

Bodman PLC

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Michigan Repeals Right-to-Work Law

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On March 24, 2023, Michigan repealed its right-to-work law for private-sector employees. The right-to-work law made it unlawful for a union and an employer to agree that payment of union dues and fees are a condition of employment. The repeal will be effective 90 days after the 2023 legislative session. Legislative sessions typically end in mid to late December, so the likely effective date will be mid to late March 2024.

The repeal will again allow inclusion of “union security clauses” in labor contracts. If a labor contract contains a union security clause, bargaining unit members will be required to become a union member and pay union dues and/or membership fees as a condition of continued employment. The repeal does not require an employer to negotiate with a union over a new union security clause during the term of a current labor contract unless it has an applicable contract reopener clause.

Employers should also be aware that even if there is a union security requirement that employees pay dues and fees related to a union’s representational duties, employees can still object to dues and fees that support other union activities, such as political action. Also, the change does not affect “dues checkoff” obligations. If an employer has agreed to dues checkoff, it must continue to withhold dues from pay and remit dues to the union. However, withholding dues is only permitted if an employee signs a dues checkoff authorization. If the employee refuses, dues and fees cannot be withheld by the employer. Without an authorization, the employee would instead be required to pay the dues and fees directly to the union if the labor contract has a union security clause.

The impact of this law will likely be to increase union revenue and eliminate what unions refer to as “free riders” who do not pay dues. Another potential impact is that dissatisfied union members may mount union decertification efforts when they no longer have the option of refusing to pay dues and fees.

Note that the repeal is not applicable to public sector employees. Public employees cannot be required to pay union dues as a condition of employment unless the U.S. Supreme Court modifies its *Janus v. AFSCME* decision or the U.S. Constitution is amended.

Please contact any member of **Bodman's Workplace Law Group** if you have any additional questions about how the repeal of Michigan's Right-to-Work law affect your organization or any union-related issues. Bodman cannot respond to your questions or receive information from you without establishing an attorney-client relationship and clearing potential conflicts without other clients. Thank you for your patience and understanding.

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