

Labor and Employment Alert: West Virginia Becomes a Right-To-Work State

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On February 12, 2016, West Virginia enacted the Workplace Freedom Act, becoming the 26th state to enact right-to-work legislation (after Alabama, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming). “Right-to-work” refers to prohibitions on union security agreements or agreements between a union and the employer to require union membership. Similar legislation has been introduced in Ohio. To learn more about the Ohio legislation, see our recent *Labor and Employment alert*.

The new law applies to contracts entered into, modified, renewed, or extended after July 1, 2016. Thereafter, it will be unlawful to condition employment on becoming or remaining a member of a union; on paying dues, fees, or assessment to a union; or on paying a charity in lieu of union dues, fees, or assessments (commonly referred to as the ‘fair share fee’). A person who knowingly violates any of these provisions is guilty of a misdemeanor and liable for civil damages in the form of compensatory damages, punitive damages, and attorney fees and costs.

The Workplace Freedom Act was enacted over the veto of Democratic Governor Earl Ray Tomblin. On the same day the Workplace Freedom Act passed, West Virginia also repealed the state’s prevailing wage law, which regulated the hourly rate of wages on public improvement projects.

Contact your Vorys lawyer if you have questions about right-to-work or prevailing wage laws or labor union issues in your workplace.