

# SUPREME COURT STRIKES DOWN LABOR 'NEUTRALITY' LAW

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In a much anticipated decision, the United States Supreme Court recently held that California's labor "neutrality" law is preempted by federal labor law and is therefore, unenforceable. The court's decision frees California employers that receive state funds to express their views regarding unionization in a manner consistent with federal law. The decision was also welcomed by employers in New York, which has a similar "neutrality" law, and by employers in at least 15 other states where such legislation has been proposed.

The California law forbade employers that received state funds from using those funds "to assist, promote, or deter union organizing." The law was trumpeted by labor unions as a coup for union organizing, but it posed serious challenges to employers in sectors that relied on state government funding, such as health care, social services, and public works. The law imposed significant administrative hurdles that made it very difficult for such employers to express their views on union organizing to employees.

The court began its opinion by noting states may regulate labor relations only in areas not preempted by the National Labor Relations Act (NLRA). State legislation is preempted under the NLRA if it regulates conduct that Congress intended to be left unregulated or "to be controlled by the free play of economic forces." The court found that, through the NLRA, Congress expressly protected employers' rights to express non-coercive views, arguments, and opinions on unionization. Because California's labor neutrality law severely restricted employers that received state funds from expressing their views on unionization, the court held that it was "unequivocally pre-empted."

The Supreme Court's decision is a victory for employers in California and New York, and other states where labor neutrality legislation has been proposed. The striking down of California's labor neutrality law bodes well for a similar determination regarding New York's labor neutrality law, which has been subject to litigation since its inception.

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