LEGISLATIVE UPDATE

JULY 2017

Efforts to disempower labor unions were relaunched recently with the re-introduction of a bill, the so-called "Employee Rights Act." Introduced by Rep. Phil Roe (R-Tenn.), and co-sponsored by 31 Republicans so far, H.R. 2723 would necessitate federally monitored secret ballot votes for all workplaces that call for organizing elections. At the same time, the bill would require unions to win the majority of all employees, including those who don't vote, before they can be certified as the collective bargaining representative. Under the legislation, any votes not cast would be counted as a "no" on the voting ballot. It would also require periodic union re-certification elections.

"If political elections were held in this fashion, virtually no one would have been elected, because the number of people who stay home, leave ballot sections blank or vote for someone else outstrips the number of votes officeholders receive," the AFL-CIO stated.

The bill would phase out card check recognition of unions, require written consent before worker dues could be used in collective bargaining and make strikes subject to a majority vote by the union members monitored by a neutral organization chosen at the time of agreement between both the labor union and the employer. Congressman Roe characterized the bill as pro-worker. "The rights of American workers were under attack during the Obama presidency, and it is time to restore those rights and work to foster a pro-growth, pro-employee environment," he said. "This legislation will ensure individuals' rights are upheld when considering whether or not they wish to join a union."

In related anti-labor developments, "Right-to-Work" backed groups are again making overtures to push a case before the Supreme Court challenging the legitimacy of public sector unions to collect fees as a condition of employment. The high court handled a similar case in 2016 deadlocking 4-4 in *Friedrichs v. California Teachers Association* that took place shortly after the death of Justice Antonin Scalia. That tie vote left intact 1977's Abood v. Detroit Board of Education that ruled that non-union members should pay their fair share for the wages, benefits and protections negotiated on their behalf in a collectively bargained contract.

Now that another conservative judge has been added to the court, corporate special interests are making another stab at weakening unions. Union opponents are hoping the court will take up *Janus v. AFSCME* and rule that an Illinois state government employee should not have to pay a union "security fee." Yet another similar case, *Yohn v. California Teachers Association*, could also be entertained by the Supreme Court as early as 2018. That case challenges the fees as contrary to First Amendment rights and also takes issue with the 'burdensome' opt-out process for dissenting non-members.