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Michigan Repeals Right-To-Work and Reinstates Prevailing Wage

Client Alert

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On Friday, March 24, 2023, Michigan Governor Gretchen Whitmer signed into law bills that repeal Michigan's Right-To-Work law. Prior to passage of Right-To-Work, union security clauses were permissible, which meant that private sector workers in Michigan could be required to pay union dues or service fees as a condition of employment. When Right-To-Work became the law, employees could no longer be required to join a union, pay union dues or otherwise financially support a union, although they would still be subject to a union collective bargaining agreement if one was in place. With the repeal, workers in a classification subject to a union collective bargaining agreement can once again be required to pay union dues or service fees as a condition of employment.

In addition to repealing Right-To-Work for private sector workers, the bills also repeal Right-To-Work for public sector employees. However, a U.S. Supreme Court decision bars public sector employees from being required by collective bargaining agreements to pay union dues or service fees. Thus, while public sector unions may challenge or otherwise seek to avoid that decision's effect, it appears that the bill allowing union security provisions will only become effective for public employees if the U.S. Supreme Court decides to overturn or modify that decision. Michigan has become the first state in nearly 60 years to repeal a Right-To-Work policy after it was enacted.

The new laws repealing Right-To-Work also reinstate a prevailing wage law that requires union-level wages and benefits for workers on all state-funded construction projects. Michigan's prevailing wage law was first enacted in 1965, then repealed in 2018.

The new laws will not go into effect immediately. Instead, the changes will be effective 90 days after the end of the current legislative session. If the session ends in late December 2023, as

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is typically the case, the bill will take effect in March of 2024. However, if the session ends earlier, for example in June 2023, the bill would take effect in September of this year.

These new laws should not affect collective bargaining agreements that have already been negotiated and are in place at the time the changes become effective. However, contracts which begin after the effective date of the new laws will need to comply with the new law regarding the permissibility of union security provisions.

If you have any questions regarding Michigan's Right-To-Work law, or other labor and employment matters, please contact your Butzel Labor and Employment attorney.

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