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NH Legislative Update 2011 Labor/Employment Law.



In 2011 the State Legislature repealed the “Evergreen” Law which had provided that the terms of a public employee collective bargaining agreement (CBA) would continue in full force and effect in cases where the CBA expired without a replacement agreement. This specifically included the continuation of automatic step increases (the law did not apply to cost of living increases). The repeal of the Evergreen Law will not affect CBAs which contain a bargained for evergreen provision – that clause will still govern the parties’ relationship. In addition, New Hampshire law still requires public employers to protect the status quo after the expiration of a CBA, which includes not altering wages or benefits.

In 2011, the Legislature also repealed the law permitting public employers to recognize a collective bargaining unit consisting of fewer than ten employees. A collective bargaining unit must now have at least ten members with the same community of interest.

House Bill 647 of 2011 amended RSA 275:48 with regards to an employer’s ability to withhold an employee’s wages (effective August 6, 2011). This law broadens the reasons for withholding wages to include any purpose that the employer and employee agree to so long as the withholding does not grant a financial advantage to the employer and the employee has given written authorization and any such deductions are recorded. An exception to this rule is that the deductions cannot be used to offset payments intended for purchasing items required in performance of the employee’s job in the ordinary course of the operation of the business.

2011 also saw an attempt to pass a Right-to-Work law, which would prohibit collective bargaining agreements from requiring employees to become or remain a union member or pay any dues or fees to a union. Although this bill passed both the Senate and House, it was vetoed by the Governor.

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