

With Midterm Elections Approaching, A Reminder About *Beck* Rights

With midterm elections quickly approaching, unions are again throwing money behind candidates and initiatives that benefit big labor.

Most recently, AFL-CIO and other unions helped back a massive \$16.3 million campaign in Missouri to successfully block the state's right-to-work law.

Democratic hopefuls are raking in the cash as well. As of September 18, the American Federation of State, County & Municipal Employees (AFSCME), for example, has contributed nearly \$2 million to Democratic House and Senate¹ candidates (and by contrast, \$6,000 to Republicans)² during this campaign cycle. SEIU has backed Democratic House/Senate candidates to the tune of over \$818,000 (no contributions to Republicans). Even smaller unions, like the National Union of Healthcare Workers (NUHW), has contributed more than \$27,000 to Democrats.

This activity is in line with the past couple of election cycles, which have seen increased campaign contributions by labor groups. During the last election cycle, organized labor spent a record \$1.7 billion on politics and lobbying, with most of the money coming from member dues, according to The National Institute for Labor Relations Research (NILRR).

Also consider that from 2010 to 2017, union officials sent more than \$1.3 billion in member dues to hundreds of liberal advocacy groups—without prior member approval.³

Labor leaders clearly don't have an issue with using their members' dues to leverage political causes. But their members don't always support the same causes they do. Fortunately, there is something they can do about it, by exercising what is known as their "*Beck* rights."

Unfortunately, many employees don't even realize they have this tool at their disposal.

BECK RIGHTS: WHAT ARE THEY?

The history of *Beck* rights dates all the way back to 1968, when Harry Beck, a maintenance worker with the Chesapeake & Potomac Telephone Co. (C&PT) and a Communication Workers of America (CWA) organizer, protested the use of his union dues for a political cause he didn't support.

Beck asked for a refund, and the CWA refused, arguing that using union dues for political causes was within their rights. In the early 1970s, Beck resigned from the union and began to pay the \$10-a-month agency fee. In June 1976, Beck and 19 other non-union members of the CWA's bargaining unit at C&PT sued the union for a refund of their dues.

For more than a decade, Beck's case weaved through the judicial system, eventually making its way to the Supreme Court.

In 1988, after a drawn-out battle, the Supreme Court sided with employees in *Communications Workers of America v. Beck* (1988). Under the ruling, employees may choose not to become union members and pay dues, or opt to pay only the share of dues used directly for representation (often referred to as agency fees), such as collective bargaining and contract administration.

BECK RIGHTS: HOW DO THEY WORK?

Beck rights differ depending on whether you live in a right-to-work state or non-right-to-work state.

If you live in a right-to-work state you:

- May remain in the union and voluntarily pay dues
- May remain in the union and voluntarily only pay for union representation expenses by exercising your *Beck* objector rights
- May choose to leave union membership entirely

If you live in a non-right-to-work state:

- You may opt out of paying for the non-representational activities of the union (note: unions will not usually allow partial membership, so they often ask the employee to resign from the union) - this type of payment is generally known as an agency fee and an employer exercising such right is known as a *Beck* objector



UNION OBLIGATIONS UNDER *BECK*

Unions are required by the *Beck* decision to pro-rate dues, when paid by nonmembers who exercise their *Beck* rights. These fees are calculated to include the representational activities, as well as overhead.

Unions are also required under the ruling to educate all employees in the bargaining unit about their *Beck* rights, but they have a track record of falling woefully short.

Given the recent setbacks that organized labor has suffered like the Supreme Court's recent *Janus* decision and the repeal of the persuader rule, unions no doubt will continue to be less than forthright regarding anything that affects their bottom lines. This includes being open about employees' *Beck* rights.

Therefore, it's incumbent on employers to educate employees about this important option and hold the unions accountable when they fall short of their obligations under the ruling.

If employees do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, it is fully within their right to become a *Beck* objector and to contact their union to request a reduction in dues.

Union members may not be able to control the increasingly political slant of their organizations, but they are under no obligation to fork over their hard-earned money to a candidate or cause they don't support. This is something important to stress not just in an election year, but every year.

What are a union's obligations under *Beck*?

- Provide notice to nonmember employees of their *Beck* rights
- Refrain from charging objectors for nonrepresentational expenses
- Provide objectors with a financial disclosure
- Establish procedures for objectors to challenge the accuracy of the union's disclosure and the non-representation fee set by the union

1 <https://www.opensecrets.org/orgs/totals.php?id=D000000061&cycle=2018>

2 <https://www.opensecrets.org/orgs/totals.php?id=D000000077&cycle=2018>

3 http://employeeightsact.com/wp-content/uploads/2018/05/2010-2017_ERA_HowLaborUnionsFinanceTheirPolAgenda-4.pdf