances did not conflict with state law. However, in January 2017, the Northern District of Illinois rejected a similar local ordinance holding that it did not qualify as state law.

Overall, right-to-work legislation is gaining steam early in 2017 and the attention should continue into the summer and beyond. Right-to-work will be worth monitoring as it develops moving forward.

If you have any questions on this topic please contact a member of our [Labor & Employment Practice Group](#).

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