

New Constitutional Amendment May Impact Illinois Workers' Right to Collectively Bargain

On November 8, 2022, Illinois voters approved the Workers' Rights Amendment, which creates a constitutionally protected right to collective bargaining in the State of Illinois. The amendment went into effect on December 5, 2022, and is the first statewide ban of "right-to-work" laws prohibiting compulsory union membership.

The amendment expands the permissible topics of collective bargaining. Under the National Labor Relations Act (NLRA), employees may engage in protected collective bargaining over traditional terms and conditions of employment, such as wages, hours and working conditions. The amendment, on the other hand, explicitly protects collective bargaining over these terms and conditions while adding the protection of "economic welfare" and "safety at work."

The amendment also changes who is permitted to advocate on behalf of a bargaining unit. The NLRA provides that once a union is certified as the representative of an appropriate unit, it is the exclusive representative. The amendment does not limit collective bargaining to union representation and instead states that employees have the right to collectively bargain "through representatives of their own choosing."

Many anticipate litigation over the amendment's meaning and scope, as it does not define "economic welfare" or "safety at work" and appears to cover classes of workers not currently protected by the NLRA, including independent contractors and managers. There are also questions regarding whether the NLRA preempts the amendment in whole or part.

Although we expect the amendment will be challenged in the courts, Illinois employers should take active steps to comply with its requirements until further notice.

We are monitoring this issue closely and will provide updates as they develop. If you have questions about the amendment or its impact on Illinois law, contact [Christopher K. Schuele](#), [Matt DeLange](#) or your Reinhart attorney.

POSTED:

Dec 16, 2022

RELATED PRACTICES:

[Labor and Employment](#)

<https://www.reinhartlaw.com/practices/labor-and-employment>

[Health Care](#)

<https://www.reinhartlaw.com/practices/health-care>

[Corporate Law](#)

<https://www.reinhartlaw.com/practices/corporate-law>

RELATED PEOPLE:

[Matthew DeLange](#)

<https://www.reinhartlaw.com/people/matthew-delange>

[Christopher K. Schuele](#)

<https://www.reinhartlaw.com/people/christopher-schuele>

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or



future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.