

LABOR UNIONS ARE BACK

AND THEY WANT YOUR SMALL BUSINESS. BY MATT STILES

IF YOU THINK YOUR SMALL BUSINESS WILL NEVER HAVE TO WORRY about being targeted for union organization, you're not alone. But that just means the group of small business owners who are about to receive a big union surprise is, well, a big one.

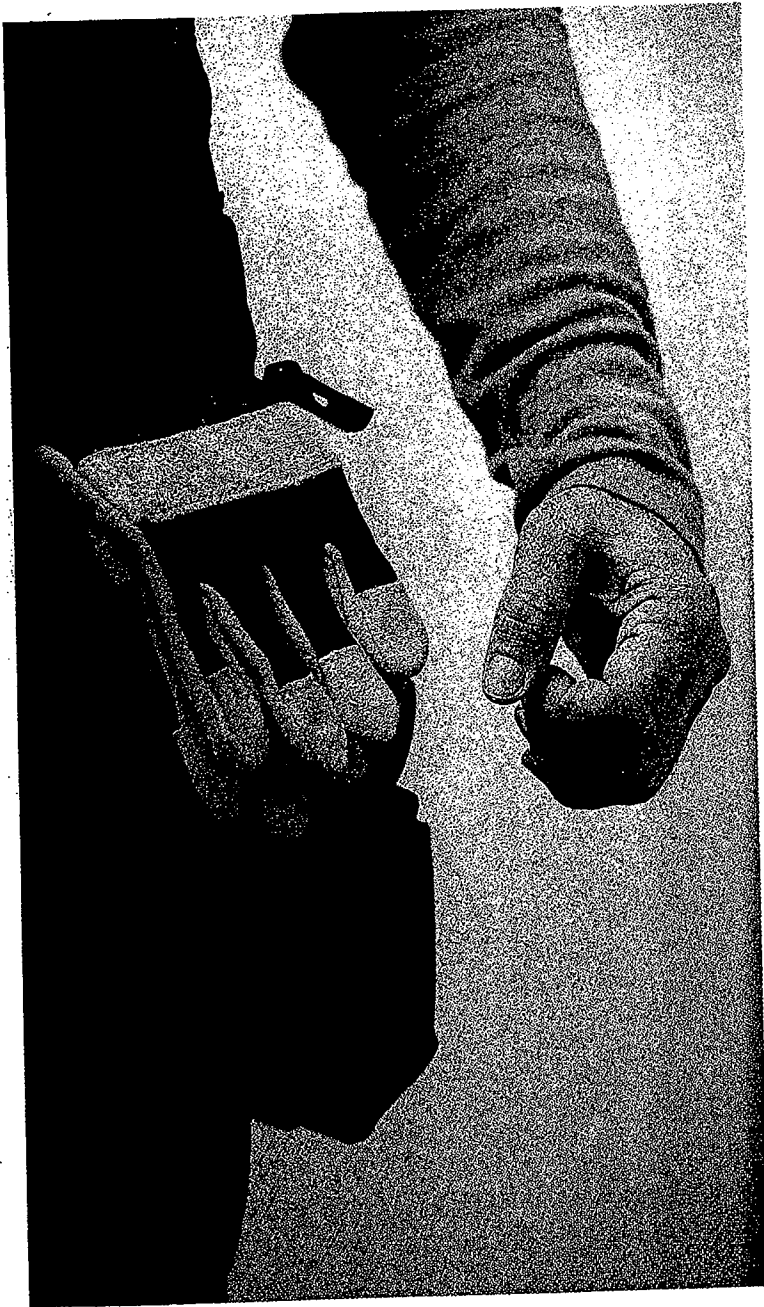
Like you, I've read a decade's worth of magazine and newspaper articles reporting on the decline (even the death) of U.S. labor unions. I've even witnessed their

UPHILL BATTLE

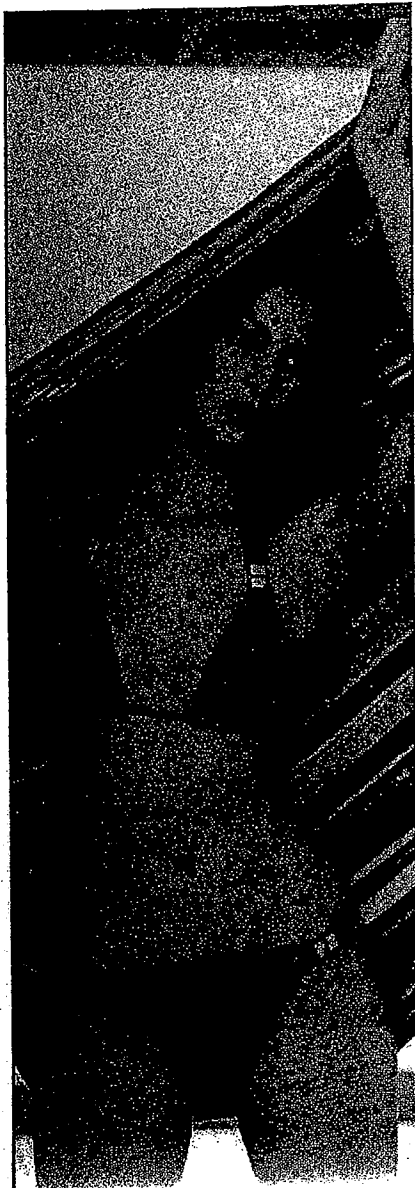
decline first hand, working with employers and anti-union employees to defeat union organization efforts on their business premises around the country. But these reports of union death and decline have been greatly exaggerated. During 12 years of a Republican-controlled Congress, labor unions have been slumbering giants, waiting for friendlier circumstances to reassert their significance on the landscape of American business. Last fall's mid-term elections woke them up.

Emboldened by a more amiable, pro-union, Democrat-controlled Congress, the labor unions have mounted a powerful offensive to cash in on their turn-out-the-vote efforts for Democrats last fall. It's called the Employee Free Choice Act, a bill that would require employers to recognize and bargain with a labor union provided that the union obtains a majority of its employees' signatures on pro-union authorization cards (think: pro-union petition). If passed, the law would radically tilt in the unions' favor, making it easy for them to represent employees of any business and every business, including your small business.

In the absence of the Employee Free Choice Act, unions have an uphill battle when it comes to organizing an employer's work force. In most cases, a union can't just take over the representation of an employer's workers without first having a secret ballot election where employees vote yea or nay on the union. The National Labor Relations Board, the government agency that oversees compliance with federal labor laws, won't hold a secret ballot election unless the union has a substantial number (30 percent) of employees' signatures on union authorization cards. Once this happens, employers and the union generally have a few weeks to campaign for employees' votes for or against the union's representation. >>



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» Because the coercive force and fervor of both the employer and the union can be overwhelming to employee voters, elections are conducted by secret ballot, freeing the employee to vote his or her conscience without undue influence or fear of retaliation. The election results are determined by simple majority rule of votes cast. If the union wins, then the National Labor Relations Board certifies the union as the official bargaining representative for all employees—even the employees who voted “no”—and the employer is forced to negotiate with the union over all wages, hours and working conditions applicable to the employees. The National Labor Relations Board oversees the entire process to ensure that elections are fair and consistent with federal labor law. The Board is empowered to take action against employers and unions that try to illegally influence the election.

The secret ballot union election has become an institution, serving its purpose for nearly a century. The United States Supreme Court has blessed this institution multiple times, even referring to it as “the most satisfactory—indeed the preferred method—for ascertaining whether a union has majority support.” But over the last half century, union membership numbers have dwindled substantially (unions currently represent less than 8 percent of the total private U.S. work force, down from about 20 percent in the 1980s and as much as 36 percent in the 1930s) and union election losses have mounted. Waging a pro-union campaign is a significant expense for labor unions, both in dollars and manpower. Unions have to deploy their own workers (union organizers) to talk up the union, and they have to find increasingly creative and more expensive ways to bring employees together outside of work to hear the union’s message. For this reason, unions have had to be more careful and strategic—if not downright picky—about which groups of employees they try to organize.

In the past, larger employers were the preferred, high-stakes targets. The larger the number of employees represented, the

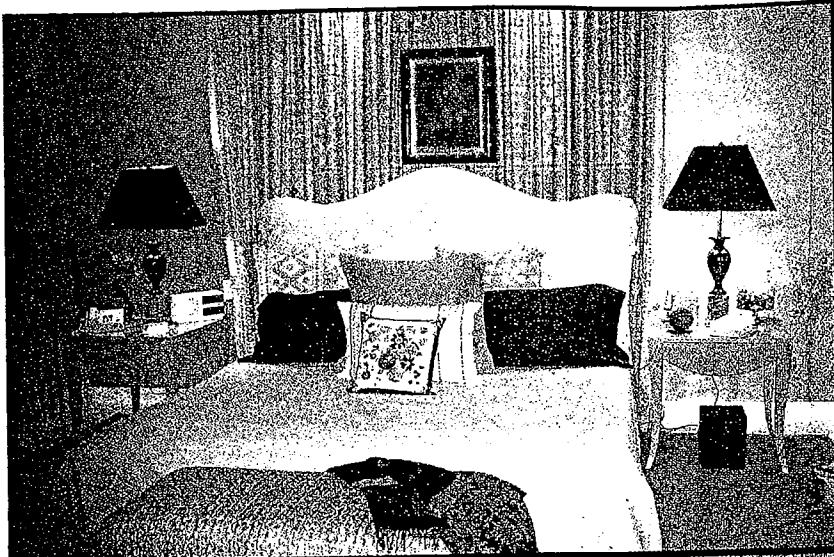
more dollars that rolled in to union bank accounts in the form of employee union dues (about the equivalent of two weeks’ pay per employee per year, plus other initiation fees and assessments). Although some unions took interest in smaller groups of employees where the campaign wouldn’t require too much union investment, most union election campaigns were too time consuming and expensive for unions to waste their efforts on small businesses.

But recently, unions have become increasingly more desperate in their search for new members. They’ve turned to less traditional targets for organizing, and their attention has aggressively shifted to small

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business employers. In 2005, 70 percent of U.S. union elections targeted businesses with 50 or fewer employees and nearly 20 percent of those targeted employers with 10 or fewer employees. So far in 2007, 72 percent of U.S. union elections have targeted businesses with 50 or fewer employees, but a surprising 44 percent of those targeted employers with 10 or fewer employees. Closer to home last year, at least one union campaign targeted a Florida employer with as few as 14 employees.

If the Employee Free Choice Act passes, small businesses will be an even more likely target. Take the expense of running a campaign out of the mix and all union organizing boils down to is getting a majority of employees to sign a petition. It’s a lot easier to get 15 employees to sign a petition than it is 500. Maybe it’s this realization that has the attention of the United States Chamber of Commerce. Charles Cohen, a fellow labor lawyer and spokesperson for the Chamber’s testified to Congress that the Employee Free Choice Act should be more appropriately described as the Employee »



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small business

AS THIS COLUMN GOES TO PRESS, SARASOTA AND MANATEE COUNTIES HAVE OVER 15 LOCAL UNION OFFICES INCLUDED AMONG THE MORE THAN 400 UNION ORGANIZATIONS OPERATING THROUGHOUT THE STATE OF FLORIDA.

» No Choice Act, because it takes away the un-coerced freedom provided by a secret ballot election.

Similarly, after a recent Congressional vote in favor of the Employee Free Choice Act, Dan Danner, executive vice president of the National Federation of Independent Business, a small business advocacy group, spoke directly to the bill's impact on small business: "This legislation eliminates the democratic process of a secret ballot, which protects both small-business owners and their employees from intimidation, misinformation, and exclusion from the very discussions that would affect their business. We find it disheartening that small businesses are being unfairly targeted by unions in a last-ditch effort to reverse the trends of their decreasing membership."

If you think your company is too small to be on the union radar, think again. As this column goes to press, Sarasota and Manatee counties have over 15 local union offices included among the more than 400 union organizations operating throughout the State of Florida.

Florida Senator Bill Nelson and seven Democrats from the Florida Congressional Delegation are sponsors of the Employee Free Choice Act. On March 1, 2007, the U.S. House of Representatives voted, largely along party lines, in favor of the bill. All of Florida's House Democrats voted for the bill and all of Florida's House Republicans, including District 13 Representative Vern Buchanan, voted against it. The bill is currently in committee pending a vote by the Senate. If passed, President Bush has promised a veto. ☐



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