



### Employment Law for BUSINESS *sixth edition*

Dawn D. BENNETT-ALEXANDER and Laura P. HARTMAN

McGraw-Hill Irwin

Copyright © 2009 by The McGraw-Hill Companies, Inc. All rights reserved.

---

---

---

---

---

---

---

---

### Statutory Basis

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities. National Labor Relations Act, Section 7.

14-2

---

---

---

---

---

---

---

---

### Coming Together on Issues

- Writer's Guild of America/NBA/NHL/airlines
- Unions are still an important part of the American workplace landscape
- Until the mid-18<sup>th</sup> century, most Americans worked on farms
- Manufacturing shifted from private homes to factories
- Effect of transportation

**Collective bargaining**

Negotiations and agreements between management and labor about wages, hours, and other terms and conditions of employment.

14-3

---

---

---

---

---

---

---

---

## A Historical Accounting

L01

- Criminal conspiracy laws
  - Early union activity considered to be common law criminal conspiracies
- Injunctions
  - Yellow dog contracts
- Antitrust attacks
  - Sherman Antitrust Act
  - Secondary boycotts
- Constitutional challenges to early congressional enactments

14-4

---

---

---

---

---

---

---

---

## Out of Necessity Comes Change

- National War Labor Board
- National Industrial Recovery Act
  - Put business in charge of regulating prices and production
  - Established a minimum wage
  - Gave workers collective bargaining and other rights
  - Declared unconstitutional in 1935

14-5

---

---

---

---

---

---

---

---

## Out of Necessity Comes Change (continued)

- Decrease in unionization
  - Reduction in traditionally heavily unionized industries
  - Aggressive nonunionizing campaigns by employers
  - Union concessions during downturns in the economy
  - Loss of jobs to other countries with cheaper labor
- Labor unions still remain an important part of the workplace

14-6

---

---

---

---

---

---

---

---

## Labor Laws

- Began with:
  - Restricting court responses to union activity
  - Establishing the right of employees to form labor organizations
  - Protection against unfair labor practices
- Unions gained power and abused it, resulting in additional labor management legislation

14-7

---

---

---

---

---

---

---

---

## The Norris-Laguardia Act

L02

- The first major labor law statute enacted in the United States
- The Act:
  - Recognized that the job to a worker is more important than it is to a corporation
  - The only real power workers had was in impacting employers through numbers
  - Had significant impact in curbing prosecution under the antitrust laws

14-8

---

---

---

---

---

---

---

---

## The Wagner/National Labor Relations Act

L03

- The National Labor Relations Act
  - Outlines unfair labor practices
- The National Labor Relations Board
  - Enforces labor laws in the private sector
  - Conducts union elections
  - Community of interests
- Concerted activity
  - Union organizing
  - Discussion of unionization
  - Soliciting union support

14-9

---

---

---

---

---

---

---

---

## The Wagner/National Labor Relations Act (continued)

L04

- Unions
  - Collective bargaining agreements
  - Industrial union
  - Craft union
  - Unionization of nontraditional groups
  - Union busters

**Business agent**  
The representative of a union, usually craft.

**Shop steward**  
Union member chosen as intermediary between the union and employees.

14 - 10

---

---

---

---

---

---

---

---

---

---

## The Wagner/National Labor Relations Act (continued)

L05

- Good faith bargaining
  - Mandatory subjects of bargaining
  - Closed shop
- Duty of fair representation
- Collective bargaining agreements
  - Management security clause
  - Midterm negotiations
- Unfair labor practices
- Strikes and lockouts

14 - 11

---

---

---

---

---

---

---

---

---

---

## Types of Strikes

- Economic strike
- Unfair labor practice strike
- Sympathy strike
- Sitdown strike
- Wildcat strike
- Intermittent strike
- Slowdown

14 - 12

---

---

---

---

---

---

---

---

---

---

## The Taft-Hartley Act

LO6

- Enacted as an amendment to the NLRA to curb excesses by unions.
- Section 7, unfair labor practice for unions to:
  - Restrain or coerce employees in the exercise of their rights or employers in the selection of their representatives for collective bargaining.
  - Cause an employer to discriminate against an employee.
  - Refuse to bargain with an employer.
  - Engage in jurisdictional or secondary boycotts.
  - Charge excess or discriminatory initiation fees or dues.
  - Cause an employee to pay for goods or services that are not provided.

14 - 13

---

---

---

---

---

---

---

---

## The Taft-Hartley Act (continued)

- Right-to-work laws
- Union shop
- Union shop clause
- Agency shop clause
- Free riders
- Service fees
- Presidential right to halt a strike or lockout

14 - 14

---

---

---

---

---

---

---

---

## The Landrum-Griffin Act

LO7

- Also known as the Labor Management Reporting and Disclosure Act
- Enacted in response to congressional investigations into union corruption
- Purpose of the law
- Bill of rights for union members
- Procedures for holding union elections
- Safeguarding funds

14 - 15

---

---

---

---

---

---

---

---

## Union Members' Bill of Rights

- Union members have the right to attend union meetings, vote on union business, and nominate candidates for union elections.
- Members may bring an agency or court action against the union after exhausting union procedures.
- Certain procedures must be followed before any dues or initiation fee increases.
- Except for the failure to pay dues, members must have a full and fair hearing when being disciplined by the union.

14 - 16

---

---

---

---

---

---

---

---

## Labor Relations in the Public Sector

LOB

- Federal employees
  - Many states have collective bargaining statutes covering most public employees
  - Federal restrictions
  - Civil Service Reform Act of 1978
    - Federal Labor Relations Authority

14 - 17

---

---

---

---

---

---

---

---

## Labor Relations in the Public Sector (continued)

- State, county, and municipal public employees
  - Professional associations
  - Craft unions
  - Industrial-type unions
  - AFL-CIO
  - Difference between public and private collective bargaining

14 - 18

---

---

---

---

---

---

---

---

## Management Tips

- If employees decide they wish to unionize, do not try to negatively influence the decision.
- Do not assume any employee you speak to for the purpose of persuading employees not to unionize will keep the conversation confidential.
- Know the kinds of things the employer can legally do to influence the unionizing decision, and do only those things that are permissible.
- Once the union is in place, conduct all negotiations only with the union representatives.

14 - 19

---

---

---

---

---

---

---

---

## Management Tips (continued)

- Treat the collective bargaining process as one would any business activity.
- Know what the law requires.
- Keep the lines of communication open.
- Try to keep the “us versus them” mentality from having a negative impact on the collective bargaining process.
- Play hardball without setting management up for an unfair labor practice charge.

14 - 20

---

---

---

---

---

---

---

---

## Summary

- The four main labor law statutes form a framework within which employers and employees may address workplace issues with some modicum of predictability.
- Laws paved the way for unionism by preventing courts from prohibiting union activity. They also provided a statutory basis, with the Wagner or National Labor Relations Act; and they fine-tuned and addressed union abuses, with the Taft-Hartley Act and the Landrum-Griffin or Labor Management Recording and Disclosure Act.
- Private employers and employees are free to negotiate upon mandatory as well as permissive terms of bargaining to determine matters of wages, hours, and other terms and conditions of employment.

14 - 21

---

---

---

---

---

---

---

---