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Do Risk and Liability Change in New Right-to-Work States?

Right-to-work laws make it illegal to require workers to pay dues to a union, rendering it harder for workers to organize and influence terms of their working conditions and employment relationships. Michigan and Indiana have recently passed right-to-work legislation and other states such as Maine, Missouri and Ohio have considered similar measures.

Under some state and federal laws, labor union leaders are exposed to personal liability and must defend themselves, in certain circumstances, at their own expense. Therefore, in addition to right-to-work's impact on wages, benefits and living standards, union leaders will have to consider changes in risk management due to the new laws.

One major change is that unions in new right-to-work states will now be representing workers that do not

pay union dues. From an insurance perspective, these changes have the potential to increase risk in some situations.

Some non-dues paying workers may allege discrimination against union leaders if they feel they are not being represented properly because of their choice not to pay union dues.

Ullico Casualty Group, Inc.'s Union Liability policy* covers insureds against claims of breach of duty of fair representation, employment practices liability and personal injury. While risk may change for union officials in states such as Michigan and Indiana, a union liability policy remains a valuable risk management tool for local unions, district councils, international unions and joint apprenticeship training committees.

* Coverage issued through Alterra America Insurance Company, a Markel company, rated A (XV) by A.M. Best Company as of 12/31/2013.

Scenario #1

Description: A non-dues paying worker in Michigan alleges harassment by shop stewards who feel the worker is benefiting from representation for which he or she isn't paying. The worker sues the local union for personal injury as a result.

Risk Management: Unions have established guidelines on how to properly encourage member participation and union leaders should adhere to those procedures. Local union leadership will have to be cautious on how to properly promote the value of union membership without singling out potential members.

Policy Coverage: A union liability policy includes libel, slander and defamation of character in its definition of "Personal Injury." This policy includes recruiting new union members in the definition of "Wrongful Act," whether the state is right-to-work or not.

Scenario #2

Description: A non-member is fired by his employer and then sues his local union because it did not file a grievance against the employer that he requested.

Risk Management: The risk of a law suit can be managed by shop stewards adhering to the grievance procedures by their union. Some unions post separate procedures for processing member complaints versus non-member complaints. Shop stewards should follow the appropriate protocol and document the entire process for evidence of due diligence.

Policy Coverage: A standard union liability policy covers the duty of fair representation in the discharge of an insured person's duties for the union.

Scenario #3

Description: An older business field representative is terminated for alleged non-performance in relation to low union membership numbers for a union in a right-to-work state. The field representative sues the local union for wrongful termination and age discrimination.

Risk Management: Business managers should follow their recruitment guidelines and document all actions they have taken to encourage membership. Also, open communication regarding message reception with their management is very important.

Policy Coverage: A union liability policy covers Wrongful Employment Practices, which includes discrimination and wrongful termination.

Union leaders should speak with their insurance broker to make sure they are properly covered for these claims scenarios. While the political situation facing unions in right-to-work states will create many pressures and challenges, union leaders can find risk management support through a Union Liability policy sold through Ullico Casualty Group.



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