

ORDINANCE NO. __

AN ORDINANCE TO ADD A NEW CHAPTER 117 TO SUSSEX COUNTY CODE ENTITLED “LABOR UNIONS” TO PROHIBIT CERTAIN UNION MATTERS IN PRIVATE SECTOR EMPLOYMENT, INCLUDING PROHIBITION OF MANDATORY UNION MEMBERSHIP AND PAYMENT OF UNION DUES OR FEES AS CONDITION OF EMPLOYMENT; INVOLUNTARY UNION PAY DEDUCTIONS; AND ACTS OF COERCION RELATED TO UNION SUPPORT OR MEMBERSHIP.

WHEREAS, pursuant to Title 9 Section 7001(a) of the Delaware Code the Delaware General Assembly has granted to Sussex County all of the powers of the State that are not specifically prohibited by statute; and

WHEREAS, it is the intent of this Ordinance to provide that no employee covered by the National Labor Relations Act be required to join or pay dues to a union, or refrain from joining a union, as a condition of employment; and

WHEREAS, the County Council desires to promote economic development and worker freedom within all of Sussex County, directly and in cooperation with public and private entities promoting Sussex County and its resources, its people, and its many geographical and cultural advantages; and

WHEREAS, Sussex County and its residents compete for the expansion of employment opportunities with other cities, counties, and states (including states such as Michigan, Kentucky, Indiana, and a majority of the other states in the U.S.) whose citizens benefit from the protection under similar right to work legislation, and Sussex County desires to compete on a level playing field with other cities, counties, and states that have enacted such right to work legislation; and

WHEREAS, the County Council believes that right to work legislation is not “anti-union” legislation, but actually could lead to a healthier, more robust unions who freely compete for employee membership; and

WHEREAS, the County Council of Sussex County hereby finds and determines that it is in the best interest of the citizens of Sussex County to promote and encourage direct commerce for the protection and convenience of the public, by giving employees freedom to choose employment without restraint or coercion regarding the payment of mandatory dues, fees, or other payments to a labor organization as a condition of that employment; and

WHEREAS, the County Council believes that the goals of the foregoing can be furthered through the passage of this Ordinance and amending the County Code as provided for herein.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County is hereby amended by adopting a new Chapter 117, entitled “Labor Unions” with the following sections to be inserted in Chapter 117 as follows in this Ordinance.

Section 2. The Code of Sussex County is hereby amended by adopting a new §117-1, entitled “Declaration of public policy,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-1 Declaration of public policy.

It is hereby declared to be the public policy of Sussex County in order to ensure individual freedom of choice in the pursuit of employment, for the protection and convenience of its citizens who desire the broadest choice of employment opportunities, to permit its citizens to choose to increase their real take home pay by decreasing mandatory payroll deductions in order to stimulate savings and economic growth, and to encourage an employment climate conducive to the economic development of Sussex County, including recruiting new businesses to Sussex County, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.”

Section 3. The Code of Sussex County is hereby amended by adopting a new §117-2, entitled “Terms,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-2 Terms.

The terms “employee,” “employer,” “labor organization,” and “person” as used in this chapter shall have the same meanings as defined by the National Labor Relations Act.”

Section 4. The Code of Sussex County is hereby amended by adopting a new §117-3, entitled “Freedom of choice guaranteed, discrimination prohibited,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-3 Freedom of choice guaranteed, discrimination prohibited.

No person covered by the National Labor Relations Act in Sussex County shall be required as a condition of employment or continuation of employment:

- A. to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;**
- B. to become or remain a member of a labor organization;**
- C. to pay any dues, fees, assessments or other charges of any kind or amount to a labor organization; or**

- D. to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.”

Section 5. The Code of Sussex County is hereby amended by adopting a new §117-4, entitled “Voluntary deductions protected,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-4 Voluntary deductions protected.

It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer, with the following exception:

- A. If the written authorization on its face clearly states that it is irrevocable for a period of up to one year after its effective date, that shall be the maximum period of time an employee is prohibited from ceasing payroll deductions;
- B. Notwithstanding the foregoing, an employee’s express choice to revoke his/her authorization is to be given effect as soon as the period of irrevocability passes.”

Section 6. The Code of Sussex County is hereby amended by adopting a new §117-5, entitled “Agreements in violation, and actions to induce such agreements, declared illegal,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-5 Agreements in violation, and actions to induce such agreements, declared illegal.

Any agreement, understanding or practice, written or oral, implied or expressed, between any labor organization and employer that violates the rights of employees as guaranteed by provisions of this chapter is hereby declared unlawful, null and void and of no legal force or effect.”

Section 7. The Code of Sussex County is hereby amended by adopting a new §117-6, entitled “Coercion and intimidation prohibited,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-6 Coercion and intimidation prohibited.

It shall be unlawful for any person, labor organization or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee’s or prospective employee’s parents, spouse, children, grandchildren or any other persons residing in the employee’s or prospective employee’s home, or by any damage or threatened damage to an employee’s or prospective employee’s property, to compel or attempt to compel such employee to join, affiliate with or financially support a labor organization or to refrain from doing

so, or otherwise to forfeit any rights as guaranteed by provisions of this chapter. It shall also be unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employees.”

Section 8. The Code of Sussex County is hereby amended by adopting a new §117-7, entitled “Penalties,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-7 Penalties.

- A. Any person who shall violate a provision of this chapter or any of its subsections and/or fails to comply with any notice of violation shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of \$250 for the first conviction; \$500 for the second conviction; \$1,000 for the third conviction; and for the fourth and any subsequent conviction of the same violation that has still not been corrected, the fine for such conviction shall be \$2,500. The fines specified herein for the second through fourth convictions shall not be suspended. Upon conviction of a first violation of this chapter, the court may order the defendant to correct the violation by a certain date, not to exceed 10 days from the date of the conviction. Jurisdiction over the enforcement of this provision shall be in the Justice of the Peace Courts of the State of Delaware.
- B. In addition to prosecuting a violator in the Justice of the Peace Courts, the prosecuting County employee is authorized, but is not required, to institute appropriate proceedings at law or in equity to restrain, correct, abate or enjoin a violation or to require the removal of the offending condition at the expense of the person who is found to be in violation of these provisions. If the County prevails, the Court shall order the violator to pay the County's reasonable attorney's fees and costs of the action.
- C. The penalties set forth in this section shall not affect the County’s right to also recover expenses incurred pursuant to this chapter.”

Section 9. The Code of Sussex County is hereby amended by adopting a new §117-8, entitled “Civil remedies,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-8 Civil remedies.

Any individual harmed as a result of any violation or threatened violation of the provisions of this chapter shall have the right to pursue in a court of competent jurisdiction a civil cause of action to enjoin further violations and to recover the damages sustained, together with the cost of the lawsuit, including reasonable attorneys’ fees. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this chapter.”

Section 10. The Code of Sussex County is hereby amended by adopting a new §117-9, entitled “Duty to investigate,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-9 Duty to investigate.

It shall be the duty of the County Administrator, or his/her designee, to investigate complaints of violation or threatened violations of this chapter and to take all means at his/her command to ensure the effective enforcement of this chapter.”

Section 11. The Code of Sussex County is hereby amended by adopting a new §117-10, entitled “Prospective application,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-10 Prospective application.

The provisions of this chapter shall apply to all contracts entered into after the effective date of this chapter by employers or labor organizations covering employees within this County and shall apply to any renewal or extension of any such contract.”

Section 12. **Severability.** If any provision of this chapter, or application thereof to any person, entity or circumstances, shall be invalid or unenforceable to any extent, the remainder of this chapter, and the application of such provision to other persons, entities or circumstances, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Section 13. **When effective.** This chapter shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

Synopsis

This Ordinance amends Sussex County Code to insert a new Chapter 117 to prohibit certain matters related to labor unions for Sussex County employees and employers in the private sector. The Ordinance prohibits mandatory union membership or payment of certain union fees, involuntary union pay deductions, and acts of coercion or intimidation related to union support or payment.

No text has been deleted. All new text is underlined and in quotations.