

Unions join nationwide protest against anti-union NLRB

By **DON McINTOSH**
Associate Editor

Under the leadership of President George W. Bush appointees, a federal board that is supposed to uphold union rights in the workplace has been working steadily to weaken those rights. In ruling after ruling, a three-person majority on the five-member National Labor Relations Board (NLRB) has taken away workers right to unionize and made it easier for employers to fight unionization.

To top it off, the NLRB is refusing to negotiate a new contract with a union that represents its own employees.

In mid-November, the AFL-CIO and Change to Win federation held protests at NLRB offices in at least 16 cities, including Portland. And union leaders are counting down to the day when a Democratic president could reverse the balance on the Board.

The NLRB has two parts. The five-member Board functions like a Supreme Court of labor law. The Office of the General Counsel investigates and prosecutes "unfair labor practices" and conducts elections to determine whether workers want a union. Together, they are supposed to enforce and interpret the National Labor Relations Act — the law that sets the process for private-sector workers

to unionize and bargain with their employers. But both sides are right now led by Bush appointees who appear intent on interpreting the law in ways that make things harder for unions.

The current Board has stripped millions of workers of the right to unionize, including graduate teaching and research assistants, temporary agency workers, and workers such as charge nurses who act as supervisors even in a very limited way.

Then in September, the Board struck back at the "card check" method of unionization, which unions have increasingly used in recent years as a legal alternative to what they see as a cumbersome and unbalanced NLRB election process. In card check, unions ask employers to voluntarily recognize a union for a group of workers when the union presents authorization cards signed by the majority. Now, for the first time since 1935, the Board is saying that such employers have to notify workers that they can reverse that voluntary recognition if union opponents gather signatures of 30 percent of workers within 45

days. Then the issue would be resolved in an election conducted by the NLRB.

On the same day, the Board ruled that employers can remove recogni-

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tion of a union without an election if a majority of workers sign a petition calling for decertification.

Another ruling is aimed at union "salts," pro-union workers who seek employment at a workplace in order to further a union campaign. The Board ruled that employers who refuse to hire workers because of union affiliation can't be found in violation of the law unless the general counsel proves that the applicant had a "genuine interest in employment."

Meanwhile, the other side of the NLRB, the Office of the General Counsel, is refusing to negotiate a contract with an independent union that represents about 850 of the

NLRB's 1,875 employees — the National Labor Relations Board Union (NLRBU). Federal employees have their own set of rules for unionization, and the process is overseen by the Federal Labor Relations Authority (FLRA). On Nov. 12, a federal administrative law judge with the FLRA ruled that the NLRB broke the law when it refused to bargain with the union in the officially certified bargaining unit. The NLRB is expected to appeal the decision.

The dispute began in 2005 when the union moved to consolidate four separate groups of NLRB employees into one national bargaining unit. The new unit would include both professional and nonprofessional employees in the agency's 32 regional offices, plus nonprofessional employees of the general counsel and Board in Washington, D.C. [A second union represents attorneys and professional staff in the Board's D.C. headquarters.] NLRB management disagreed with the consolidation, but the FLRA sided with the union, and workers approved the consolidation in a vote. Then the NLRB, under the direction of general counsel Ronald Meisburg, simply refused to bargain a new contract. The union is calling for Meisburg to resign.

Meisburg was a "recess" appointment (a presidential appointment when the Senate was in recess) of President Bush in January of 2006. The Senate confirmed his appointment in August of 2006.

"If the NLRB won't honor the law in the public sector," said NLRBU President Eric Brooks, "can those

who work for private-sector companies under the NLRB's jurisdiction count on the NLRB to uphold the law and protect their rights?"

The AFL-CIO, in its mid-November demonstrations, called on the NLRB to close for renovation until the Board is more balanced.

In a sense, that could actually happen, if Senate Democratic leaders lend a hand. The AFL-CIO is asking Senate leaders to refuse to confirm Bush appointees to the Board, said AFL-CIO Organizing Director Stewart Acuff.

The five-year term of Republican NLRB board chair Robert Battista is set to expire Dec. 16. Two other seats on the Board could also become vacant, because they were recess appointments. Recess appointments expire when the Senate adjourns, which it will do in late December. The president is not allowed to make a recess appointment twice for the same individual. So Republican Peter Kirsanow and Democrat Dennis Walsh would be off the Board come the new year if the Senate does not confirm their appointments.

That would potentially leave just two Board members, a Democrat and a Republican, and the Board would be deadlocked, unable to issue more rulings.

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