



The Constitutional Amendment before the voters is framed as a “workers’ rights” issue with the effect of banning right to work laws in Illinois. If approved, its impact will be far-reaching and completely change the landscape of collective bargaining for private employers and their employees in the state. The constitutional question seeks to elevate workers’ rights to collectively bargain to a level not contemplated under federal law and expands the subjects over which employers and unions can negotiate. The Constitutional Amendment creates a significant conflict between federal and state law. The broad, undefined terms used in the Amendment, will create legal uncertainties that will result in costly, piecemeal litigation for workers and employers. We are aware of no other state that provides the constitutional protections this change will provide.

#### **Creates conflict between federal and state law**

The National Labor Relations Act (NLRA) is the federal law that grants employees in the private sector the right to form or join unions, engage in concerted activities or refrain from engaging in such activities. The question before voters includes terms and phrases that go beyond those included in the NLRA. The conflict between federal and state law created by the Constitutional change will raise questions of which law controls, questions that will need to be answered by litigation and a court.

#### **Choice of association denied for workers**

A fundamental right provided to all citizens under the First Amendment of the United States Constitution is the right to free speech and freedom of association. The Constitutional Amendment before voters prohibits any law or ordinance that allows union workers to choose whether they wish to be a member of the union or not. In the 2018 United States Supreme Court decision *Janus v. Illinois AFSCME*, government workers who choose not to be a member of the union cannot be required to pay union dues as a condition of working in the public sector. Approval of this Constitutional Amendment raises other legal questions of the impact on *Janus* and private sector workers.

#### **Broadens workers’ rights to collectively bargain**

The Constitutional Amendment also broaden the scope of subjects that must be negotiated between employers and workers. While the NLRA requires negotiations over wages, hours and conditions of employment, the question before voters adds the undefined terms “economic welfare” and “safety at work” to the mix. Case law explains what subjects of bargaining are required under the NLRA, but no case law has yet been developed explaining what these new terms could include. Approval of the Constitutional Amendment will also mean lawmakers could never “interfere with, negate or diminish” these rights – terms that are broad and undefined and may cause lawmakers an inability to clarify through legislation.

Our Illinois Constitution provides such protection to public employees. The result of that protection has been to squash efforts by state lawmakers and voters to address Illinois' pension fund deficits. Do we want similar limits placed on the private sector?

**Another “blackeye” for Illinois and its ability to retain and create jobs**

The uncertainty caused by the conflict between federal and state law will bring another “blackeye” for Illinois' efforts to retain and create jobs. With major companies like Caterpillar, Boeing, Citadel and Tyson making decisions to move jobs out of the state, why would businesses small and large consider investing in Illinois. Certainly, the adoption of this Constitutional Amendment will push Illinois even further behind in its favorability for businesses to locate or expand.

Chief Executive Magazine polling of nearly 700 CEOs and business owners from every U.S. state ranked Illinois 48<sup>th</sup> for best business states. Illinois is currently ranked 45<sup>th</sup> in the United States for its economic outlook by the American Legislative Exchange Council's analysis of 15 important state policy variables. U.S. News & World Report's “Best States Methodology” has Illinois ranked 45<sup>th</sup> for “growth” and 39<sup>th</sup> for “economy.

Voter approval of this constitutional change only adds to the negative perception that Illinois is unfit to locate or expand in.