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# 60-Second Memo

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### Possible New Trend Regarding "Right to Work" Legislation? Indiana First State in Over Ten Years to Enact "Right to Work" Law

By Alejandro Valle

On February 1, 2012, Indiana passed "right to work" legislation, becoming the first state in over ten years to pass such a law and the 23rd state overall. The Indiana law took effect on March 14, 2012, but does not alter contracts already in place as of its effective date. However, contracts created, altered, or renewed after that date are subject to the new law.

The new law states that an employee may not be required to:

1. become or remain a member of a labor organization;
2. pay dues, fees, assessments, or other charges of any kind or amount to a labor organization; or
3. pay to a charity or third party an amount that is equivalent to or a pro rate part of dues, fees, assessments, or other charges required of members of a labor organization.

Indiana Code 22-2-6 *et seq.* This new law does not apply to government employees at the federal, state, or local level or to employees covered by the Railway Labor Act.

Employees in states with "right to work" laws cannot be compelled by their employers to join a union or pay union dues as a condition of employment. Such arrangements are common in contracts between unions and employers. "Right to work" laws

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can only be passed at the state level, so there are no federal, county, or city equivalents. Proponents of such laws argue that workers should be free to join unions, or to not join them, instead of being compelled to do so. They also argue that states with such laws tend to attract more manufacturing-based employers. Opponents counter that not requiring all workers to pay union dues forces paying members to subsidize benefits enjoyed by all employees, including non-paying employees. Opponents also argue that the resulting weakening of unions in "right to work" states reduces wages and health and safety protections for workers in those states.

Indiana's law covers entities employing at least one individual in Indiana, which means that non-Indiana employers with even just one employee working in Indiana are subject to the law. This aspect of the law will perhaps most impact employers from Indiana's bordering states, including Michigan, Ohio, and Illinois - none of which has a "right to work" law. Employers in Indiana and those with a workforce that includes an employee in Indiana should familiarize themselves with this new major legislation.

Indiana joins the many Southern and Western states that have such legislation, and passage of this law in Indiana may signal a renewed trend toward such legislation nationwide, as similar bills have been introduced this year in Maryland, Missouri, New Hampshire, New Jersey, and West Virginia. A key significance of Indiana's passage of "right to work" legislation is its status as a Midwestern state within the "Manufacturing Belt" (or "Rust Belt"), which traditionally has had a large and unionized manufacturing workforce, for "right to work" laws go directly to the relationship between employees and unions.

In terms of what this new law means for Indiana employers, unions might be less interested in seeking memberships in Indiana now that the state prohibits forced union dues. However, unions are of course still allowed in Indiana. Indeed, micro-unit organizing, whereby unions represent very small groups of employees, might become more prevalent under the new law, not less so.

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