

The Professionals Guild of Ohio



PGO UNION NEWS

April 2017

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The War On Workers Intensifies

Right to Work Legislation in Ohio and the U.S.

Since the passage of the National Labor Relations Act in 1935, employees in the private sector have had the right to join a union and collectively bargain on issues related to wages, work hours, and other terms and conditions of employment. In Ohio, unions representing private sector employees can negotiate union-security contracts requiring that all employees in a bargaining unit join and pay dues or pay service fees for union representation.

Beginning in 1958, anti-union forces have attempted to pass so-called "right to work" legislation that would outlaw union-security agreements in Ohio, thus allowing "freeloader" employees to enjoy all the benefits of union representation without helping the union pay for the expenses associated providing the representation. Fast-forward to October 22, 2015, to find a more recent effort to diminish the effectiveness of collective bargaining. That is the date the Ohio House of Representative introduced House Bill 377, which does the following:

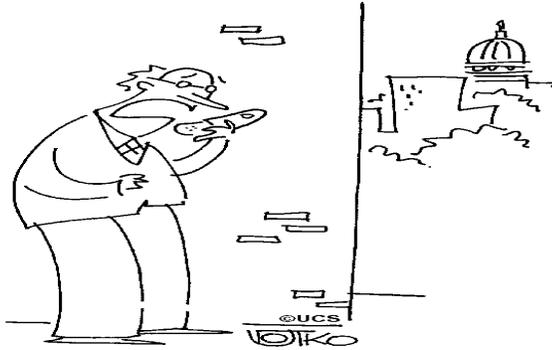
- Prohibits a private sector employer from requiring an employee to become or remain a member of, or to pay any dues, fees, assessments, or other charges to, an employee organization.

- Prohibits a private sector employer from requiring an employee to pay any amount to a charity or other third party in lieu of paying dues, fees, assessments, or other charges to an employee organization.
- Makes an agreement between a private sector employer and an employee organization that violates the bill's prohibitions void and unenforceable.
- Establishes criminal and civil penalties for violating the bill's prohibitions.
- Creates and requires the posting of an employee freedom of choice notice.

On November 16, 2015, HB 377 was referred to the House Commerce and Labor Committee with no further action documented.

Public Sector Collective Bargaining Legislation

In March, 2016, the U.S. Supreme Court issued its ruling in *Friedrichs v. California Teachers Association*, upholding the right of public employee unions to collect "fair share fees" from non-union members in the bargaining unit. Three months later, anti-union forces in Ohio were back in action, seeking to divest Ohio public employee unions of their rights to negotiate fair share fees.



"The insurgency is stronger than expected, Mr. President. The unions are fighting back!"

On June 30, 2016, House Representative John Becker, 65th District (Clermont County near Cincinnati) introduced House Bill 583. The language in this legislation will make the following changes to Ohio's Public Sector Collective Bargaining laws:

- Grants public employees the right to refrain from engaging in any concerted activities for the purpose of collective bargaining or other mutual aid and protection.
- Allows an employee organization (essentially, a union) to opt out of representing a public employee who is not a member of the organization and limits the employee organization's duty of fair representation to only those public employees who are organization members.
- Limits an employee organization's status as exclusive representative to only those bargaining unit members who are members of the organization and appears to limit the application of a public employee collective bargaining agreement to those employees who are members.
- Limits current law allowing alternative leave plans for certain employees, leave accrual during certain employment transfers, and certain teacher peer review plans to only members of an employee organization.
- Makes Department of Transportation employees who are not members of an employee organization members of the career professional service of the Department.
- Subjects employees who are not members of an employee organization but are in a bargaining unit to a compensation plan developed by a state university or college (currently they are exempt).
- Eliminates the ability of the parties to a collective bargaining agreement governing public employ-

ment to include a provision that requires nonmembers of the employee organization to pay a fair share fee to an employee organization.

- Allows a public employee who is not a member of an employee organization to make voluntary contributions to an employee organization.

Currently the Bill status is listed as Re-Referred by the House Rules and Reference Committee.

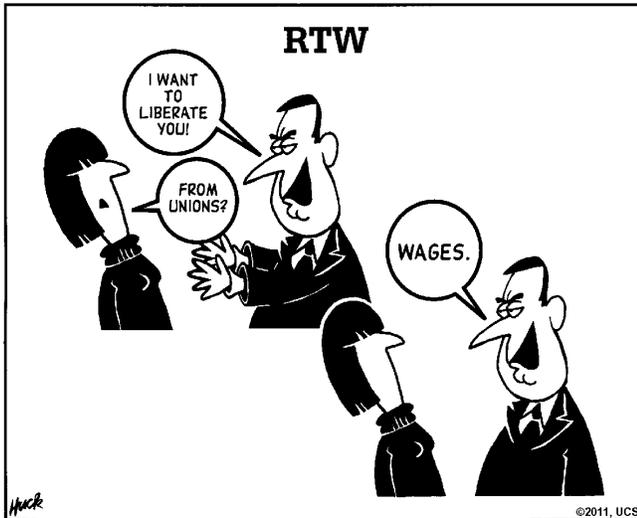
The Latest Anti-Union Efforts

The legislative effort to weaken unions has regained momentum in both the state and federal government. Shortly after President Trump's inauguration, the United States Congress began reviewing legislation that will eliminate the requirement that workers represented by a union pay for related union costs. On January 28, Representative Steven King (Republican-Iowa, 4th District) introduced House Resolution 692, followed on February 5 by Senator Rand Paul (Republican-Kentucky) introducing identical legislation in the form of Senate Bill 391. The proposed legislation will amend both the National Labor Relations Act and the Railway Workers Act so as to eliminate the requirement of fair share fees for non-union members.

The Ohio state legislature is reviewing a similar proposal that would affect government workers in Ohio. House Bill 53, introduced on February 13 by Representative John Becker (Republican- District 65), will eliminate fair share fees for state, county, and municipal employees in bargaining unit positions. The bill will also prohibit unions from intervening in any work-related matter involving bargaining unit worker who chooses not to join the union. This will allow agencies to avoid seniority considerations and other negotiated protections.



"We need more cuts by attrition. Cancel the CPR workshop."



County Right to Work Ordinance Supersedes Federal Labor Law

The Sixth Circuit Court of Appeals (which has jurisdiction over cases arising in Kentucky, Michigan, Ohio and Tennessee) recently ruled that ordinances adopted by cities, counties, and townships in Kentucky can restrict the role of labor unions in the workplace, even where the State itself has been unsuccessful in passing “right to work” legislation.

On several occasions the Kentucky State Senate has voted in favor of right to work legislation that was defeated in the state’s House of Representatives. Kentucky unions, therefore, retained the ability to negotiate union-security language in their collective bargaining agreements.

On January 13, 2015, Hardin County, Kentucky, by-passed the state legislature and passed an ordinance stating that no employee can be required to join or pay dues to a union, rendering null and void any such language in a collective bargaining agreement. The ordinance also prohibits the use of “hiring hall” procedures, where prospective employees are recommended, approved, referred, and/or cleared through a union. Additionally, the ordinance prohibits a “dues check-off” process allowing for an automatic payroll deduction of dues from union members.

Soon after the county ordinance passed, several unions filed suit in United States District Court for the Western District of Kentucky, claiming that only the state government has the authority to create and enforce right to work legislation and that such authority does not extend to local governmental entities below the state level. In making their case, the unions pointed

to the wording in Section 14(b) of the Nation Labor Relations Act (“NLRA”), which the exception that allows state right to work laws to supersede federal labor laws. Section 14(b) states that requirement of union membership is not permitted where such is “prohibited by State or Territorial law.”

The U.S. District Court ruled in favor of the unions finding that, within the meaning of the NLRA, the term “state law” did not include local ordinances. The District Court held that county right to work ordinances are preempted by federal labor law.

On appeal, the District Court ruling was reversed, but only in regard to union-security language. The Court of Appeals held that the term “state law” included right-to-work ordinances adopted by a local government. However, the Sixth Circuit also held that the use of union “hiring hall” employment procedures and automatic dues deduction for union members are activities regulated by the Labor Management Relations Act (“LMRA”), which retains the preemption of federal law over state and local law.

While this decision could have a substantial effect on private employee unions in Ohio, it does not directly affect public employee unions.

Kentucky and Missouri Pass Right to Work Laws

Kentucky and Missouri have become the 27th and 28th states to pass right to work legislation, allowing workers in those states to benefit from unionization without being required to pay for it. A similar union-busting measure was defeated in the New Hampshire state legislature.



"I've been making an effort to be less critical. If you weren't so self-absorbed, you'd see that!"

Budget Proposal Slashes Department of Labor Funding

President Donald Trump’s proposed budget will cut funds for the Department of Labor by more than 20 percent. While not much detail has been published, it is believed that unemployment benefits and job-training programs will be the hardest hit areas. The proposed budget eliminates the \$434 million Senior Community Service Employment Program, which provides job training for older unemployed workers; closes many Job Corps centers; and expands the assessments of people seeking unemployment benefits to make more people ineligible. Experts say funding for the Wage and Hour Division and the Occupational Safety and Health Administration are other areas likely to be cut.

President Trump Cancels Worker Protection Order

President Donald Trump cancels former President Barack Obama’s executive order requiring companies bidding on government contracts to disclose labor-law violations bidding companies had within the last three years. This clears the way for employers with a history of wage theft, discrimination, and unsafe conditions, to continue bidding on government contracts. Arguing that the executive order amounted to being an unfair “blacklisting” of employers, trade groups like the Associated Builders and Contractors opposed the order. President Trump obtained the authority to cancel the order with a 49-48 vote in the Senate.



"Actually, I'm working my son's way through college."

PGO Executive Board Meeting

The PGO Executive Board is scheduled to meet April 22, 2017 at 10:30 a.m. at the Montgomery County Children Services offices, 3304 North Main Street, Dayton, Ohio.

PGO Election Scheduled

The PGO Constitution requires an election of state union officers this year. Nominations for officers must be made by a Nominations Committee composed of one member chosen by each PGO Council. Additional nominations may be made by a petition signed by one percent of the membership and presented to the executive director by April 22.

The candidates for the various union offices will be finalized during the Nominations Committee meeting following the April executive board meeting. Ballots will be mailed to members in May and must be returned by June 15.



"The Crisis Management Seminar broke up early when someone spilled a pot of hot coffee and nobody knew what to do about it."

We Need Your Help!

The PGO is updating its membership data base to prepare for the upcoming election of state union officers. If you have moved, or if you have never received mail from PGO, please contact our office to update your contact information.