

## Right-to-Work – Union Shenanigans And Another State (Colorado) In Play

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As previously reported, West Virginia recently became the 26th state to pass a Right-to-Work law, which generally prohibits forced union membership by outlawing union security provisions in collective bargaining agreements. However, in states with Right-to-Work laws, even if the employee has opted out of paying dues, unions still have an obligation to represent employees covered by their collective bargaining agreements in grievance procedures.

**NLRB Responses to Right-to-Work:** Right-to-Work legislation is permitted under the National Labor Relations Act (NLRA), although with increased momentum demonstrated across traditionally staunch labor bastions like Wisconsin, Indiana, and Michigan over the last few years, the current National Labor Relations Board (NLRB) has made rumblings that it may seek avenues to undercut the financial impact such laws have on organized labor. For example, in a 2015 case, *United Steel, Paper and Forestry Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1192 (Buckeye Florida)* (12-CB-109654), the NLRB invited amicus briefs to address whether the NLRB should adopt a rule permitting unions to collect fees from nonmembers for grievance processing. However, the issue never was decided by the NLRB because the NLRB's general counsel and the respondent union worked out a deal to resolve the pending unfair labor practice against the union with the current NLRB, however, it makes sense to stay tuned. **Union Shenanigans:**

More recently, Right-to-Work laws have resulted in other NLRB litigation against unions for bad behavior as unions attempt to protect their dues base. Earlier this month the [Detroit News published an article](#) about a current autoworker who has filed an unfair labor practice charge against the United Auto Workers (UAW) with the NLRB's Region 7 Regional Director, Terry Morgan, alleging he was harassed because of his exercise of rights under Michigan's Right-to-Work law. Among other things it is alleged the UAW has tried to silence the charging party by having union representatives shadow him and/or write him up for minor safety violations; and the article reports flyers have been posted or distributed in the plant calling him "a\*\*\*\* of the month" for not paying union dues. Such conduct or public shaming of individuals who do not pay union dues (oftentimes called scabs or freeloaders) in Right-to-Work states through social media posts, published lists or even union paid-for billboards has, unfortunately, become a much more common tactic as the Right-to-Work debate has intensified and unions have lost members because of such laws. Such tactics may not be surprising given the pressure on unions to retain members, even though a [Gallup Poll found that 71 percent of Americans support Right-to-Work](#). **Colorado in**

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**Play:** In fact, the support for Right-to-Work legislation (and union opposition) may soon be put to the test again, this time in Colorado. At the end of February, the [Colorado Senate passed Senate Bill 70](#) which would introduce Right-to-Work in Colorado, and would do so with additional restrictions on how unions would be able to collect dues and requiring restrictive union dues authorization cards. That legislation is now pending in the Colorado House State, Veterans, and Military Affairs Committee. It remains to be seen if Colorado might be the next Right-to-Work domino to fall. What is surely true, however, is that these battle lines and the politicization of this debate, does not appear to be subsiding.