

# Oregon Employment Relations Board finds Josephine County used outsourcing to punish county workers for striking

GRANTS PASS — A trio of anti-union county commissioners in Southwestern Oregon broke state law last year when they fired 125 workers to retaliate against them for going on strike. That's what the workers' union, Oregon AFSCME (American Federation of State, County and Municipal Employees) Council 75, charged in a legal complaint against Josephine County.

And on Oct. 30, 2007, the state board that judges public employee union disputes agreed with the union, ruling that the county's outsourcing of mental health services was an "egregious" violation of Oregon's Public Employee Collective Bargaining Act. The Oregon Employment Relations Board (ERB) ordered Josephine County to reinstate the workers and pay damages, including reimbursement for any wages and benefits they lost, plus 9 percent interest.

AFSCME hailed the ruling as a major victory, saying it chastens a lawless county board and could deter other public employers from retaliating against workers for union activity.

"It sends a very strong message to other public employers not to do this," said AFSCME Field Services Director Rick Henson, "because we will pursue them to the end and prevail."

The fight started in late 2005 when Josephine County demanded significant benefit cuts from its 325 AFSCME-represented employees. The cuts were pushed by the three-member Board of County Commissioners — full-time elected officials who serve as the county's top decision-makers.

Workers said "no" to the cuts, and struck for four days in January 2006. Josephine County, population 78,000, is politically conservative and predominantly Republican, but strikers surprised the commissioners, winning tremendous community sympathy. County managers, who also had their benefits cut, filed suit against the county. At a strike rally, the sitting sheriff called the commissioners "bullies and thugs." The Grants Pass Daily Courier called on the commissioners to settle.

They did, coming to terms with the union under intense public pressure. But soon after that, the three commissioners — Dwight Ellis, Jim Raffenburg and Jim Riddle — struck back, voting to outsource all jobs in the county's most pro-union department.

The county mental health department was the workplace of Local 3694 President Daniel Burdis, plus three of the five bargaining committee members, and the activity chair. During the strike, 80 percent of workers in the mental health department took part, compared to 60 percent in the juvenile department and 40 percent in the public works department.

One month after the strike, the



**Striking Josephine County workers wave to supporters outside a county building in Grants Pass, Oregon. After a four-day strike in January 2006, about a third of the workers in the striking unit lost jobs when commissioners decided to contract out a variety of mental health services.**

commissioners voted 3-0 to contract out every component of the mental health department, including alcohol and drug counseling, services for developmentally-disabled adults, and juvenile early intervention in the schools. The state and a local education service district took over some of the work. Non-profit organizations contracted for the rest, with one

group, Options for Southern Oregon, hiring 70 of the 125 county workers.

The announcement that accompanied the outsourcing vote made vague mention of Josephine County's uncertain financial future, blaming the expected loss of federal timber subsidies.

"When you have a climate of outsourcing, downsizing and layoffs,"

said attorney Barbara Diamond, "no one will question the motives of employers that contract out, because it's assumed the motive is to save money."

But Diamond, working with local AFSCME members, was able to show ERB that money wasn't the motive this time.

The mental health programs were supported almost entirely by state and federal grants, and those grants helped cover county overhead. So not only did the outsourcing *not* save money, it actually cost the county \$469,000 a year. That's why the idea of outsourcing had been rejected twice before in the previous decade. This time, there was no advance study or analysis, no public hearings where clients, families or advocates could testify, no meetings for employees to weigh in. Commissioners made the decision entirely on their own, one month after a strike that had made them look bad.

ERB members concluded the county's "uncertain financial future" was just a pretext, and a flimsy one. The real motive was admitted on two separate occasions when county higher-ups told union leaders privately that the outsourcing wouldn't have happened except for the strike. Those "smoking gun" admissions were just the clincher in the union's case that the outsourcing was retaliation.

ERB has given the county 30 days to negotiate a settlement with AFSCME. Otherwise, all its orders will apply. In addition to reinstatement and back pay, ERB ordered the county to pay to AFSCME the dues that would have been withheld — about \$75,000 over the 18-month period — plus a \$1,000 civil penalty — the maximum the law allows. A separate legal proceeding seeks to have the county pay the union's attorney costs in the case, which could be up to \$30,000.

As of press time, the outsourced workers hadn't met, but Burdis, who was hired as a union staff rep after his job was outsourced, thinks few will want to come back to the county. They make the same amount of money at their new employers, and though they don't have the workplace rights they had in the unionized environment of the county, the non-profit managers treat them better, he said. Plus, the county prefers not to reinstate them, likely because it could make them vulnerable to lawsuits by the non-profits they contracted with, Burdis said. So the two sides expect to negotiate.

"We're members of the community," Burdis said. "We care about the community. We're not trying to bankrupt the county. If we can negotiate a settlement that's better for all concerned, we'll do that."

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