

## Publications

### *Labor and Employment Alert: Right-to-Work Legislation Introduced in Ohio*

#### Related Attorneys

Nelson D. Cary

Michael C. Griffaton

#### Related Services

Labor and Employment

Labor Relations

#### CLIENT ALERT | 12.28.2015

In October 2015, Representative Tom Brinkman introduced House Bill 377 in the Ohio General Assembly to make Ohio the nation's 26th right-to-work state (along with [Alabama](#), [Arizona](#), [Arkansas](#), [Kansas](#), [Florida](#), [Georgia](#), [Idaho](#), [Indiana](#), [Iowa](#), [Louisiana](#), [Michigan](#), [Mississippi](#), [Nebraska](#), [Nevada](#), [North Carolina](#), [North Dakota](#), [Oklahoma](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Utah](#), [Virginia](#), [Wisconsin](#), and [Wyoming](#)). "Right-to-work" refers to prohibitions on union security agreements or agreements between a union and the employer to require union membership. House Bill 377 would prohibit union membership in the private sector as a condition of employment.

Collective bargaining in the private sector is generally governed by the federal National Labor Relations Act (NLRA). Under the NLRA, a private sector employer and union may agree to a requirement in a collective bargaining agreement that requires an employee as a condition of employment (1) to join the labor union representing the employer's employees, or (2) to pay an agency or "fair share" fee to the labor union if the employee is not a union member but is covered by the collective bargaining agreement between the employer and the union. The NLRA expressly permits a state to have a law that prohibits requiring labor union membership as a condition of employment.

House Bill 377 would prohibit a private employer from requiring its employees to become or remain a member of a labor union. The legislation would also prohibit a private employer from requiring its employees to pay any dues, fees, assessments, or other charges to, a labor union (basically, fair share fees). Moreover, the employer would be prohibited from requiring the employee to pay money to a charity in lieu of paying fair share fees, and would be unable to deduct such fair share fees from an employee's wages without the employee's written authorization. The legislation would also require the employer to post in a conspicuous place and keep continuously displayed a statutorily prescribed notice describing the employee's freedom to join or refrain from joining a labor union and from paying fair share fees. A contract or agreement between an employer and a union that violates these provisions would be unenforceable, and employer and union could be

subjected to criminal prosecution by the Ohio Attorney General as well as a civil action by the affected employee.

House Bill 377 received its first hearing before the Ohio House Commerce and Labor Committee on December 1, 2015. While early in the legislative process, House Bill 377's future is uncertain. Prior efforts at enacting right-to-work legislation in Ohio have failed. And it's unclear whether the Ohio Senate and Governor (and presidential candidate) John Kasich will support the legislation. Governor Kasich has previously said that he does not anticipate a need for right-to-work legislation in Ohio. Contact your Vorys lawyer if you have questions about the legislation, right-to-work, or labor union issues in your workplace.