

# National Labor Relations Board to tackle R-T-W 'free riders' case

The NLRB wants to hear from all sides on whether unions must process grievances for free in right-to-work states.

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WASHINGTON, D.C. — In a case that could give the so-called “right to work” laws and movement a huge kick in the head, the National Labor Relations Board (NLRB) is tackling whether such “free riders” should continue to get their “free ride.”

In a case pitting United Steelworkers against the huge papermaker Georgia Pacific Corp. and its Buckeye Florida Corp. subsidiary, the Board called for briefs on whether free riders should have to pay the union on a case by case basis to handle their grievances.

In the 25 states that don't have right-to-work laws, workers who opt-out of joining the union at their workplace must pay the union a “fair share” fee to cover the costs of contract negotiations and administration, including grievances.

In the 25 states with right-to-

work laws, workers who opt out of the union don't have to pay a dime, yet the union is still required to represent them if they have a dispute with their boss.

Right-to-work proponents' stated goal is to ensure workers aren't forced to pay for union services. Their real intent, however, is to starve unions financially, thus eliminating organized worker opposition to the corporate agenda.

The NLRB now wants to hear from all sides on whether unions must process grievances and represent non-member workers for free. If the Board decides to let unions charge non-members fees for processing individual grievances, it wants to know what factors should determine the level of those fees.

In the Florida case, NLRB administrative law judge William Cates ruled on March 24, 2014 that Buckeye, in its contract with Steelworkers Local 1192, broke labor law “by maintaining and implementing a ‘Fair Share Policy’ requiring non-member bargaining-unit employees to pay a grievance-processing fee.”

The case asks the Board to reverse course and “adopt a rule allowing unions to charge non-members a fee for grievance processing, so long as that fee does not exceed the amount a union could charge non-member objectors” to union spending for non-bargaining and non-contract uses, such as politics.

Until now, the case for letting unions not represent non-members, even at worksites with union contracts, has been an academic debate.

“There is no seeming rationale for this inequity, and nothing in the federal labor law nor in state right-to-work laws requires it,” say Harvard Law Professor Benjamin Sachs and UC-Irvine Law Professor Catherine Fisk, authors of the most-comprehensive paper on the issue.

“If unions are prohibited from collecting ‘fair share’ fees, they should at a minimum be permitted to charge workers for the costs of individual grievance representation,” the professors said. That's what the NLRB case is about.

According to the federal government, there are 1.6 million ‘free riders’ in the United States.

## LOCAL MOTION → APRIL 2015

The following are Oregon and Southwest Washington workplaces where workers are determining whether to be represented by a union. The thumbs-up symbol means workers will be union-represented. Thumbs-down means they'll be on their own. Decert means a decertification election, where union-represented workers vote whether to remain union. The information comes from the National Labor Relations Board and the Oregon Employment Relations Board.

### Election Requests

Employer (Location) Union

**Providence Newberg Medical Center** (Newberg) Oregon Nurses Association

■ 150 workers – registered nurses

**Firestop Company** (Vancouver) UA Road Sprinkler Fitters Local 669

■ sprinkler installers and sprinkler tech employees

**Republic Services of Portland** (Portland) Teamsters Local 305

■ 22 workers – waste collection drivers and helpers

**Oregon Shakespeare Festival Association** (Ashland) IATSE

■ 63 workers – lighting, video & projections, sound, stage operations, wardrobe, wig and hair

**West Linn - Wilsonville School District** (Tualatin) OSEA Local 6732 **DECERT**

■ 334 workers – classified employees

**OHSU** (Portland) OHSU Police Association vs. AFSCME Local 328

■ 13 workers – Oregon Health and Science University police officers

### Election Results

Employer (Location) Union

Yes-No

**ABM Onsite Services - West** (Portland) IAM District Lodge W24

15-6

**DFW Security Protective Force** (Albany) United Security Forces

10-0

**Milwaukie Convalescent Center** (Milwaukie) SEIU Local 503

37-6

## HAPPENINGS

### Trumka to keynote summit in Vancouver

National AFL-CIO President Richard Trumka will join some of the most talented union organizers across the country in Vancouver, Wash., Tuesday, May 19, for the 2015 Organ-

ing Summit.

The summit, presented by the Oregon AFL-CIO, also will feature national AFL-CIO Organizing Director Elizabeth Bunn.

Participants will learn about the state labor federation's collaborative approach to building worker power.

The summit will be held at the Vancouver Hilton from 10 a.m. to 4 p.m. Registration is \$25. For more information, go to [oraf-cio.org/organizing-summit/](http://oraf-cio.org/organizing-summit/).

## —TOO MUCH—

How concentrated have income and wealth become in the United States? In 1984, the top 0.01 percent of campaign contributors gave 11.9 percent of U.S. political donations. In 2012, the top 0.01 percent of contributors gave 41.8 percent of all contributions.

★★★

In its first four years, the new federal Consumer Financial Protection Bureau has forced financial services firms to return over \$5 billion directly to consumers that they cheated. Yet not one of today's top financial industry execs has so far been jailed.

TOO MUCH IS A BLOG FROM THE  
INSTITUTE FOR POLICY STUDIES

On April 21, Portland City Council legalized Transportation Network Companies—which use smart phone apps to let customers summon private vehicles as taxis. Within days, Uber was doing business in Portland.

A privately-held company founded in San Francisco in 2009, Uber is backed by \$5.9 billion from 36 investors—from Goldman Sachs and Blackrock, to Google Ventures and the sovereign wealth fund of the Emir of Qatar.

Uber says its name comes from German word for “around.” But more often the German word über translates as “over” or “above,” as in “übermensch,” “Deutschland Über Alles,” or “above the law.” Uber operates in defiance of local ordinances around the world, and is the defendant in several class action lawsuits by drivers.

Daniel Ajema, now a prosecutor with King County in Seattle, drove for Uber while in law school. He was so bothered by conditions—and changes in terms and conditions without notice or appeal—that in 2014 he helped organize a group of several hundred Uber drivers.

“The company has huge control over the way we do business, so we wanted to form an association, a sort of labor union,”

## Now that it's legal in Portland ... What the heck is an Uber?

Ajema recalls. “We were quite naive. We thought the company would talk to us.”

Ajema says he and other leaders elected by the driver group met with Uber's Seattle general manager Brooke Steger, but the next day the company sent an email warning drivers not to talk with them. Drivers were told if they have an issue, they'd have to address it individually. The company would not be recognizing any association.

Uber doesn't even recognize drivers as employees. Uber drivers are independent

contractors, working for themselves ... under terms that are dictated by Uber and changeable by Uber at any time.

In fact, Uber says it's a software company, not a transportation company. [Right, a software company that dictates the fares and terminates its “partners” if they get less than stellar customer ratings.] Scroll through Uber's 4,600-word user agreement (“Last Updated: April 8, 2015”) and you'll see in all caps: YOU ACKNOWLEDGE THAT UBER DOES NOT PROVIDE TRANSPORTATION OR LOGISTICS SERVICES OR FUNCTION AS A TRANSPORTATION CARRIER.” That's so Uber can discriminate against you if you're disabled. The Americans for Disabilities Act prohibits “common carriers” in transportation from refusing rides to people in wheelchairs. But Uber doesn't provide rides, it says. Its drop-in, drop-out “partners” do. So sue the drivers. Just don't expect Uber to cooperate when you do.

Uber says its product is “ridesharing,” but that's pure spin. Uber doesn't share rides—it sells them. With driver “partners” providing the vehicles and labor, Uber takes 20 percent off the top. It's the top-dog labor broker for a new informal economy of unmarked taxis.