

TMG Update

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WISCONSIN AND BEYOND?

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Over the last six weeks there has been intense reporting and media coverage of the public employee union legislation recently enacted in Wisconsin. Other states have introduced similar bills in their state houses. How significant is this? Why all the fuss?

While the commonly quoted and most current Department of Labor percentage for union represented employees in the U.S. is 11.9%, that percentage is made up of two components: private sector and public sector employees. Unions represent only 6.9% of the private sector, but 36% of the public sector. These percentages add up to about 7.1 million unionized employees in the private sector, and about 7.6 million in the public sector.

It is no wonder the entire labor movement is in crisis response mode to the groundswell of state legislation that would seriously chip away at their public sector numbers. Reduced membership means reduced dues and reduced leverage.

Beyond the requirement to pay toward retirement and increased amounts toward insurance, the Wisconsin legislation goes significantly further to "rock" public employee unionism in that State. For example, according to news reports, the Wisconsin legislation provides that:

- Union dues will no longer be deducted from public sector employee paychecks.

- Wisconsin will become a "Right to Work" State for public employees - they cannot be required to be union members to continue to work.

- Public university faculty and academic staff, home health employees, and state hospital employees will all lose rights to bargain collectively.

- Interest arbitration (arbitrating new contract terms) will no longer be allowed.

- Unionization will be subject to a re-vote every year to determine if the union retains majority status. The Wisconsin Public Employee Relations Board will charge for elections.

- Bargaining for other State employees (teachers, clerical, state agencies) may only continue for wages that do not exceed the annual increase in the cost of living. Annual raises over the annual increase in the cost of living will require a public referendum.

- Contracts can only be negotiated for a term of one year at a time.

- (NOTE: The new legislation does not apply to police or firefighters, and civil service rules will still apply for all State employees.

Big changes for sure! But why is this drawing so much national attention? Because:

- Wisconsin was one of the first states to pass legislation allowing for public employee unionization, and as a "trend-setter", organized labor is concerned that it will lead the way to

identical actions in other states.

- Similar, albeit not identical anti-union legislation has now been presented in 22 other state legislatures across the country and the trend has already grown beyond Wisconsin.

- 87% of the employees in unions in the public sector are working in state and local governments.

In an attempt to prevent similar legislation from being enacted in other states, organized labor has already seeded a backlash against the legislation in Wisconsin, claiming that it "has gone too far". Support for recall petitions is growing and the legal battle is already underway.

What the ultimate outcome will be in Wisconsin and elsewhere is yet to be determined. Will more states pass similar public employee legislation? Will the labor movement coalesce and use this as a "cause célèbre" to rally pro-union sentiment in both the public and private sectors? Will unions work all the harder to organize in the private sector to counter lost membership, dues and clout? Or, might these events even cause current unionized employees across the country to wonder if unions are still relevant enough to add value?

Meanwhile, back in the private sector where most of us operate, labor reform is still very much alive.

“Will the labor movement coalesce and use this as a “cause célèbre” to rally pro-union sentiment in both the public and private sectors? Will unions work all the harder to organize in the private sector to counter lost membership, dues and clout? Or, might these events even cause current unionized employees across the country to wonder if unions are still relevant enough to add value?”

While individual states are considering “anti-union” legislation, pro-labor reform in Washington, D.C. is still very much alive!

President Obama has referred to Wisconsin’s actions as an “**assault on unions.**” Federal legislative efforts at pro-labor reform may have met strong resistance, but the Executive Branch, NLRB and the Department of Labor are still led by very pro-union supporters, members and administrators with the stated intention of making it easier for unions to organize employees. Ultimately, the only way for unions to reverse decreasing membership (and the associated declining revenue without enacting unpopular dues increases, etc.) is to grow the number of employees it represents through more organizing - even as unions continue to lobby for support in Washington, D.C.

Given all of these current events, we recommend that our clients consider the following:

1. *If you think you **might be at risk for organizing**, you should “batten the hatches” before a union and your employees make contact. The number of NLRB elections increased last year and unions are winning about two-thirds of those elections. A recent survey by the American Psychological Association reports that nearly half of employees in the U.S. feel they are under-valued at work. We can help you identify those critical unionizing issues that unions most often take advantage of and offer experienced recommendations to reduce your risk.*
2. *TMG can **prepare your management team** to recognize union organizing and ready to respond legally. Training can be designed to also address management actions that are a “pre-emptive strike” at the issues that can lead to interest in unionization. Leadership team members that have been through the “DOs and DON’Ts” training before can benefit by a refresher course and learn about new union organizing tactics in a world of internet communications and social networking.*
3. ***If you have any union-represented employees** and wonder if there is any possibility of reducing union power or even of decertification, let us come in and take a behind-the-scenes look. Remember, for organizations in long-term union relationships, many current employees have never had the opportunity to make a choice related to union representation. Even represented employees are, and always will be, your employees unless you let the union and your actions change their sentiments and perceptions. The process of “recapturing” employee sentiment may take some time but can be done and can lead to the potential for decertification. We can help you with that analysis and an action plan to legally meet your objectives.*

With all the recent publicity, unions are topical. It has often been said that for every risk, an opportunity is created.

The current trends regarding organized labor and reform might create an opportunity for all parties. It is too soon to tell who will benefit or risk the most from current events, and realistically, the answer will likely vary from one state to another or even one employer to the next. Let us help you take advantage of your opportunity and deter unions from taking advantage of their opportunity. Please contact one of our senior partners with any questions you may have about how TMG may add value to your organization’s future employee relations goals.

(Please note: Nothing contained in this publication should be considered legal advice or constitute a consulting recommendation for any specific client situation.)