Local Motion

December 2010

A list of Oregon and Southwest Washington workplaces deciding whether to be union-represented – as reported by the National Labor Relations Board and the Oregon Employment Relations Board.

Voting in union elections

Date	Workplace (Location) Union	Yes	No	
12/13	**Samaritan Pacific Hospital** (Newport) SEIU Local 49	23	3	👍
12/17	**Fred Meyer** all depts but meat (Bend) UFCW Local 555 DECERT	29	10	👍
12/28	**City of Newport** Public Works Dept (Newport) Newport Emp Assn	11	1	👍
12/29	**Baycrest Village** nursing home (North Bend) Teamsters Local 206	8	2	👍

Unionizing by majority sign-up

Date	Workplace (Location) Union	Number of workers in unit
12/10	**City of Aurora Police** (Aurora) Laborers	2

Requesting a union election

Workplace (Location) Union	Number of workers in unit
First Student school bus drivers (Grants Pass) Teamsters Local 962 DECERT	126

LEGEND

👍 : workers will be union-represented 👎 : workers will be on their own

DECERT : unionized workers vote whether to keep the union

National Labor Relations Board gives boost to majority sign-up

WASHINGTON, D.C. (PAI) — By a 2-1 vote, the National Labor Relations Board (NLRB) has given strong written support to the use of "majority sign-up" for union recognition — ironically in a case involving the same company and union which the then GOP-dominated Board used in 2007 to weaken majority sign-up.

The latest NLRB ruling, just before the Christmas holiday, upheld the right of the United Auto Workers (UAW) and the Dana Corp., an auto parts firm, to come to a "letter of agreement" about majority sign-up — also called card-check recognition — before the union election at the firm's St. Johns, Mich., plant.

UAW started an organizing drive in 2002 among the 305 workers there, and negotiated a letter of agreement with Dana a year later. The NLRB's general counsel, along with three anti-union Dana workers, challenged the letter, claiming it constituted illegal company aid to the union.

Dana and the UAW were upfront that company neutrality and majority sign-up is what they agreed to, for the good of both.

"Dramatic changes in the domestic automotive market created new quality, productivity and competitiveness challenges for the automotive component supplier," their letter said. "These challenges will be more effectively met through a partnership that is more positive, non-adversarial and with constructive attitudes toward each other.

"Employee freedom to choose is a paramount concern of Dana as well as the UAW. We both believe membership in a union is a matter of personal choice and acknowledge that if a majority of employees wish to be represented by a union, Dana will recognize that choice. The union and the company will not allow anyone to be intimidated or coerced into a decision on this important matter. The parties are also committed to an expeditious procedure for determining majority status."

Their agreement then set forth the company's neutrality promise, other ground rules for the organizing drive, and that an independent outside firm would have to verify whether UAW won the majority or not. Dana called the letter a "partnership agreement."

Majority sign-up with outside verification is a key component of the now-dead Employee Free Choice Act, designed to help level the playing field between workers and bosses in organizing and bargaining. The NLRB majority's decision, by chair Wilma Liebman and board member Mark Pearce, agreed with the UAW. Brian Hayes dissented and Craig Becker recused himself due to a potential conflict of interest because he had written a brief supporting the practice prior to joining the Board.

NLRB Administrative Law Judge William Kocol tossed out the complaint by the dissenters and the Bush Board's general counsel's office. The board's majority backed Kocol. "The complaint should be dismissed on the merits," Liebman and Pearce said.

Kocol said a company breaks labor law when it recognizes a minority union, but Dana didn't do so. And Kocol said that while the Dana-UAW letter set out subjects for bargaining, and even agreed to submit disputes to a neutral arbitrator, they did not agree in advance on any particular contract term, such as wages or benefits. Kocol and the Board called the letter "a far cry from a collective bargaining agreement."

Then, providing further backing for majority sign-up, the Board majority gave its own general counsel's office — which at that time was responding to the Bush NLRB — a written tongue-lashing.

"The general counsel's position is rooted in the assumption that any employer conduct having the potential to enhance an unrecognized union's status in the employees' eyes is unlawful. But that is contrary to our law," they said in the Dana case.

"For example, an employer ... may agree to remain neutral in an organizing campaign, may agree to voluntarily recognize the union upon proof of majority support, and may state its preference for unionization. In each of those scenarios, the employer's cooperation ... could enhance the union's prestige, yet none is unlawful.The UAW has not claimed majority status, let alone presented proof to Dana, and neither the UAW nor Dana claims that recognition has taken place. Adopting the general counsel's position would mean extending existing law in a truly novel way.

"Card-check/neutrality agreements, long upheld by the Board and the courts, would be categorically prohibited if they also addressed any substantive issue for future bargaining, despite disclaiming exclusive recognition and despite a context free of unfair labor practices. We decline, as a matter of labor policy, to take that step."

NLRB: Federal law pre-empts state secret-ballot amendments

WASHINGTON, D.C. —The National Labor Relations Board (NLRB) took steps to enforce workers' rights as guaranteed by U.S. law. The Board advised the attorneys general of Arizona, South Carolina, South Dakota, and Utah that so-called secret ballot amendments to their state constitutions are pre-empted by the National Labor Relations Act, which offers workers two paths to choosing a union.

The Board also has authorized its acting general counsel to file federal lawsuits, if necessary, to stop the states from enforcing the laws. Voters in the four states passed measures Nov. 2 to ban the "card check" method of unionizing. The amendments have already taken effect in South Dakota and Utah and are expected to become effective soon in Arizona and South Carolina.

Under the federal law, workers may choose a union by voting in a secret-ballot election conducted by the NLRB or they may persuade an employer to voluntarily recognize the union after a majority sign authorization cards. Because the state amendments in question prohibit the voluntary recognition option, they "interfere with the exercise of a well-established federally protected right," the NLRB said in a release.

"Governors and state legislators are trying to eliminate unions and the voices of working families as payback to the corporate CEOs that funded their campaigns," said Eddie Vale, a spokesman for the AFL-CIO. "This letter simply and clearly states the law: The rules for how workers choose to join a union or not is governed by federal law."

Jonathan Johnson, president of Overstock.com and a backer of the Utah initiative, told Bloomberg News that an NLRB lawsuit won't block the state measure. "We paid lawyers to research if this would be pre-empted, and it will not," he said.

(Editor's Note: James Parks of the AFL-CIO Now news blog contributed to this report.)

Fired teacher at Portland French School reinstated

Patricia Raclot was let go for supporting a union organizing drive

A federal judge has ordered a private French language school in Portland to reinstate a teacher who was terminated last year after she supported a union campaign. Portland French School will offer French citizen Patricia Raclot her job back, and will renew legal work on the H-1B visa she needs in order to be employed legally in the United States. Raclot will also receive back pay.

The decision resolves a set of unfair labor practice charges that were filed by the American Federation of Teachers (AFT)-Oregon in protest of management misconduct that tainted a union election held at the school. The April 16, 2010 election resulted in a 12-12 loss for the union among teachers, but that result was set aside in light of the labor law violations, and the union could ask for a re-run election at any time. AFT organizer Eben Pullman said the group will wait at least until Raclot is returned.

Last October, Raclot refused an employer offer of two years salary if she would settle out of court and give up her right to reinstatement.

Federal Administrative Law Judge William G. Kocal presided over a four-day hearing on the charges in October. In his written decision dated Dec. 27, Kocal found that school management had committed numerous unfair labor practices — including forbidding employees from discussing work conditions; warning that the union would bring "stigma" to the school; predicting school closure; and threatening unspecified reprisals against employees if they supported a union.

SEIU #49 wins at St. Charles Medical Center

BEND — Workers at St. Charles Medical Center voted Jan. 5 by a narrow margin to unionize with Portland-headquartered Service Employees International Union (SEIU) Local 49. The tally was 255 to 251, but 34 other ballots were cast by workers whose right to vote was challenged. That's enough to affect the outcome.

The National Labor Relations Board won't certify Local 49 as the workers' representative until the challenges are resolved.

Local 49 said on its web site that St. Charles management waged a negative campaign, taking caregivers away from their patients on several occasions to take part in one-on-one and group meetings in which managers tried to convince workers to vote no.

Local 49 also said St. Charles unlawfully limited workers' speech inside the hospital. The union planned to file unfair labor practice charges with the National Labor Relations Board.

The union said as of November it had support from a solid majority of workers at St. Charles, who petitioned management to voluntarily recognize their union; management insisted on an election.

Turnout was high, with 506 workers casting ballots out of 604 workers considered to be in the proposed bargaining unit. The group includes 69 support staff job classifications, ranging from cooks, cashiers and baristas to housekeepers, pharmacy techs, and receptionists.

Local 49 represents over 7,000 workers in Oregon and Southwest Washington hospitals.