



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### Wisconsin's "Right-to-Work" Law

A "right-to-work" law prohibits an employer and labor organization from entering into an agreement that requires membership in a labor organization as a condition of employment. 2015 Wisconsin Act 1 creates such a "right-to-work" law for private sector employers and employees in Wisconsin. This Information Memorandum describes that law and provides background information on federal law relating to collective bargaining between private sector employers and employees.

#### **FEDERAL LAW**

##### ***"UNION SECURITY" AGREEMENTS***

Collective bargaining between private sector employers and employees is generally governed by federal law, under the National Labor Relations Act (NLRA), as amended. Under the NLRA, an employee has the right to join, or to refrain from joining, a labor organization. However, the law provides that a private sector employer and labor organization may enter into an agreement that requires employees in a collective bargaining unit to become members of the labor organization and pay dues as a condition of employment. Such agreements are sometimes referred to as "union security," "maintenance of membership," or "fair share" agreements. [29 U.S.C. ss. 157 and 158 (a) (3).]

As a result of decisions by the U.S. Supreme Court, an employee who is subject to a union security agreement is considered to have satisfied the requirement to be a member of the labor organization, for purposes of the agreement, if the employee provides financial support to the labor organization. If an employee objects to membership in a labor organization, or objects to the use of labor organization dues for political activities, the employee may elect to pay only the portion of dues that are used for purposes of representation, including contract administration, collective bargaining, and processing of grievances. [*National Labor Relations Board v. General Motors Corp.*, 373 U.S. 734 (1963); *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986); and *Communication Workers of America v. Beck*, 487 U.S. 735 (1988).]

##### ***EXCEPTION FOR STATE "RIGHT-TO-WORK" LAWS***

Federal law generally preempts state law with respect to collective bargaining between private sector employers and employees. However, the NLRA specifies that if a state law prohibits agreements that require membership in a labor organization as a condition of employment, the federal law does not preempt state law on that issue. Consequently, a state may prohibit such agreements under what is commonly referred to as a "right-to-work" law. [29 U.S.C. s. 164 (b).]

In addition to Wisconsin, 24 other states prohibit a private sector employer and labor organization from entering into an agreement that requires employees in a collective bargaining unit to become members of the labor organization. The 24 other “right-to-work” states are Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Michigan, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming. [[“Right-to-Work Resources,”](#) National Conference of State Legislatures (NCSL), accessed March 19, 2015.]

### **WISCONSIN’S “RIGHT-TO-WORK” LAW**

2015 Wisconsin Act 1 creates a “right-to-work” law in Wisconsin. Under the Act, a private sector employer may not enter into an agreement with a labor organization that requires employees in a collective bargaining unit to be members of a labor organization as a condition of employment.

In addition, the Act prohibits a person from requiring an individual to do any of the following as a condition of obtaining or continuing employment:

- Refrain or resign from membership in, voluntary affiliation with, or voluntary financial support of a labor organization.
- Become or remain a member of a labor organization.
- Pay any dues, fees, assessment, or other charges or expenses of any kind or amount, or provide anything of value, to a labor organization.
- Pay to any third party an amount that is in place of, equivalent to, or any portion of dues, fees, assessments, or other charges or expenses required of members of, or employees represented by, a labor organization.

This prohibition applies to the extent permitted under federal law. If a provision of a contract violates this prohibition, that provision is void. Anyone who violates this prohibition is guilty of a Class A misdemeanor. The penalty for a Class A misdemeanor is a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

The Act took effect on March 11, 2015, and it applies to a collective bargaining agreement containing provisions inconsistent with the Act upon the renewal, modification, or extension of the agreement occurring on or after March 11, 2015.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

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