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The New Union Busting Strategy: Dismantling Organized Labor County-by-County

For decades, those seeking to attack workers' rights have placed a priority on enacting state-level anti-union legislation deceptively referred to as "right-to-work." Recently, anti-union organizations have developed a new legislative strategy designed to pick apart the organized labor movement one piece at a time—county-level "right-to-work" ordinances. While there are strong arguments that county-level "right-to-work" ordinances are invalid under federal law, this strategy is very concerning given the potentially disastrous consequences for working men and women if these efforts are successful.

In 1947, the National Labor Relations Act was amended by Section 14(b) of the Taft-Hartley Act to allow states the option to enact anti-union "right-to-work" laws. It was assumed for more than sixty years that Section 14(b) of the Taft-Hartley Act only allowed states—not local governments—to enact such laws. However, on August 26, 2014, the Heritage Foundation released a paper arguing that Section 14(b) of the Taft-Hartley Act also allows cities, counties, and other political sub-divisions to enact "right-to-work" ordinances. This paper caught the attention of other anti-union organizations and gave birth to a new strategy for attacking workers' rights.

In the past two months, Kentucky has become the battleground over county-level "right-to-work" ordinances. On December 19, 2014, Warren County, Kentucky enacted the first county-level "right-to-work" ordinance. Warren County is the home of the General Motors Bowling Green Assembly Plant, which manufactures the Chevrolet Corvette and is organized by UAW Local 2164. In the six weeks since the first ordinance was passed, several other counties, including Hardin County, Kentucky, have also enacted similar anti-union "right-to-work" ordinances.

However, on January 13, 2015, a variety of local and international labor unions filed a lawsuit against Hardin County seeking to have the "right-to-work" ordinance declared invalid. These unions are arguing that Section 14(b) of the Taft-Hartley Act only permits states to enact "right-to-work" legislation. As this narrow exception only applies to states, cities, counties, and other political subdivisions are prevented from enacting "right-to-work" ordinances by the National Labor Relations Act. Although organized labor is vigorously fighting county-level



“right-to-work” ordinances in Kentucky, it will be quite some time before this issue is decided by the courts. Given the uncertainty of whether these ordinances will ultimately be found to be valid or invalid, labor leaders must prepare for the worst in order to fend off this dangerous assault against workers’ rights.

This new strategy is even more concerning because anti-union organizations have already indicated that they will advocate for county-level “right-to-work” ordinances in Pennsylvania if they are successful in Kentucky.¹ Given the political landscape, it is quite possible that anti-union organizations could be successful in enacting county-level “right-to-work” ordinances in most of Pennsylvania if the organized labor movement is not vigilant. The events currently occurring in Kentucky provide a strong example of the domino effect of county-level “right-to-work” ordinances. If even one county in Pennsylvania enacts such an ordinance, there will likely be many others that will do the same in short order. As such, it is imperative that labor leaders strongly oppose any and all efforts to enact county-level “right-to-work” ordinances in Pennsylvania—regardless of where they occur. As always, we will keep the Allegheny County Labor Council updated regarding any new developments regarding this concerning issue.

Respectfully submitted,



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¹ Garrett Tenney, *Kentucky Counties Make Unprecedented Push for Right-to-Work Laws*, Fox News, January 23, 2015, available at <http://www.foxnews.com/politics/2015/01/23/growing-battle-over-kentucky-counties-right-to-work-laws/> (“Outside groups supporting the right-to-work effort are closely following the case. If it’s successful, they plan to take this same strategy to counties in other non-right-to-work states such as Ohio, Pennsylvania and Wisconsin.”).