

Labor union turnaround

Obama win means pro-worker agenda will be pushed

BY RICH ROVITO

Barack Obama's victory in the presidential election and the corresponding rise in power by Democrats is expected to be a major boost to union organizing in Wisconsin, traditionally an organized labor stronghold that has seen a significant drop in union membership over the past two decades.



Olivieri

"Obama has a very aggressive workplace agenda," said David Radelet, founding partner at the Chicago law firm Franczek Radelet & Rose. "Organized labor has pretty high expectations. They've been extremely active on (Obama's) behalf."

Unions will be looking to Obama to advance their agenda, with a top priority being the Employee Free Choice Act, which would make union organization easier and has business executives throughout the Milwaukee area concerned about the impact it would have on their operations.

"It certainly would take the whole process of union organizing in a different setting," said Jose Olivieri, a partner at Milwaukee law firm Michael Best & Friedrich. "It would definitely make it easier for organization to occur."

Under the proposed Act, prospective members could sign union cards instead of waiting to hold secret ballot elections to organize workers at a company. If a union can show signed cards from 50 percent plus one of a company's employees, then a union election would not be necessary. Either side also would be able to request mediation if a contract isn't reached within 90 days and a government arbitrator would be brought in if a newly created union and the employer did not agree to a contract within 120 days.

"It's a big issue and it will be our first priority once the new Congress convenes," said David Newby, Wisconsin State AFL-CIO president. "We will be mounting a national campaign, but there will be millions and millions of dollars pouring in from the corporate side to kill it."

Representatives of labor and business claim

passage of the law could mean unionization rates will soar.

"The current system is largely under the control of management," Newby said. "Employers have full access to workers for a few months before an election. Just about all employers will use that time to harass and intimidate workers to get them to vote against the union."

Even when workers successfully form a union, they are successful in reaching a contract agreement only about 50 percent of the time, Newby said.

The Free Choice Act cleared the House of Representatives easily last year, but could not get the 60-vote majority needed to overcome a filibuster by Senate Republicans. As of Nov. 12, the Democrats controlled 56 seats in the Senate, with one independent and three seats still undecided from the Nov. 4 election.

"It's possible there are some moderate Republicans out there," Newby said. "We're within shooting distance."

BUSINESS OPPOSITION

Wisconsin Manufacturers & Commerce, the state's largest business lobbying group, adamantly opposes the act.

"We don't do much lobbying at the federal level, but this might be an exception to that," said John Metcalf, WMC's human resource policy director. "The implications are extreme."



Newby

The Act's economic impact would be substantial for employers and could result in the shifting of additional manufacturing operations overseas, said Radelet, who has represented management in union organizing and decertification elections.

"Employers will find themselves subject to union organizing with less time to tell their story to employees," said Jonathan Levine, a partner in Michael Best & Friedrich's labor and employment practice group.

In anticipation of the Free Choice Act winning approval, Levine said, employers should be communicating the potential ramifications to employees now. He described the third-party arbitration aspect of the Act as "preposterous."

"By and large, collective bargaining will be turned over to a third party that doesn't have the knowledge or interest in what a first contract should look like," Levine said.

Unions won 518 of 776 private-sector elections, or about 67 percent, held in the first half of 2008, up from 454 wins, or about 59 percent, for the same period in 2007, according to the

Employee Free Choice Act

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Bureau of National Affairs, an Arlington, Va.-based publisher of information and analysis for business and government.

"This new data clearly demonstrates that the current system, if anything, is working to the unions' advantage," said Daniel Yager, chief policy officer and general counsel of the HR Policy Association, a public policy advocacy organization in Washington, D.C.

The organization started a Web site to provide information on the Employee Free Choice Act.

The data show that "when allowed to hear both sides of the issue and register their choice in a confidential, uncoerced manner, employees are frequently willing to side with the union," Yager said.

OTHER LABOR ISSUES

Despite the major push by labor, Radelet said it's likely that Obama will focus on labor issues aside from the Employee Free Choice Act during his first few months in office.

"Obama's got to be selective about the work force issues he addresses in the first 100 days," Radelet said. "The Employee Free Choice Act is No. 1 on labor's wish list, but I think it will take some time to work through. It's very politically charged and becoming even more so."

Radelet believes Obama initially will focus on less politically sensitive issues, such as an expansion of the Worker Adjustment and Retraining Notification Act. A proposed change in the law would extend the required notice of a mass layoff or plant closing to 90 days from the current 60-day requirement.

Obama also is likely to focus on passage of the RESPECT Act, which would limit which workers the National Labor Relations Act classifies as supervisors for the purpose of union organizing efforts, Radelet said.

"It's an opportunity to make a statement for change right away but doesn't get him in a pitched-out brawl," he said.