

NLRB Weighs In On Dispute Over Kentucky County's Right-To-Work Laws

Labor & Employment Law Update

By Julie Proscia on April 24, 2015

Last week, the National Labor Relations Board (board) filed a legal brief in an ongoing federal lawsuit over the viability of a multi-part right-to-work law implemented through a county-wide ordinance in Hardin County, Kentucky. Among other things, the ordinance at issue prohibits the use of union-security provisions in collective bargaining agreements, and also regulates hiring halls, dues check-off, anti-coercion and discrimination provisions, and the penalties for violations of Section 8 of the National Labor Relations Act. The board's central argument is that federal law preempts the county's legislation on those issues.

This action by the board (which is not actually a party to the lawsuit at issue) in support of the plaintiff unions is indicative of the board's unprecedented and aggressively pro-union agenda. The underlying lawsuit was filed by the United Auto Workers and other unions in a Kentucky federal district court to challenge the legality of the county's ordinances. That said, the board's brief indicates that this likely will not be a precursor to challenges to right-to-work laws that have been implemented on a state-wide level across the country. In that regard, the board's brief references the statutory basis for states' right-to-work laws, but then argues that that statutory text should not be applied to local government entities for reasons that include the possibility that county-wide legislation could result in a "crazy-quilt" of varying regulations that could make it impossible to administer industry-wide labor agreements.

While the Kentucky district court's jurisdiction is obviously limited, local governmental bodies around the country are certain to be watching the outcome of this decision, and an opinion favoring Hardin County is likely to spur more legislation of this sort on the local government level all across the country.