

Oregon 'card-check' law hasn't opened floodgate to unionizing

By **DON McINTOSH**
Associate Editor

It's been two years since the Oregon Legislature passed a law giving public employees the ability to unionize by "card-check," and in that time only 110 workers — at six workplaces — have joined a union through that method. The largest of those is Klamath Community College in Klamath Falls, where last month cards were turned in for a group of 70 workers to become members of Oregon Education Association.

Card-check is an alternative to the conventional elections that are held to determine whether workers want to unionize. In card-check, a union is certified if a majority of workers sign cards saying they want it.

Four other workplaces, totaling 66 workers, would have unionized via card-check, except that a provision in the law forces an election if 30 percent of workers sign a petition requesting one. The pro-union majority held together in three out of those four elections. In the fourth, pro-union office workers at Columbia Peoples Utility District lost by a single vote a bid for their unit of 20 to join Electrical Workers Local 125; a worker who opposed the union was able to get several anti-union workers added to the defined bargaining unit, and that tipped the balance.

Finally, one other unit of four workers would have unionized by card-check, but the employer, Crooked River Ranch Fire Department in Terrebonne, agreed to recognize the union voluntarily before the Oregon Employment Relations Board verified cards.

That's not much result for a hard-fought law that failed the first two times

it was introduced in the Oregon Legislature. Card-check for public employees was considered a top legislative achievement for labor in 2007.

"We were given the impression the floodgates were going to open," said elections coordinator Sandra Elliot, who certifies public employees unions for the Oregon Employment Relations Board. "They didn't."

Danica Finley, organizing director at Service Employees Local 503, said card-check is good policy, even though her union hasn't yet used it to certify regular public employees. Local 503 did use a card-check process to become bargaining agent for about 4,000 child care providers and 3,500 adult foster home providers. But Finley thinks among state employees, only a few thousand unionizable workers remain nonunion, compared to at least 43,000 who are union-represented. And some nonunion workers are close enough to unionized co-workers at the same agency that they use a different process when they want to join the union — a "unit clarification" election. Finley said if a union campaign gains traction at any of the remaining nonunion state agencies, such as the Oregon Lottery or the Oregon Judicial Department, card-check would almost certainly be the process used.

Union foes have opposed card-check wherever it has been proposed. Oregon ballot measure activist Bill Sizemore has toyed with the idea of running a ballot measure campaign to eliminate Oregon's public employee card-check process. And card-check has been a central part of the national debate over the Employee Free Choice Act, a bill in

Congress.

The Employee Free Choice Act is the most significant labor law reform to be considered in over a generation. As introduced, it would require private-sector employers to recognize a union through card-check.

Business groups have argued that card-check is undemocratic because it eliminates secret ballot unionizing elections. But Local 503's Finley says card-check is more democratic, not less.

"With card-check, you have to have a true majority," Finley said, "whereas in an election, just those who choose to vote get to decide."

Brett Nair, community college consultant for the Oregon Education Association, has helped workers unionize using both methods, and says card-check is a real leg up for employee rights. Last month, Nair helped the Klamath Community College faculty group unionize through card-check. Nair said it was a faster and fairer process than the one he had to use when organizing faculty at Eastern Oregon University for American Federation of Teachers-Oregon.

The old process was burdensome, Nair said, because it necessitated a "double majority." First a union showed majority support on cards, and then that majority had to vote again. At Eastern Oregon University, employer objections delayed the election seven months — and then workers even had to vote a third time, when a group of anti-union employees came back later and tried unsuccessfully to decertify the union.

"With card-check, you don't have to establish twice that a majority wants a union," Nair said.

And the cards make it clear to sign-

ers that when once a majority have signed, they get a union — without the extra step of an election.

"I strongly believe that all non-represented employees should seek the

benefits of union organization and should organize themselves," Nair said. "The new law, through card-check, provides people with an expedited and fair process to do that."

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...Seating Minnesota senator Al Franken is key to passing Employee Free Choice

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replied to the heckler.

"No," came the rejoinder. "Your job's on the line!"

Specter appeared flustered, but predicted labor union members will not be disappointed with his vote.

While backers wait for Franken to be seated, a group of Democratic senators are in behind-the-scenes negotiations over changes to the bill. Labor ally Tom Harkin of Iowa is leading the discussions, intended to shore up support from senators who have criticisms of the bill — Specter; Diane Feinstein of California; Mary Landrieu of Louisiana; Ben Nelson of Nebraska; Evan Bayh of Indiana, and Blanche Lincoln and Mark Pryor of Arkansas. Backers may not need the votes of these conservative Democrats to pass the bill, but they will need them to stick to tradition and vote party-line to cut off debate when the time comes.

The negotiations are about whether to cut "card-check" out of the Employee Free Choice Act. Card-check would be replaced with some other measure to ac-

complish the same purpose — making it quicker and easier for workers to unionize if they want to do so. Feinstein has proposed a mail-in election alternative to the traditional workplace elections.

The AFL-CIO says it isn't wedded to any exact formula. "Card-check" isn't a holy grail. Rather, the labor federation says it will back any version of the Employee Free Choice Act that adheres to a set of principles — an easier way to unionize, a firm deadline for getting a first contract, and meaningful penalties for employer lawlessness.

Employers have concentrated their fire on the card-check aspect of the Employee Free Choice Act, saying it would eliminate the "secret ballot." In focusing on the provision of the bill that they considered most politically vulnerable, opponents neglected other parts of the bill that could have far-reaching consequences — significant penalties for employer abuse, and certainty that a first contract would be reached.

Democrats know voting for the Employee Free Choice Act will arouse the wrath of business groups, said one

Washington, D.C., labor lobbyist working on the bill. But the bill is a do-or-die deal for labor — a core Democratic Party constituency. Lawmakers want to get the bill out of the way so they can move on to health care reform and climate change legislation.

The timing of the vote will depend on Franken's seating. The Minnesota Supreme Court heard oral arguments June 1 in a challenge to the election result, and Franken's opponent Norm Coleman pledged no further appeals once the court rules on whether Franken won the close vote in November.

Meanwhile, responding to a question from a reporter at a June 2 press briefing, a White House spokesperson said President Barack Obama continues to support the bill, and confirmed that it's a priority for the Administration.

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