

## Hoppy Kercheval: Right-to-work faces legislative obstacles



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The West Virginia Legislature has wasted no time in jumping into what will be one of the most contentious issues this session: right-to-work.

The very first bill introduced by the Senate's Republican leadership (SB 1) is the Workplace Freedom Act, which, according to the bill synopsis, "prohibits any requirement that a person become or remain a member of a labor organization as a condition of employment."

The legislation is a clear marker that will define who has the power in West Virginia. Is it the still-new Republican majorities in the Senate and House and their business supporters, or the wounded Democratic minorities in both chambers and their mobilized union members?

The bill is single referenced in the Senate, and will pass from the Judiciary Committee to the full Senate where the vote margin will be razor thin. Republicans hold a narrow 17-16 advantage following the resignation of Republican Senator Daniel Hall.

Bill supporters are working several moderate Democratic Senators to try to expand their vote cushion. The GOP can pass the bill without any Democrats, but ultimately that's not enough. I'll explain why in a moment.

In the House, Republicans hold a 64-36 advantage. Not all Republicans are expected to vote for the bill, but the leadership is confident they have enough for passage.

If and when the bill gets to Gov. Tomblin's desk, he will veto it. He's on record opposing right-to-work, saying that it's never been an issue when trying to recruit new business to West Virginia, so he sees no need for it.

Now this is when it could get interesting.

Each chamber needs a simple majority to override a veto, but the State Constitution defines "majority" as meaning "a majority of the whole number of members to which each house is, at the time, entitled." The "whole number" in the Senate is 34, so it would take at least 18 votes to override. Remember, currently Republicans have only 17.

That brings us back to the dispute between the parties over Hall's replacement because he was elected as a Democrat in 2012, but switched to Republican after the 2014 election. The state Supreme Court is scheduled to hear arguments Tuesday on which party should get to nominate his replacement.

However, even the high court's intervention in the appointment is in question. The GOP argues in its filing that "Constitutionally, the Senate is empowered to determine the qualification of its members." Theoretically, if the court ruled that Hall's replacement should be a Democrat and Tomblin appointed a Democrat, the 17 Republican senators could vote not to seat him.

But I digress.

On the surface, the right-to-work debate will be about the pros and cons of the measure, but as often happens under the State Capitol dome on close issues, the outcome will come down to corralling and counting votes and procedural acumen.

Kercheval is host of Talkline, broadcast statewide by the MetroNews Radio Network from 10 a.m. to noon weekdays. Listen locally on WCHS 580 AM.