

OPEN SHOP GAZETTE

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On March 24, 2009, the following two articles appeared in *The Wall Street Journal*:

- *FedEx may delay plane buys if union bill passes*
- *FedEx is trying to play a little hardball with Congress*

“The package delivery company revealed it might delay purchasing 30 new Boeing 777 cargo planes if Congress reclassifies the company under a different labor act, which would make it easier for its employees to unionize.

A bill currently in front of Congress would place the company under the jurisdiction of the National Labor Relations Act, instead of the National Railway Labor Act. The Railway Labor Act allows for the union organization of workers, but all those workers must vote at the same time. This has served as an impediment to unions which could not afford a nationwide campaign. If FedEx Express workers were to be reclassified under the National Labor Relations Act, then workers could be organized one terminal at a time.

But the company argues that the loss of cost-cutting flexibility that would accompany unionization would make it impossible to also afford the planes.

Commissioning the 30 planes – at a price tag of \$225 million each – is expected to create thousands of jobs for Boeing employees, workers at General Electric Co. who make the jet engines and workers at hundreds of subcontractor companies.

“This notice gives Congress a chance to protect jobs instead of killing jobs,” spokesman Maury Lane told the Associated Press on Tuesday. **“This is a prudent business decision based on a potentially devastating Congressional decision.”**

FedEx might be particularly concerned about unions forming within its ranks as the company’s new economic realities unfold. Thousands of employees have taken wage reductions or salary freezes as the company tries to adapt to deteriorating demand, and it warned last week that even more cuts are coming. The company has also frozen 401(k) contributions for a year.

Workers unrest may drive more interest in union support – making cost-cutting efforts more difficult if workers eventually unionize. The company’s pilots are currently the only workers with union protection.

Lane declined to offer details on further moves FedEx would take, such as further job cuts, if the change is made. But he underscored how significant Congress’ action could be.

“If this happens we will have to make changes with serious ramifications,” he said. **“We hope (Congress) makes the right decision.”**

In a note to investors, Avondale Partners analyst Donald Broughton said the bill is **“directed at making it easier for the Teamsters to try to organize FedEx Express workers.”**

“We find it more than a bit intriguing that now Congressmen will have to vote against Boeing, GE, and creation of thousands of unionized jobs for machinists (and several other trade unions) in order to change the labor law status of FedEx in an attempt to possibly help the Teamsters union,” he wrote.

Broughton notes that if those workers are reclassified, FedEx is not obligated to spend the more than \$6 billion it plans to use to buy the Boeing 777’s, and would instead delay the purchase and probably eventually buy planes from Airbus, since it already owns 136 Airbus planes.”

The second article was an immediate response from the Teamsters.

- *Teamsters Tell FedEx: Don’t Hold American Jobs Hostage ‘Union Denounces FedEx Attempt to Leverage Congress Through Threat to Pull \$10 Billion Contract with Boeing’*

“Washington, March 24/PRNewswire-USNewswire/ - In another attempt by FedEx to deny its workers the right to organize, the company today leveled a challenge to legislators in a filing with the Securities and Exchange

Commission, revealing that the company would cancel a \$10 billion contract to purchase Boeing 777 planes if FedEx Express workers were moved under the National Labor Relations Act (NLRA).

FedEx clearly states in the filing that its contract to purchase additional aircraft from Boeing is contingent upon its labor relations for all of its employees being governed by the Railway Labor Act (RLA). Under this provision, if Congress dares to grant even a portion of its workers the rights enjoyed by most American private sector employees under NLRA, FedEx has the right to cancel those purchase orders.

“FedEx apparently is not content with cutting wages, increasing employees’ medical insurance premiums and eliminating pension benefits for its employees. Now it is threatening to leverage a contract to purchase additional aircraft from an American company to blackmail Congress,” said Ken Hall, Teamsters International Vice President and Director of the Package Division. **“It is a slap in the face of the American people. The bill should be evaluated on its merit – not upon the threat of FedEx to fire another torpedo through the American economy.”**

At least one industry analyst has speculated that FedEx may purchase planes in the future from foreign manufacturers. Apparently, not only are the rights of its employees on the table, now FedEx is willing to bet the future of the employees of Boeing and GE – the manufacturer of Boeing’s engines – and the employees of dozens of other American manufacturers who supply components of Boeing’s planes.

Currently, all workers at FedEx Express are covered by the RLA regardless of whether they have any direct relationship with the operation or maintenance of the air fleet. This includes package delivery drivers, workers at sorting facilities and truck mechanics.

Pending legislation that is a part of the Federal Aviation Administration reauthorization would place those workers under the NLRA, the statute that protects virtually all other private sector workers. Under the NLRA, workers may organize by individual terminals while the RLA requires a more difficult path to unionization that requires a national vote by every worker at FedEx Express.

“At a time that we should be putting workers first, Fred Smith is playing politics with American jobs,” said Teamsters General President Jim Hoffa. **“Americans are fed up with this type of irresponsible and shortsighted behavior from CEO’s. Fred Smith should be treating workers like a**

crucial part of a successful business – not like a bargaining chip in his political games.”

Founded in 1903, the International Brotherhood of Teamsters represents 1.4 million hardworking men and women in the United States, Canada and Puerto Rico.

SOURCE International Brotherhood of Teamsters”

(Of course they never mention the millions of dollars they have paid into the Democratic Party to get their “bargaining chip” in Congress.)

The following article appeared in the *Orange County Register*, March 22, 2009.

- *Major retailers push alternatives to card check*

“Three major retailers on Saturday laid out broad details of an alternative proposal they hope will fend off a deadlock over a hotly contested bill making it easier for workers to unionize.

Starbucks Corp., Whole Foods Market Inc. and Costco Wholesale Corp. are opposed to portions of the labor-friendly Employee Free Choice Act, which would take away the right of employers to demand secret-ballot elections by workers before unions could be formed. Under the legislation, unions could gain representation if a majority of workers sign cards authorizing it.

Their proposal will seek to maintain management’s right to demand secret ballot election and would leave out binding arbitration.

But the three retailers want to toughen penalties for companies that retaliate against workers before union elections and to also stiffen penalties for union violations.

“We believe in and trust our employees, which is neither anti-union nor pro-status quo,” said James Sinegal of Costco. **He said the group’s proposals “will ensure a fair opportunity for workers to make an informed choice, with a secret ballot, whether they want a union or whether they wish to retain non-union status.”**

Business groups have mobilized like never before to lobby against the Employee Free Choice Act with Congress expected to consider it later this summer.”

The following article appeared in the *Las Vegas Review Journal* on March 13, 2009. It is a long article written by Glenn Garvin of McClatchy Newspapers.

- *Union proposal will end up killing American jobs*

"If consistency is really the hobgoblin of little minds, then Hilda Solis and George Miller must be America's top ghostbusters. They think the secret ballot is the cornerstone of democracy, expect for American workers deciding whether to join a labor union.

Miller is the U. S. House's chief sponsor of the Orwellianly named Employee Fair Choice Act, a bill much-coveted by labor unions that would essentially do away with secret ballot voting when they're trying to organize a company work force. And Solis, a former congresswoman from Southern California who is President Barack Obama's newly confirmed Labor Secretary, is the act's chief cheerleader.

Oddly enough, Miller and Solis used to think secret ballots were the very lifeblood of democracy. In 2001, introducing himself as someone "deeply concerned with international labor standards," Miller wrote Mexican officials urging them to allow workers to vote on unionization with secret ballots.

"The secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose." Miller wrote, adding that the practice "will help bring real democracy to the Mexican workplace." (The American workplace, I guess is quite another matter.)

If that's not hobgoblin-free enough for you, consider Solis, who was in Miami last week promising labor leaders her full support for the legislation. Poor Solis felt quite differently in 2007 when she and her allies were losing a campaign for control of the congressional Hispanic Caucus. Back then, she was bitterly demanding a secret ballot. "It is important that the integrity of the caucus be unquestioned and above reproach," she wrote.

Miller and Solis, career politicians, have no trouble with the ethical and logical contortions required to oppose secret ballots in a country built on them."

The article goes on and covers material that has already been covered in previous articles but I did think it was important to meet the "players".

Mark Your Calendars

Open Shop Council Chair Tom Brickley, Brickley Environmental, Inc., would like to invite you to attend the Open Shop/Specialty Contractors Combined Council meeting scheduled for:

Wednesday, May 13, 2009

10:00 a.m.—12:00 p.m.

Ocean Club Room

Monterey Bay Plaza Hotel

400 Cannery Row

Monterey, CA 93940



Please confirm your attendance to:
 Bill Hamilton, AGC of CA Open Shop Director
 E-mail: hamiltonw@agc-ca.org
 Phone: (909) 885-7519

