

The Legality Of Local Municipal Right-to-Work Laws; Will A Circuit Split Lead To Supreme Court Review

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On November 21, 2016, we reported that in [Autoworkers Local 3047 v. Hardin County](#), the Sixth Circuit Court of Appeals held that local units of government could pass right-to-work ordinances under the National Labor Relations Act. Subsequently, on January 9, 2017 we reported that the [state of Kentucky became a right-to-work state](#), a decision that seemingly ended any controversy concerning the Hardin County ordinance and litigation. However, a group of local unions have continued their legal challenge to the Sixth Circuit's decision in *Hardin* as a means to prompt United States Supreme Court review. The Sixth Circuit's decision in *Hardin* may be on a collision course with the Seventh Circuit that recently was asked to review a right-to-work ordinance passed by the municipality of Lincolnshire, Illinois. In [International Operating Engineers, Local 399, AFL-CIO et al. v. Village of Lincolnshire, Illinois, et al](#), an Illinois U.S. District court struck down a Lincolnshire, Illinois right-to-work ordinance, holding it was preempted by the National Labor Relations Act. The Seventh Circuit is scheduled to hear an appeal in that case; setting the stage for a result contrary to the Sixth Circuit *Hardin* decision. Last week the Sixth Circuit declined a request for *en banc* review of its decision in *Hardin*, a less than surprising result given the fact that Kentucky adopted right-to-work legislation. The action by the State of Kentucky essentially made moot the specific issue in *Hardin*. Regardless, the union's that sought *en banc* review are hoping that a circuit split between the Sixth and Seventh Circuits (should the Seventh Circuit uphold the lower court) will ultimately lead to Supreme Court review. Commentators think this issue may be attractive for Supreme Court review, especially if other local municipalities around the country attempt to pass their own right-to-work ordinances, a trend that has appeared to gain momentum during the last 18 months.

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