

LABOR & EMPLOYMENT

MICHIGAN'S NEW RIGHT TO WORK LEGISLATION

by James B. Perry
December 2012

On Tuesday, December 11, 2012 Governor Snyder signed two bills consisting of "Right to Work" legislation for Michigan. These two bills cover public sector and private sector employers in Michigan. The Public Sector Law specifically exempts state troopers and all other public police and fire employees from its provisions. With this legislation, Michigan becomes the 24th state in the country to enact Right to Work legislation. Michigan is only the 2nd state in the Midwest to do so, following Indiana's lead from earlier this year.

The two Michigan laws will not take effect until late March or early April of 2013, 90 days after the Legislature concludes this year's session. Both laws make it illegal for employees to be required to join or financially support a Union, even if the workforce to which the employee belongs is unionized. Neither law creates any right to a job for any employee. They simply make enforcement of a union shop clause, in a collective bargaining contract, illegal. However, in the private sector, collective bargaining contracts that extend beyond the effective date of the law would be unchanged and unaffected, until the contract expires. Michigan's Right to Work laws do not affect the right of employees to unionize or change any other provision of a collective bargaining contract between an employer and a union.

These laws will affect the approximately 670,000 unionized employees in Michigan by allowing each employee to decide whether he or she will continue to be a member of the union that represents the employees at that workplace. Unions who represent a group of employees still retain the right and obligation to represent the entire group, including those that opt out or decide not to continue their union membership. Unions can restrict these non-members from voting in officer elections, strike votes and/or contract ratification votes, as union Constitutions specifically state that such votes are only by members.

Michigan's Right to Work laws have no immediate effect on a non-union employer, or a workforce that is not unionized, other than possibly making such groups less attractive for unions to organize. However, as expected, this legislation has created a furor in organized labor and the Democratic Party. Leaders of those groups have promised to attempt to stop the Right to Work legislation by litigation, and political activity, including recall efforts. We will continue to monitor this situation.

Employers are allowed to explain the effect and meaning of these laws to their employees, and/or to answer questions from employees, as long as these communications do not contain threats or promises based on an employee's union activities, sympathies, or beliefs. We would be happy to assist you in providing information to your workforce about Michigan's Right to Work legislation.

FOR MORE INFORMATION CONTACT:



James B. Perry is a Member in the Detroit office. His expertise is in employment law, including maintenance of Union-free status programs, labor contract negotiation and administration, labor arbitration, and defense of employment litigation in federal and state courts, and before the NLRB and other government agencies. He can be reached at 313.223.3096, or jperry@dickinsonwright.com.

George P. Butler III is a Member in the Detroit Office. He can be reached at 313.223.3134 or gbutler@dickinsonwright.com.

David R. Deromedi is a Member in the Detroit Office. He can be reached at 313.223.3018 or dderomedi@dickinsonwright.com.

David J. Houston is a Member in the Lansing Office. He can be reached at 517.487.4777 or dhouston@dickinsonwright.com.

Timothy H. Howlett is a Member in the Detroit Office. He can be reached at 313.223.3662 or thowlett@dickinsonwright.com.

Sherry D.O. Taylor is a Member in the Detroit Office. She can be reached at 313.223.3871 or staylor@dickinsonwright.com.

William M. Thacker is a Member in the Ann Arbor Office. He can be reached at 734.623.1902 or wthacker@dickinsonwright.com.

Kathryn S. Wood is a Member in the Detroit Office. She can be reached at 313.223.3115 or kwood@dickinsonwright.com.

Carolyn P. Cary is Of Counsel in the Saginaw Office. She can be reached at 989.791.4645 or ccary@dickinsonwright.com.

Jeffrey E. Ammons is an Associate in the Detroit Office. He can be reached at 313.223.3122 or jammons@dickinsonwright.com.

Aaron V. Burrell is an Associate in the Detroit Office. He can be reached at 313.223.3118 or aburrell@dickinsonwright.com.

Christina K. McDonald is an Associate in the Grand Rapids Office. She can be reached at 616.336.1039 or cmcdonald@dickinsonwright.com.