

Majority Authorizations and Union Organizing in the Public Sector: A Four-State Perspective

A Joint Research Project Directed by

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Motivation

Conventional reporting and discussion of EFCA has ignored the historical record of private and public sector workers organizing into unions without a government supervised election.

Card check was a relatively common method of organizing workplaces until it was supplanted by National Labor Relations Board-run elections in 1947.

Motivation

Contemporary corporate allegations that the national law will allow employees to be coerced into signing “cards” or “petitions” motivated the programs to conduct an objective assessment of how each respective state’s public sector law is working.

Background

No formal allegations of improper conduct by union organizers or employee adherents were ever made in either the 2007 Dana Corp. or Metaldyne NLRB cases ...

And the issue of coercive or fraudulent conduct in the acquisition of cards at Dana and Metaldyne was never in the record before the Board

States Studied

New York
(1967)



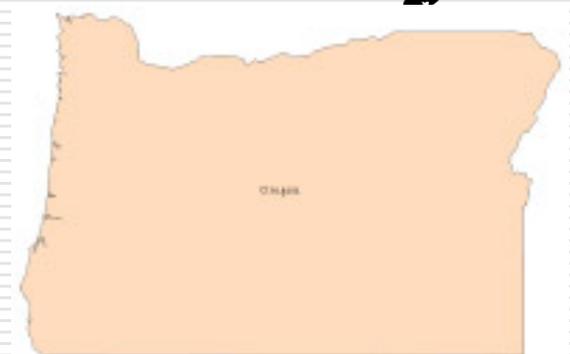
Illinois
(2003)



New Jersey
(2005)



Oregon
(2007)



Impact of Public Sector Union Workers on State Unionization, 2009

State	% of Workforce Public	% of Union Workforce Public
New York	17.7	50.3
Illinois	13.4	41.2
Oregon	14.7	54.3
New Jersey	15.4	52.2

State Procedures

- ❑ Authorization cards must be signed and dated within an established time frame
- ❑ Once the petition has been filed, the employer has an agreed-upon period to submit to the board a list of employees in the proposed bargaining unit.
- ❑ The board then informs employees in the proposed bargaining unit of the petition for certification and presents the employees' names to the petitioning union, at which time they may challenge the inclusion or exclusion of any employees in the proposed bargaining unit.
- ❑ If any objections are made, the board may conduct a hearing.

State Procedures

- ❑ The respective board/agency regulations also hold in common that a majority-interest petition may be defeated by providing evidence of union misconduct.
 - ❑ In cases where a definitive finding of misconduct is found, board/agency remedies can include ordering a representation election or outright dismissal of the union's petition.
 - ❑ In addition, in some states the board can order an election if more than one union presents petitions to represent workers.
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State Procedures

- ❑ State laws also allow for employees to request an election if at least a threshold number of employees request one, either before or after the card-check petition has been filed with the board.
 - ❑ If no objections and no requests for elections are made, the board may then certify the labor organization as the exclusive representative of the employees without an election.
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Study Methodology

- ❑ Case data on all authorization cards or petitions was collected from 2003 through April of 2009 from the respective state labor relations boards.



Study Methodology: Board data was collected on the following variables

- 1) year of certifications
 - 2) the name of the petitioning union
 - 3) the name of the employer
 - 4) the size of the bargaining unit
 - 5) the occupation of the employees
 - 6) the results of the petition
 - 7) complaints against the union for misconduct, coercion and/or fraud
 - 8) confirmed incidents of union misconduct, coercion and/or fraud
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Study Methodology

- Data on cases in each state were broken down into *educational* (i.e., K-12, including community and higher education) and *non-educational* (i.e., state, county, municipals, town, village) jurisdictions
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Findings (2003-2009)

34,148 *public sector workers voluntarily joined a union*

1,359 *majority-authorization campaigns*

1,073 *cases of union certification*

5 *complaints*

1 *confirmed incident of union misconduct*

Public Sector Card Check

Jurisdiction	Orders of Certification	*Employees Certified	Complaints of union Misconduct	Confirmed cases of union Misconduct
Local	201	1,790	1	1
State	584	12,700	4	0
Education	251	8,762	0	0
TOTAL	1,036	23,252	5	1

* Does Not Include New Jersey

Findings

Recognitions have taken place in a wide variety of occupational groups ranging from professionals to blue-collar employees working for a wide array of public entities. Virtually every major union in the United States has conducted a majority sign-up campaign.

Findings

It took on average between less than a month (29 days) to 120 days from the time the employee signatures were submitted to the date of certification.

Findings

In no state was a petition withdrawn or dismissed because of union misconduct, fraud, or coercion.

Petitions were mostly dismissed because the “union failed to show that it sought an appropriate bargaining unit.”

Additionally, a few petition cases were converted to representation elections because another union intervened and also petitioned to be the bargaining agent.

Findings

In the Post-2003 period public sector organizing events have increased. Illinois, for example, increased by 50%.

76.8% of all public sector organizing in Illinois is now by card check: previously it was 18%

In Illinois public sector workers organized through elections has fallen by 20%

Objections

- ❑ Public sector is organically different from private sector – “Kinder, Gentler Employers”
 - ❑ Lack of proof does not connote absence of union intimidation – “Phantom Terror”
 - ❑ Union democracy requires a ballot vote – “Election Myth”
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Conclusion

New York, New Jersey, Illinois, and Oregon have demonstrated that a majority-authorization petition can genuinely determine the will of the employees to be unionized and provides a functional, largely non-adversarial and eventless process for insuring a fair work environment for everyone.
