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EMPLOYMENT LAWSCENE ALERT: WISCONSIN ASSEMBLY PASSES RIGHT-TO-WORK BILL — GOVERNOR WALKER EXPECTED TO SIGN BILL ON MONDAY

Today, Friday, March 6, 2015, the Wisconsin State Assembly after a marathon session passed right-to-work legislation by a vote of 62 to 35. The State Senate had previously approved the right-to-work legislation by a vote of 17 to 15 the previous week. The votes were cast according to party lines. The fast-tracked bill will be sent to Governor Scott Walker for signature, which could occur as early as Monday. The bill is aimed at making Wisconsin more attractive to businesses by prohibiting as a condition of employment membership in a labor organization, and, accordingly, provides employees the freedom to choose as to whether they want to pay union dues. Union supporters strongly opposed the bill arguing that the bill harms unions and slows job growth. However, Republican Assembly Speaker Robin Vos said that in Indiana, which passed a similar bill in 2012, unions have not shrunk and jobs have grown.

Once Governor Walker signs the bill, Wisconsin will become the 25th right-to-work state in the country following recent right-to-work legislation passed in Indiana and Michigan. The right-to-work legislation will affect only private-sector workers. The Wisconsin bill would make it a crime punishable by up to nine months in jail to require a worker who is not in a union to pay dues.

Right-to-work is an often misinterpreted concept, as it does not guarantee any right to employment. Under federal labor law, a union that is elected to represent a bargaining unit must represent all workers, even those who have voted against the union. In states that do not have right-to-work laws, all employees in the bargaining unit are required to pay their fair share of union dues for that representation, even if they voted against the union and do not wish to pay union dues. In right-to-work states, however, which Wisconsin will soon be, employees cannot be compelled to pay any union dues or fees in a workplace where an union represents employees through a collective bargaining agreement even though such employees will be covered by the collective bargaining agreement. Wisconsin's right-to-work legislation also makes it unlawful to require any individual to become or remain a member of an union.

Once Governor Walker signs the bill, the new right-to-work law will apply upon the renewal, modification, or extension of any private sector collective bargaining agreement. This means that for collective bargaining agreements currently in place as of the time of enactment of the law, employees would still be required to pay their fair share of union dues and remain members of the union for the remaining term of the agreement. However, for any collective bargaining agreement entered into, renewed or modified after enactment of the legislation, any union security clause requiring employees to be members of the union or any requirement for employees to pay union dues would no longer be enforceable.