

West Virginia Becomes Next Right-to-Work State Over Protest, Veto Of Governor

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**Koryn M.
McHone**
Of Counsel

Employers take note and review your agreements and practices

- On Feb. 12, the West Virginia house and senate overrode Governor Earl Ray Tomblin's veto of [SB 1](#) (known as the West Virginia Workplace Freedom Act), which amends the Code of West Virginia to prohibit employment agreements that require membership in a labor organization as a condition of employment, or any requirement that a person becomes/remains a union member as a condition of employment. Additionally, SB 1 prohibits any requirement that, as a condition of employment, any person pay dues or other fees to a labor organization or, alternatively, that he or she contributes to a charity or other third-party in lieu of paying such dues/fees to a labor organization. As a result of the bill any agreement, contract, understanding or practice between a labor organization and an employer or public body that excludes from employment someone because of membership in, affiliation with, resignation from, or refusal to join/affiliate with any labor organization (or other employee organization of any kind) is deemed unlawful and considered null and void. Violations of the new law, which is effective 90 days after passage, can trigger penalties that include being charged with a criminal misdemeanor and, if convicted, fines ranging from \$500 to \$5,000, with each day in violation constituting a separate offense. Other remedies include compensatory damages, attorney's fees/costs, punitive damages, and injunctive relief. In light of this legislation, employers should consider reviewing the requirements set forth in SB 1 to ensure they have a full understanding of what is and is not permitted, and should contemporaneously scrutinize any existing practices and agreements, policies, or other understandings to ensure they do not run afoul of the mandates of SB 1.

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