

Legal Notes: March 2015

The so-called “right to work” laws came out of the Taft-Hartley Act of 1947, which amended the original National Labor Relations Act in many ways. A Republican congress passed the Act to reign in organized labor. President Truman vetoed the Act but had his veto overridden.

The Wisconsin law does make reference to the federal law. Under the Constitution’s Supremacy Clause, and various interpretations of it, federal law will trump state law. Wisconsin’s law has a clause that states: “This subsection applies to the extent permitted under federal law. If a provision of a contract violates this subsection, that provision is void.” This means that if federal law changes, then the state law will change (or be void) as well, however there have been numerous attempts to repeal or revise Taft-Hartley, all without success.

The Wisconsin law (Senate Bill 44/Assembly Bill 61) is straightforward in its language. Ironically, the law begins by reaffirming the right of employees to engage in self-organization and the right to form or join a labor organization. Further on, the law states that no person may be required to quit a union as a condition of employment.

Likewise, the law states that no person is required to join a union as a condition of employment. Not only is the employee not required to join a union, the employee is also not required to pay “any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value, to a labor organization.” Apparently some employers or unions have tried to work around this requirement as the law also prohibits equivalent fee or due payments to a 3rd party who is not a union.

Due or fee payments may continue under the law, the individual employee must submit, in writing, and signed personally, a request to deduct union dues. This provision mirrors the common practice of allowing deductions from wages for a variety of matters, such as child support or Christmas club accounts. The employee then may cancel the request upon 30 days written notice.

If a union or employer requires the employee to join or quit a union, or requires payment of union dues or fees, then that party will be guilty of a Class A misdemeanor (jail up nine months and/or fine of \$100,000).

The law will take effect upon the Governor's signing, however it will not apply to current contracts. It will take effect "upon the renewal, modification, or extension of the agreement occurring on or after the effective date." This means when the current contract expires, the prohibition for dues collections will come into effect with the new contract.