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Stamping out Saturday mail not the answer

Postmaster General John Potter's proposal to eliminate Saturday mail delivery would be the most radical change to postal operations in the 230-year history of the U.S. Mail, says Jim Cook, president of the Portland-based National Association of Letter Carriers Branch 82.

The Postal Service Board of Governors on March 24 approved Potter's request to cut most Saturday deliveries. On March 30, the Board filed a request for an advisory opinion with the Postal Regulatory Commission. Any change in delivery, however, would require congressional approval.

In a press release, Cook said there are no comprehensive studies showing that cutting Saturday service would solve the economic problems facing the USPS, which lost $3.8 billion in 2009.

More than 100,000 jobs already have been eliminated through attrition over the last two-and-a-half years, and hundreds of post offices are scheduled to close, including two in Oregon.

"If the public postal service disappears, private delivery companies, based on profit motive, will not fill the void of the universal delivery service mandated by the U.S. Constitution," Cook said.

Eliminating Saturday delivery, Cook continued, could seriously impact senior citizens and others who get their prescription drugs through the mail, and would inconvenience those who live in rural areas, where the Postal Service's competitors do not deliver.

American Postal Workers Union President William Burrus told a U.S. Senate subcommittee March 18 that the central cause of USPS' financial difficulties is a congressionally-imposed requirement to prepay retiree health care obligations, and a flawed method for computing USPS obligations to the Civil Service Retirement Fund.

"Absent this pre-funding burden, the Postal Service would have experienced a cumulative surplus of $3.7 billion over the last three fiscal years, despite declining mail volume, an economy in chaos, and electronic diversion," Burrus said.

Burrus and other union officials are urging Congress to rescind the pre-funding provisions. Doing so, they say, would make the elimination of Saturday mail delivery unnecessary.

Rally at Bend Fred Meyer

Members of United Food and Commercial Workers Local 555 joined with community and faith leaders from Central Oregon March 19 in a show of support for workers who are trying to get a new contract at the Fred Meyer store in Bend. Rev. Daniel Klingler delivered a petition signed by over 100 community and faith leaders to the store director in support of the workers. Grocery workers, meat cutters, and central checkout clerks at Fred Meyer are seeking a contract similar to ones ratified earlier this year at Safeway and Albertsons stores in Bend, Redmond, and Madras. "The workers at Bend Fred Meyer deserve no less than the workers at Safeway and Albertsons," said Local 555 President Dan Clay. The Fred Meyer employees have been working under terms of the previous contract, which expired July 26, 2008. However, that extension agreement ended March 18. Photo by Donna Nyberg.

Congress passes historic health insurance reform

On March 25, health insurance reform legislation passed — after a year of debate, multiple versions, hundreds of town halls and months of procedural hurdles. It's a complicated law, 2,310 pages long.

The core element, beginning in 2014, is a de facto requirement that uninsured adults under 65 purchase health insurance in government-regulated state-by-state exchanges, aided by subsidies, and enforced by tax penalties. The state exchanges, administered by government agencies or non-profits, will serve as clearinghouses for private insurance plans, which will be available at five benefit levels. Subsidies, available on a sliding scale, will limit premiums to 2 percent of income for those at 133 percent of the poverty level ($14,404 for individuals/$29,326 for a family of four) — rising to 9.5 percent of income for those at 400 percent of the poverty level ($43,320 for individuals/$88,200 for a family of four).

The tax penalties, phasing in from 2014 to 2016, will total $695 per person, $2,085 per family — or 2.5 percent of household income — whichever is greater; after that, penalties increase annually by inflation. Penalty exceptions will be granted for financial hardship and religious objectors.

Medicaid, the government insurance program for the poor, will expand in 2014 to cover everyone under 65 years of age who earns less than 133 percent of the poverty level. [Right

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Federal court to hear challenge to Oregon's Worker Freedom Act

By DON McINTOSH
Associate Editor

U.S. District Court judge Michael Mosman will hear from both sides April 9 in a business group lawsuit that seeks to strike down worker freedom of conscience legislation passed by the Oregon Legislature.

The Worker Freedom Act, which took effect Jan. 1, makes it illegal for Oregon employers to punish workers for refusing to take part in mandatory workplace meetings in which employers discourage unionization. Those sessions, which both sides in the lawsuit refer to as "captive audience" meetings, are a primary tool employers and anti-union consultants use to defeat union campaigns.

The U.S. Chamber of Commerce, along with its affiliate Associated Oregon Industries (AOI), filed the federal lawsuit Dec. 22, and named Oregon Labor Commissioner Brad Avakian and Portland-headquartered Laborers Local 296 as defendants.

The Worker Freedom Act applies to "meetings or communications" to communicate an employer's religious or political opinions, but its applicability to union campaigns is the central issue for both sides.

AOI and the Chamber argue that the Worker Freedom Act is pre-empted by the National Labor Relations Act, and that the new law would unconstitutionally restrict employers' First Amendment rights of free speech.

The National Labor Relations Act governs the process by which most private-sector workers unionize. The U.S. Supreme Court has ruled that the act pre-empts, or overrides, any state laws that try to cover the same ground.

Avakian's legal defense is being handled by the Oregon Department of Justice, and Local 296 is represented by attorneys David Rosenfeld of Alameda, California, and Giles Gibson of Portland. Attorneys for the defense, along with five labor law professors who filed a friend-of-the-court brief, say pre-emption wouldn't apply to a law like the Worker Freedom Act. The State of Oregon isn't saying employers can't hold meetings to express views on unionization, as federal law allows. The state law just says they can't threaten, fire, or otherwise discipline workers for refusing to participate. And, they argue, it's well-established that states may limit what an employer may fire a worker for.

AOI and the Chamber also claim, in written arguments submitted to Judge Mosman, that the law is "a flat ban on a broad category of speech before it occurs."

Not so, respond Oregon Department of Justice attorneys: The Worker Freedom Act restricts conduct, not speech. The right to fire a worker isn't protected by the First Amendment. And plaintiffs haven't explained why employers "cannot communicate their views to their employees without compelling their attendance by threats or punishment."

Marquette University law professor Paul Secunda, one of the five signers of the amicus brief, said the free speech arguments are likely to hold little weight. Instead the case will probably be decided on whether or not the Worker Freedom Act is pre-empted by the NLRA.

The judge could also dismiss the suit on a technicality, however, leaving the legal issues undecided. Oregon Department of Justice attorneys argued that AOI and the Chamber were wrong to sue Avakian, since he hasn't enforced and doesn't intend to enforce the law. As spelled out in the law, enforcement is by private legal action: Employees fired or otherwise disciplined for refusing to participate can sue for triple damages and attorney's fees. Marcia Ohlemiller, Avakian's legal policy adviser, explained that to attorneys for AOI and the Chamber the day before the suit was filed. But they told her that in order to proceed with the lawsuit, they would need to name a defendant that was part of the State of Oregon.

Laborers Local 296 is a similarly curious defendant, sued largely because it refused to assure AOI and Chamber attorneys that it wouldn't encourage employees at a local cooked meat processor to file individual lawsuits under the Worker Freedom Act. [For details, see related article, "BrucePac union cam-

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