



January 28, 2009

Checking the unions

"Card-check" would make it easier for unions to organize, but critics say it is undemocratic

By MICHAEL L. DIAMOND
BUSINESS WRITER

John Almaier, a dealer and supervisor at Bally's in Atlantic City, and his colleagues thought they were following procedure when they voted in June 2007 to join the United Auto Workers union.

They contacted the UAW to represent them. The union had an organizing campaign. The workers voted. The union won. And 19 months later?

"We have no contract," said Almaier, 61, of Winslow Township, Camden County.

Unions say the delay has become commonplace. They are focusing on the federal Employee Free Choice Act to make it easier to join a union, create stiff penalties for employers that violate the law and end the long decline in union membership.

But the bill has sparked intense opposition from business groups that say it would upend 70 years of labor law in favor of a system that is downright undemocratic. But with President Barack Obama, a Democrat, now in office, the legislation's chances have been revived.

"It has the potential for reenergizing the labor movement in a way that has not been reenergized since the 1930s," said William B. Gould, a professor at Stanford Law School and former chairman of the National Labor Relations Board.

Unions have fanned out throughout the Shore in recent days, trying to call attention to nonunion companies and projects that they say are keeping wages and benefits down.

"I have benefits. I have a retirement," Gustave Navel of Jackson, a member of the Carpenters Union Local 2250 in Red Bank, said Monday as he stood outside a new Holiday Inn Express in Neptune as nonunion laborers worked behind him.

Despite the merits, union membership has declined — from more than 20 percent of the work force in 1983 to 12.1 percent in 2007. Moreover, only 7.5 percent of the private sector belongs to a union, according to the U.S. Bureau of Labor Statistics.

The National Labor Relations Act of 1935 established the rules for organizing. Unions need at least 30 percent of an employee group to sign a card authorizing a union to represent them. The National Labor Relations Board certifies the cards, calls for an election and sets up a time line for a campaign.

If more than 50 percent of employees sign cards, the employer can either agree to an election or skip an election and recognize the union through what's known as a card check. If there is an election, the union needs a majority of employees to vote for it.

Unions say businesses have invested millions to keep their shops union-free. They point to their effort to organize workers at Bally's in 2007 as an example.

Almaier said he and his colleagues grew increasingly angry as they were asked to pay more for health insurance, just as executives were taking home millions. So they turned to the UAW to represent them.

The election was intense. Bally's management called mandatory meetings, discouraging them from joining the union and promising to improve working conditions, Almaier said. The anti-union campaign didn't work; employees on June 2 voted 628-255 to join the union.

Unions said Bally's parent company, Harrah's Entertainment Inc., has failed to bargain in good faith, despite an order by the NLRB to do so. "Surprised and disgusted," Almaier said of the process.

Harrah's officials declined to comment.

Their frustration rising, unions are turning to the Employee Free Choice Act for help. The act would certify a union by getting a majority of workers to sign cards, avoiding a campaign and election.

The bill calls for a mediator to negotiate a contract within 90 days from when workers vote to join the union. If the two sides don't reach agreement, an arbitrator would be brought in within 30 days to rule.

Employers that don't bargain in good faith would face stiff penalties, instead of what many labor advocates say now is a slap on the wrist.

"I think it would be positive," said Charles Wowkanek, president of the New Jersey AFL-CIO. "There are a large percentage of workers who say they would join a union if they didn't have to go through all of this — the threat of being fired, retaliated against."

Business groups have launched their own campaign to fight the legislation. Their main contention: A switch from a secret ballot to a card-check would open the door to intimidation both from the union and co-workers.

Laurie Ehlbeck, director of the National Federation of Independent Business in New Jersey, a small-business advocacy group, said many of her members couldn't survive if they had to abide by union contracts that demand higher wages and benefits and strict workplace rules.

"Right now the playing field is balanced," said Jim Leonard, a vice president with the New Jersey Chamber of Commerce. "It's not about the union or the employer. It's about the employee. How do you make sure the employee makes the decision freely, without coercion?"

Gould, a Long Branch native who now teaches at Stanford, said union membership has declined not because of the rules governing elections, but because companies operating in a global economy need flexibility that union work rules often don't allow. Unions have failed to adapt.

Obama's promise to listen to both sides of an argument could spell trouble for the card-check system. But the other provisions designed to ensure employers play by the rules could have an impact, Gould said.

"The legislation, if it's seriously enforced, can only help the unions," Gould said.
