



Legislative UPDATE

A weekly report from the Washington State Labor Council, AFL-CIO



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Freedom to unionize at stake

Next week will be one of the most important of the 2007 legislative session for organized labor. Two public hearings (and one Washington State Labor Council Legislative Conference) will focus on the issue that is the absolute No. 1 priority for organized labor nationally and locally—restoring American workers' freedom to choose for themselves whether or not they want a union.

U.S. Representative Jay Inslee will be in Olympia to testify before the House Commerce and Labor Committee in support of the national effort, and Washington State Labor Council President Rick Bender will be joined by the leaders of some of the private sector's biggest unions in Washington state to strongly support legislation specific to our state. There's more on those hearings and the conference below—but first, the why.

How to Organize a Union 101

Most of us have never experienced a union organizing drive firsthand, and that includes many union members themselves who were hired at places that already had union contracts. Here's how the process works.

Usually, one or two or several employees at a workplace get fed up with how they are being treated, what they are getting paid, their health or retirement benefits, or the general lack of respect they get from their employer. So they call a union. With the assistance of the union's staff, the pro-union employees start talking to their co-workers about organizing and asking them to sign cards indicating support for forming a union.

If a majority of the workers signs these cards, an employer can voluntarily recognize the union. (Cingular Wireless recently decided to accept these card-check elections and about 40,000 employees organized within three weeks, including nearly 1,000 call-center workers at a Cingular office in Bothell who organized with WashTech/CWA.) On the other hand, if an employer refuses to recognize a card-check election and more than one-third of the workers sign these cards, they can petition the federal government to hold an "election." If the majority of workers vote for the union, then the employer is supposed to recognize that union as representing the workers, and bargain a contract in good faith.

The reason we use quotes on this "election" is because it is not like any democratic election held on this planet. If an employer decides against staying neutral and actively opposes

employees' efforts to form a union, he has all the power. He can drag the process out for months—even years—by contesting the details of which workers should be allowed to vote. He can control the information workers receive about the union and force them to have individual meetings with their supervisors to discourage unionization. He can control where the vote is taken (usually under his watchful eye at his place of business).

All of that is perfectly legal, plus he can avail himself of a multi-billion-dollar "union avoidance" consulting industry to help him kill his employees' organizing drive.

What the law says employers are NOT allowed to do is to "interfere with, restrain, or coerce employees in the exercise of the rights (to self-organize and form a union)." It is supposed to be illegal to fire, demote, discipline or harass workers who support unionization. But often, employers go ahead and do those things, too—just to make sure.

The enforcement and penalties for this law are so weak that any union-avoidance consultant worth his tassel-toed loafers would advise the employer to go ahead and do it. After all, if you fire one of those pro-union rabble rousers, and if a formal complaint is filed with the National Labor Relations Board, and if the worker can prove the firing was because of union activity as opposed to whatever the employer claims it was, and if the worker gets a favorable ruling, and if the worker survives the inevitable appeals of that decision—again, a process that takes years—then maybe, just maybe, that worker will be awarded some back wages (minus any wages they earned during that period). That's just a cost of doing business. It's not like you risk jail, or a punitive fine or any other serious consequence for breaking this law. It's a calculated risk, just like countless other decisions business owners make every day.

How to Bust a Union 101

Look, we know what you're thinking. Of course the unions would say this. The employer is always the bad guy, always breaking the law. When he's not firing his pro-union employees, he's probably out kicking puppies somewhere.

But think about it. Why would unions want to advertise the fact that, if you want to organize a union, prepare to be fired? Is that really in our best interests, especially if it's not true?

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Don't take our word for it, here are the statistics:

About one in five union organizers or activists can expect to be fired as a result of their efforts, according to the Center for Economic and Policy Research. (And it's a pretty safe assumption that the other four probably felt a little "coerced" as a result of such firings.) In 2005, there was one illegal firing of a union supporter every 17 minutes of every workday. Those statistics are based on NLRB cases where workers survived the complaint-and-appeals process and were ultimately found to have been illegally fired. So you can imagine how many more union supporters have been fired with no legal redress.

A Cornell University study of union organizing drives around the country found that, although it's illegal to do so, 51% of companies threaten to close the plant or shop if the union wins the election. Fully 78% of them force employees to attend one-on-one meetings with their supervisors to discourage unionization. (If having the person that controls your wages, your schedule—and your very employment—"advise" you to vote against the union isn't coercion, what is?) An astounding 92% of employers force their employees to attend mandatory closed-door meetings against the union. And here's the kicker: even after all this, one in three employers never agree to a first contract after their workers succeed in forming a union.

How to Restore Workers' Freedom

Clearly, our labor laws are broken. American workers' freedom of association may exist on paper, but it doesn't in practice. The law says workers have the right to choose for themselves whether they want to organize a union and that it is illegal for employers to harass, coerce or fire employees who support the union. But that law has been broken with impunity several times in the time it has taken you to read this sentence.

That's why we need the Employee Free Choice Act. It would strengthen penalties for companies that break the law by coercing or intimidating employees, it would establish a third-party mediation process when employers and employees can't agree on a first contract, and it would enable employees to form unions when a majority express their decision to join the union by signing authorization card. If one-third of workers petition to have an NLRB "election," they could still do so. But the EFCA gives them another option: a majority card-check election in place of the flawed NLRB process.

The EFCA is not a radical idea. In addition to Rep. Inslee, it is co-sponsored by Reps. Rick Larsen, Brian Baird, Norm Dicks, Jim McDermott and Adam Smith. To date, there are 234 co-sponsors in all. (Sens. Patty Murray and Maria Cantwell both co-sponsored last year's Senate version of the EFCA.)

"The Employee Free Choice Act is one of the most important pieces of legislation we will address in the 110th Congress," Rep. Adam Smith said earlier this week. "Our worker protections have slowly deteriorated as the National Labor Relations Board fails time and again to preserve workers' right to organize. We are long overdue in strengthening our federal

labor laws and the Employee Free Choice Act is a monumental step in the right direction."

Rep. Inslee thinks the EFCA is so important that he wanted to come to Olympia and make sure our State Legislature understands the issue and shares his support of it. **On Thursday, Feb. 22 at 8 a.m., Inslee will testify before the House Commerce and Labor Committee in support of HJM 4008**, sponsored by Rep. Steve Conway (D-Tacoma), a state resolution urging Congress to pass the EFCA.

The EFCA has the support of Democratic leaders in both the U.S. House and Senate. It passed from House committee this week -- despite a "no" vote from Rep. Cathy McMorris Rodgers (R-5th) -- and House Speaker Nancy Pelosi promises a floor vote soon. There are plenty of votes for it to pass. But in the Senate, minority Republicans have threatened a filibuster to prevent a vote. Likewise, President Bush has threatened to veto the EFCA. So, as is the case with health care reform, a national solution is necessary ultimately, but that doesn't mean state governments should sit around and wait for Washington D.C. to act.

Stop subsidizing employers who interfere

The Aerospace Incentive Accountability Act (HB 1828, as described in our Feb. 2 newsletter) would require aerospace companies that are recipients of the \$3.2 billion in tax incentives approved in 2003 to remain neutral and allow their employees to choose for themselves whether they want to organize a union. It was prompted by evidence that good Boeing jobs are being contracted out to aerospace firms that pay lower wages and offer fewer benefits, while these companies receive a major public subsidy intended to preserve Boeing jobs. There have been cases where these aerospace contractors have aggressively fought their employees' attempts to form unions.

"This unprecedented taxpayer subsidy of the aerospace industry is worthwhile only if it creates good family-wage jobs where workers' rights are respected," said WSLC President Rick Bender. "If this investment is succeeding and producing good jobs as intended, then employers -- with their happy workers -- have nothing to fear from union neutrality."

Joining Bender to testify at a House Commerce and Labor Committee hearing on the bill at 1:30 p.m. on Tuesday, Feb. 20 will be Machinists District 751 President Mark Blondin, SPEEA/IFPTE 2001 Executive Director Charles Bofferding, and several rank-and-file aerospace workers who will describe their experiences attempting to organize unions.

WSLC Legislative Conference is Thursday

On Thursday, while Rep. Inslee is testifying in support of HJM 4008, the Washington State Labor Council will convene its 2007 Legislative Conference at 8:30 a.m. at the Olympia Red Lion Hotel. Inslee is on the agenda later that morning, as is Governor Chris Gregoire, Senate Majority Leader Lisa Brown, House Speaker Frank Chopp and several other legislative leaders. For more information and a tentative agenda, visit our web site at www.wslc.org. See you there!