

Kentucky Passes Right-to-Work Law: FAQs on What This Means to Kentucky Employers and Their Employees

By Suellen Oswald, David K. Montgomery, Gary L. Greenberg, Katharine C. Weber and Robert D. Shank

January 17, 2017

Kentucky has passed House Bill 1, the Kentucky Right to Work Act, making Kentucky the [27th state](#) to adopt right-to-work legislation.

The January 7, 2017, passage of the Kentucky Right to Work Act provoked a passionate debate between the business and union community (video of the Governor Matt Bevin's testimony is available [here](#)). However, Governor Bevin's powerful testimony on the Right to Work legislation to the Economic Development and Workforce Investment Committee on January 4, 2017, rose, in his words, above "all the banging on floors, and all the yelling and chanting." According to the Governor, "In America, there is nothing more American than free choice." To those who opposed the legislation, fearing that it would hurt unions, Governor Bevin explained that Kentucky is the only remaining state in the South without a right-to-work law, and that is an economic disadvantage. By joining the other right-to-work states in the Manufacturing Belt, Kentucky will attract more new businesses wishing to establish operations in the state, he said, resulting in more employees being hired (and more opportunities for unions to represent those new employees and grow).

FAQs

The enactment of Kentucky's Right to Work Act is a significant development for all employers in the Bluegrass State and particularly for unionized employers. Here are some of the frequently asked questions about the new law:

1. What is a right-to-work state and why does it matter to me?

If you are a unionized employer, the collective bargaining agreement covering your employees' employment probably contains a "union security clause." This clause requires employees to join a union and to contribute some of their pay in order to keep their job. A right-to-work state is a state that has enacted a law that makes it unlawful for an employer or union to force an employee to join a union or pay dues or fees to the union in order to keep their job. The Kentucky Right to Work Act allows employees the freedom to choose whether to join a union and whether to pay union dues and fees. (Provisions in existing labor contracts requiring employees to pay dues or fees will remain in effect until the contract expires.)

2. Now that Kentucky is a right-to-work state, does this mean the union no longer represents the employees and that the employer is now non-union?

No. The union will continue to represent the employees as it did before the law was passed and employers must continue to recognize and bargain with existing unions.

3. Does this mean the labor contract is no longer in effect?

No. The labor contract will remain in effect until the contract expires or until new contract terms are negotiated by the union and the employer.

4. Can union members just resign their union membership now that the right-to-work law has passed?

Yes, if a member chooses to do so. Even if the labor contract contains a union security clause requiring an employee to join and remain a union member to keep his or her job, the employee may resign the union membership at any time by notifying the union in writing that he or she has elected to resign the union membership effective immediately. If the employee decides to resign the union membership, he or she should read the union's Constitution and determine to whom the written resignation should be sent. After resigning, the employee is no longer subject to union rules, discipline, fines, special assessments, and the like.

Meet the Authors



[Suellen Oswald](#)

Principal
Cleveland
216-750-4339
Email



[David K. Montgomery](#)

Principal
Cincinnati
513-898-0050
Email



[Gary L. Greenberg](#)

Principal
Cincinnati
513-873-2103
Email

5. If a member resigns his or her union membership, will he or she still have to pay union dues?

No, the member is not required to pay union dues. However, if the labor contract has a union security clause, the member must pay to the union an “agency fee” as long as the current labor contract is in effect. An agency fee is the member's share of the amount that the union can prove it spends as costs of collective bargaining, contract administration, and grievance adjustment. The member must notify the union and the employer in writing that he or she chooses to exercise the right to pay only an agency fee, that he or she will not pay for the union's political activities and that he or she objects to the use of the payment for purposes other than collective bargaining, contract administration, and grievance adjustment. If the member decides to pay only an agency fee, he or she should review the union's Constitution and determine who at the union should be notified of the decision.

6. When the current labor contract expires, will employees still have to pay an agency fee?

No. After the current labor contract expires, employees will not be required to pay any monies whatsoever to a union to get a job or keep their job.

7. Can employees be required to join a union after the current labor contract expires?

No.

8. If an employee voluntarily remains a union member, can he or she stop paying dues to the union?

As long as an employee is a union member, he or she must continue to pay all dues, fees, assessments, and the like that are required by the union's Constitution.

9. If employees have other questions or would like more information, who can they call?

They can contact the [National Right to Work Legal Defense Foundation](#) and obtain free information at (800) 336-3600. The Foundation has established a task force to assist employees who have questions and to defend their rights under the new law.

Other New Legislation

On January 7, the Kentucky Senate also passed Senate Bill 6, the Paycheck Protection Act, which prohibits employees from being enrolled in a union without their written request. It also requires that employees authorize in writing or electronically the deduction of any union dues or fees.

To top off the January 7 employer trifecta, the Kentucky Senate also passed House Bill 3, which repealed prevailing wage obligations for Kentucky state public works projects where there is no federal funding.

Jackson Lewis attorneys are available to answer inquiries regarding these and other workplace developments.

©2017 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.



[Katharine C. Weber](#)

Principal
Cincinnati
513-898-0050
Email



[Robert D. Shank](#)

Of Counsel
Cincinnati
513-898-0050
Email

Practices

Labor Relations