

Labor Rebirth Underway

The first two months of the new year have seen a flurry of labor activity, much of it related to the new President and Congress. After eight years of the business-friendly Bush administration, the pendulum has swung back in labor's favor, giving the nation's unions a sense of empowerment not felt since the Carter years.

Here are the most important developments so far this year:

EFCA Intro Delayed

The highest-priority legislation for labor – the Employee Free Choice Act (EFCA) – has yet to be introduced in the new Congress, causing much speculation as to why. The obvious answer is that Washington has placed the highest priorities on the stimulus package and other economic issues, not leaving time for much else.

Many also suspect that unions have backed off their EFCA push at President Obama's behest. Because business groups are vehemently opposed to the measure, the president doesn't want to risk losing their support this early in his term.

Also causing the EFCA delay is behind-the-scenes wrangling to modify it before it's introduced, possibly removing the mandatory card check element that is anathema to business. One possible substitute is "expedited elections," which would shorten the traditional six-week period between filing a petition and holding an election to as little as five days.

Senate Majority Leader Harry Reid (D-NV) recently indicated that the legislation isn't likely to be formally considered until perhaps this summer.

Card Check Use Extensive Even Without EFCA

Unions petitioned the NLRB for recognition in more than 550 card-check

organizing drives between October 2007 and January 2009, demonstrating their commitment to card check as a faster, more effective, less-expensive alternative to secret ballot elections.

Overall, there has been more than one request for card-check certification every day for the last 16 months. Businesses generally enter into card check and neutrality/fair election agreements with unions only to stop damaging corporate campaigns.

Obama Labor Appointees

High-level, pro-labor appointees just didn't exist in the Bush White House. President Obama has ended the drought by making several high-profile appointments with strong labor ties:

- Hilda Solis is the new Secretary of Labor. She is a four-term California Congresswoman who has been a vocal union supporter and EFCA sponsor.
- Ellen Moran, a former AFL-CIO staffer who coordinated the union's corporate campaign against Wal-Mart, was named White House communications director.
- Patrick Gaspard, SEIU Local 1199's former executive vice president of politics and legislation, was named director of the White House Office of Political Affairs.

Obama Enacts Pro-labor Laws

In his first 10 days in office, President Obama signed four bills that reverse Bush-era labor policies, restoring some of the clout unions had lost over the last eight years:

- The Lilly Ledbetter Fair Pay Restoration Act makes it much easier for plaintiffs to file wage discrimination claims. It reverses a Supreme Court decision requiring complaints to be filed within 180 days after disparities are discovered.
- The Notification of Employee Rights under Federal Labor Laws Act, which requires businesses holding federal contracts above \$100,000 to inform employees of their pro- and anti-union rights. It reverses a Bush administration rule that required companies to post a notice informing employees that they had a right to not join a union.
- The Nondisplacement of Qualified Workers under Service Contracts Act requires that, when a federal agency changes contractors, the new company first offer jobs to the non-supervisory employees who worked for the previous contractor. This restores a rule set by President Clinton, but voided by Bush.
- The Economy in Government Contracting Act prevents federal contractors from being reimbursed for money they spend to "support or deter their employees' exercise of their right to form unions and engage in collective bargaining." As with all new laws, this act is open to interpretation and challenge. The current thinking is that hospitals, for example, can still encourage employees not to unionize; they just can't pay for it with Medicare funds.

Historic Pact Creates Largest RN Union

The country's three largest nurse unions – the California Nurses Association (CNA), United American Nurses (UAN), and the Massachusetts Nurses Association (MNA) – have announced plans to unite, creating a 150,000-member organization called the United American Nurses-National Nurses Organizing Committee.

Details of the arrangement are sketchy. Some reports say the move is a merger, with others calling it an “advocacy association.” CNA president Deborah Burger said the three unions will maintain their identities, with the new group intended to give union-represented nurses a national voice and more organizing strength.

UAN, based in Silver Spring, Md., has members in 12 states. MNA, based in Canton, Mass., has members in its home state and is conducting organizing campaigns in New Hampshire and Connecticut. In addition to California, CNA has members in Texas, Nevada, Maine, and Pennsylvania.

Rose Ann DeMoro, CNA executive director, said the new association will:

- Provide nationwide coordination in the campaign for single-payer health care
- “Organize all nonunion direct care RNs”
- Provide a national voice for nurses’ rights, safe nursing practices including RN-to-patient ratios, and nurses’ health care plans
- A national pension plan for union RNs

SEIU Creates \$50-million Campaign

SEIU launched “Change That Works,” a \$50-million campaign designed to:

- Pass the Employee Free Choice Act
- Lower healthcare costs and provide quality, universal coverage
- Increase funding for education & childcare

- Take on elected officials who fail to live up to their pro-union campaign promises

Stern/Rosselli Fight Intensifies

The bad blood between SEIU’s Andy Stern and United Healthcare Workers-West’s Sal Rosselli intensified. With charges of financial mismanagement, fraud, misappropriation and nepotism flying, SEIU placed UHW into trusteeship and removed its leadership, including the popular Rosselli.

Rosselli and his loyalists countered by launching the 150,000-member National Union of Healthcare Workers (NUHW) and quickly filed dozens of petitions to decertify SEIU at California hospitals and long-term care facilities, as well as to certify the new NUHW as employees’ bargaining representative.

The SEIU/NUHW feud could have widespread impact on healthcare unionization throughout the state. With the NUHW fighting hard to decertify SEIU representation and put itself in place, and SEIU fighting just as hard to maintain membership, it’s likely that neither union will have the resources to organize elsewhere – perhaps creating an opening for the California Nurses Association to fill the void.

SEIU/CNA Feud Continues

The long-standing animosity between CNA and SEIU took a curious turn in February, with CNA issuing statements and developing Web sites suggesting that SEIU had initiated a “hostile takeover” campaign designed to “divide and conquer CNA.”

The two unions repeatedly have gotten in each other’s way, most notably in Nevada. CNA beat SEIU in a bitterly fought contest in Reno at St. Mary’s Regional Medical Center. CNA also won in Las Vegas at three St. Rose Dominican Hospitals, but the SEIU complained to the

NLRB and forced a run-off election. The election’s results – 392 for SEIU and 390 for CNA – still are in limbo pending the NLRB’s review of 11 challenged ballots.

Conclusion: EFCA is Key

EFCA is a game-changer. Whether it ultimately is a card check or expedited elections bill, it will determine just how much ground unions are able to regain in the next few years. SEIU’s Andy Stern claims mandatory card check would enable unions to add 1,000,000 members a year.

Many observers assumed it would be a shoe-in immediately following the elections. Things have become less certain in the last few weeks as business groups have lined up strongly against it. The position of the American Hospital Association and its affiliate, the American Society for Healthcare Human Resources Administration, is typical. A portion of their joint position paper, which was drafted last year follows [emphasis is AHA/ASHHRA’s]:

The AHA opposes H.R. 800/S. 1041 [EFCA’s bill numbers in the previous session of Congress] because it strips away existing safeguards assured under federal law and leaves workers unprotected from outside influence and pressure. The legislation also would further impose binding arbitration between employers and employees if, after 120 days of negotiation, no contract agreement has been reached.

Alternatively, the AHA and its American Society for Healthcare Human Resources Administration support the Secret Ballot Protection Act, which would amend the NLRA to require that union recognition be based on a secret ballot election conducted by the National Labor Relations Board. [This act] would protect the interests of both the employer and the employee by ensuring that both sides have an opportunity to make their case, and that those employees are able to express their decision in private, free from undue pressure or influence.

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