

Issue: Labor Unions

Labor Unions in Virginia – an Update

2019 Democratic Election Gains

In 2019, Virginia voters elected Democratic majorities in both chambers of the Virginia legislature and thus created an opportunity to chip away at the rigid anti-union posture of the state’s legal environment. At the beginning of 2020, Virginia was one of only three states to ban all public labor union;¹ was a “right-to-work” state;² prohibited public employees from striking³ and had lower union membership as a percentage of total employment than all but four other states.⁴ The term “right-to-work” has little to do with a right to work. Rather it describes a law that prohibits union contracts from charging nonunion workers with partial dues covering the work of the union in collective bargaining even though nonunion workers enjoy the benefits derived from collective bargaining. A 2019 Local Majority paper gives a good overview about labor unions and right-to-work laws in Virginia.⁵

In 2020, Democrats in the House of Delegates and Senate passed a number of progressive-oriented measures to expand voting rights, provide some sensible regulation on gun ownership, guarantee a minimum wage increase, and expand and protect rights of the LGBTQ community.⁶ But in the area of labor unions, Democratic progress was tentative, limited to permitting (but not requiring) local authorities to engage in collective bargaining with unions representing public employees.⁷ Right-to-work remains the law of the state and public employees continue to be banned from striking even if represented by a union.

Local Authority Collective Bargaining Permitted

In 2020, the Virginia Legislature passed HB 582 and SB 939, effective May 1, 2021, permitting local authorities to enact an ordinance to engage in collective bargaining with a union or association representing public employees of the local authority. The term “local authorities” includes counties, cities, towns, school boards and similar local authorities. Local authorities are not required to engage in collective bargaining. They are not even required to consider adopting an ordinance on collective bargaining other than within 120 days of receipt of certification by a majority of public employees in a unit requesting collective bargaining authority.⁸

Additional limitations on this new authority are noteworthy:

- The Commonwealth of Virginia is not permitted—as an employer—to engage in collective bargaining on behalf of state employees.
- Officers elected pursuant to Virginia’s constitution, including city treasurers, sheriffs, commonwealth attorneys, court clerks and commissioners of revenue, and employees of such officers are not permitted to engage in collective bargaining under the new law.
- No state-level Public Employee Relations Board was created. Local authorities will have to assume that responsibility.
- Virginia law will continue to prohibit public employees from striking.⁹

The votes on these bills were along party lines.¹⁰ An earlier version of the legislation passed by the House would have made it mandatory for both state and local authorities to engage in collective

bargaining. However, Senate Democrats were unwilling to go so far as to mandate collective bargaining at either the state or local level and insisted on permitting but not requiring local authorities to engage in collective bargaining.¹¹

Further Measures in Support of Unions Frustrated

Additional efforts to soften Virginia's staunch anti-labor stance were made in 2020 and continue this year. Lee Carter, a Democrat from Manassas, and a self-described socialist, introduced a bill to repeal Virginia's right-to-work law¹² and a bill to allow public employees, except for law enforcement officers, to strike without losing their jobs, reversing the scope of prior legislation that applied to all public employees.¹³ Neither bill advanced beyond committee. An effort to permit "fair-share fees" to be imposed on non-union employees of private employers in order to compensate the union for collective bargaining services was proposed in 2020 but did not advance.¹⁴ In 2021, Lee Carter introduced HB 1780 which would remove the prohibition on striking from teachers and other employees of a school board but retain the prohibition for all other public employees. This bill is also languishing in committee.¹⁵ Virginia Democrats, particularly in the Senate, are as yet unwilling to back efforts to promote effective and widespread labor union activity.

¹ <https://apnews.com/article/6559ad8943dd4d1c22e519d27530c2f0>

² <https://www.virginiamercury.com/2019/12/11/virginia-explained-the-growing-debate-and-divide-on-right-to-work/>

³ <https://law.lis.virginia.gov/vacode/title40.1/chapter4/section40.1-55/>

⁴ <https://www.bls.gov/news.release/pdf/union2.pdf>

⁵ https://www.localmajority.org/wp-content/uploads/2019/08/VA.LaborUnions-RightToWork.20190805.as_.pdf

⁶ <https://www.nbc12.com/2020/06/30/roundup-new-virginia-laws-taking-effect-july/>

⁷ <https://law.lis.virginia.gov/vacode/title40.1/chapter4/section40.1-57.2/>

⁸ <https://www.woodsrogers.com/collective-bargaining-for-public-employees-arrives-in-the-commonwealth-virginia-hb-582/>

⁹ <https://www.woodsrogers.com/collective-bargaining-for-public-employees-arrives-in-the-commonwealth-virginia-hb-582/>

¹⁰ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB582>

¹¹ <https://apnews.com/article/6559ad8943dd4d1c22e519d27530c2f0>

¹² <https://dcist.com/story/21/01/19/progressives-face-battle-to-scrap-right-to-work-law-virginia/>

¹³ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB67>

¹⁴ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+SB426&201+sum+SB426>

¹⁵ <https://lis.virginia.gov/cgi-bin/legp604.exe?211+sum+HB1780>