

THE OUTLOOK: Not-So-Big Labor Enlists New Methods For Greater Leverage

By Timothy Appell
29 August 2005
The Wall Street Journal
A2

AT FIRST GLANCE, it doesn't seem labor has much to celebrate this Labor Day.

A majority of Americans, 53%, feel unions are weakening, a 12-percentage-point increase from last year, according to a recent Gallup Poll.

But the labor movement isn't lying down. It is fighting back with a different approach to organizing and muscle-flexing that could shape labor relations for years to come.

The split-up of the AFL-CIO earlier this summer underscores labor's shifting approach. Unions that broke with the alliance, including the fast-growing Service Employees International Union, have honed a style in which battles are fought as much in boardrooms as on shop floors, and often entail using public relations as a weapon rather than traditional strikes.

"I've been telling employers that if you think this is the death knell of organized labor, you're making a big mistake," says Philip Rosen, managing partner of the New York office of law firm Jackson Lewis LLP and head of the firm's national labor practice, which means he works with companies fighting unionization drives. Mr. Rosen expects an upswing in organizing.

Here is how it works: Rather than following the old game plan of collecting signatures from workers and petitioning the federal government for a union election, the union goes to the company asking for voluntary recognition. Often they have already gathered signatures from most of the workers and use those to prove they have worker support.

This "card check" approach, referring to the index-card-sized slips of paper workers sign, makes it easier and cheaper to organize. In a formal election, held under the auspices of the National Labor Relations Board, companies mount bare-knuckle counter-campaigns, which helps explain why unions won only 56.5% of the 2,299 elections held last year.

Unions see card-check campaigns as one way to stanch the decades-long decline in their ranks. It isn't a new approach, but it is expected to be undertaken with growing vigor as unions step up their organizing in the wake of the AFL-CIO's latest erosion.

Stewart Acuff, national organizing director for the AFL-CIO, says, "Most of the unions that have large-scale organizing capacity are moving as much as they can away from the NLRB organizing process." Numbers tell the story: About 80,000 workers were organized last year through NLRB elections, he says, while more than three times that many were added through card-check campaigns.

MANY COMPANIES argue that card-checks aren't as democratic as the election process because they deprive workers of the chance to cast a secret ballot on whether to organize. "A secret-ballot election is the best process for assuring free choice," says Mr. Rosen, adding that many workers feel pressured when someone sticks "something in front of you and says, 'Please sign.'"

So why would a company ever agree to recognize a union on this basis? That is where the other arm of this strategy often comes in, the "corporate campaign." Because their traditional method of

muscle-flexing, the threat of a strike, has lost much of its bite -- as evidenced by the largely muted impact of the Northwest Airlines strike -- a growing number of unions have turned to advertizing campaigns and other initiatives aimed at undermining a company's image and standing in the broader community. A model of this is Wal-Mart Stores Inc., where unions have done such things as joined with community groups to oppose the construction of new stores and urged students and teachers across the country to buy school supplies elsewhere.

"We're in a movement that doesn't have a lot of leverage, so we need to marshal our resources," says Mike Casey, president of Local 2 of Unite Here, representing hotel and restaurant workers in San Francisco. "We need to reorient ourselves with how we look at these companies. You can't deal with global companies with local fights anymore."

A key demand in his union's current contract talks is an agreement from the hotels to accept card checks and remain neutral on union organizing of new workers. Moreover, the union wants the expiration of the contract to coincide with the expiration of hotel-union contracts in a number of other U.S. cities, potentially making it easier for the union to threaten hotel chains with a nationwide strike. Meanwhile, the union phones up trade associations and others, urging them to not hold their conventions at the offending hotels.

John Budd, an industrial-relations professor at the University of Minnesota's Carlson School of Management, says unions have to be careful with this big-picture approach. "Unions need to fight corporations on a centralized level," he says. "But they also have to engage workers on a local level."

But union leader Mike Fishman says new approaches are working. "We don't do elections," says Mr. Fishman, president of Local 32BJ of the SEIU, which represents more than 75,000 window cleaners, doormen and janitors in New York, New Jersey, Connecticut and Pennsylvania. Mr. Fishman's group in recent years has pressed employers in whole regions -- such as janitorial companies in the suburbs of New Jersey outside New York City -- for card-check agreements that allowed them to rapidly add new members.