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Understanding Kentucky's new "Right-to-Work" Law

On Monday, January 8, 2017, Kentucky became a "Right-to-Work" state. What does this mean? The Kentucky Right-to-Work Act forbids new union contracts from requiring that employees pay union dues or lose their jobs. Such contracts are often called "Union Shop" or "Union Security" agreements. The new law adds Kentucky to the 27 other states that already prohibit mandatory payments to unions.

Details

Kentucky's new Right-to-Work law ("RTW") does *not* apply to existing union contracts. Employees working under union contracts that pre-date the RTW law may still be required to pay union dues. Applying the new legislation to pre-existing union contracts would expose the RTW law to legal challenges that the Kentucky legislature sought to avoid.

Kentucky's RTW law does, however, avoid a loophole that enabled unions in other states to postpone the impact of Right-to-Work laws. In other states, some unions quickly renegotiated long-term union contracts before the effective date of the state's Right-to-Work law. In other cases, unions quickly secured extensions or renewals of existing contracts to extend their ability to collect mandatory union dues. Kentucky made its law effective immediately. Kentucky's RTW law also forbids any extension or renewal of an existing "Union Shop" agreement.

Another feature of Kentucky's RTW law not common to all Right-to-Work laws is the law's application to most public employees. Some states make their Right-to-Work laws only applicable to private sector employees. Kentucky's law protects both public and private employees.

Impact on Employers with Unions

Kentucky employers that have existing union contracts requiring employees to pay union dues must continue to honor these contracts until they expire. If the union calls upon the employer to terminate an employee for not paying union dues, the employer must comply. New, renewed, or extended union contracts, however, may not require employees to pay union dues. Payment of union dues must be voluntary.

Employers must also continue to honor wage assignment agreements in which employees authorize the deduction of union dues from their paychecks (“dues check-off”). Federal law requires that dues check-off agreements be revocable at least once a year and at the expiration of a union contract. Dues check-off agreements continue to be valid, however, unless and until the employee revokes the agreement. Dues check-off agreements do not depend on “union shop.” They continue until revoked despite the RTW law.

Impact on Employers without Unions

Kentucky employers operating free from unions should not assume that the new RTW law will make it easier to stay union-free. Employees remain equally free to join a union in Right-to-Work states. In fact, some of the largest union organizing drives in recent years have occurred in Right-to-Work states. Unions go where the jobs are. When employees choose union representation, most choose to join the union and pay dues even if not required to do so. So, new union organizing brings new income to the union even though all employees cannot be required to pay union dues in a Right-to-Work state.

If you have questions or need more information, please contact [John Lovett](#) in Frost Brown Todd’s [Labor and Employment](#) Practice Group.

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