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From: Liebman, Wilma B.
Sent: Monday, May 02, 2011 12:08 PM
To: Solomon, Lafe E.
Subject: FW: Economist Article--Boeing "Goin' to Carolina in my mind"

From your bud

-----Original Message-----

From: Labor and Employment Relations Association [mailto:LERA-L@LISTSERV.ILLINOIS.EDU] On Behalf Of Secunda, Paul
Sent: Monday, May 02, 2011 11:53 AM
To: LERA-L@LISTSERV.ILLINOIS.EDU
Subject: Re: Economist Article--Boeing "Goin' to Carolina in my mind"

LERA-L: Announcements, Developments, Queries, and Resources on all aspects of Labor and Employment Relations. Please reply directly to sender. Discussions are encouraged at LERA-DIALOG@listserv.illinois.edu.

Here is my op-ed in the Seattle Times today re: NLRB Boeing case:

<http://tinyurl.com/3hssp4h>

Best,

Paul

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Workplace Prof Blog: http://lawprofessors.typepad.com/laborprof_blog/

View my research on my SSRN Author page:
<http://ssrn.com/author=403921>

From: Labor and Employment Relations Association [LERA-L@LISTSERV.ILLINOIS.EDU] on behalf of g.demarse@COX.NET [g.demarse@COX.NET]
Sent: Friday, April 29, 2011 3:00 PM
To: LERA-L@LISTSERV.ILLINOIS.EDU
Subject: Re: Economist Article--Boeing "Goin' to Carolina in my mind"

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Here is the best article (below) on "right to work states" and the lack of U.S. uniform labor law I have ever seen by a business magazine. The article captures the labor relations "state of the union" state of affairs as well as any contemporary business article can.

The article is from the Economist (Apr 25). Unfortunately, it took a publication based in the UK to put its finger on the pulse of the U.S. labour (note the European spelling) law problem: lack of uniformity of its labor laws in all states.

As I have said elsewhere a number of times, the only "cure" for this problem (unless you are a states' righter) is a federal law that solves the private sector and the public sector rights to unionize and bargain collectively problem in one fell swoop--apply the right to organize and bargain collectively to everybody.

Let's synthesize--federalize.

George DeMarse
U.S. Office of Personnel Management (Ret)

American politics
Democracy in AmericaBoeing's labour problems
Moving factories to flee unions
Apr 25th 2011, 14:16 by M.S.

..BOEING decided a few years ago to build its 787 Dreamliner in South Carolina, the Wall Street Journal opines, because it was afraid its union in Washington was too strong. South Carolina is a "right-to-work" state: Title 41, Chapter 7 of the state code makes it illegal for companies and unions to sign a contract in which anyone who works at the company has to join the union. That makes it extremely difficult to organise effective unions, and Boeing hoped it wouldn't have as many strikes at a plant in South Carolina as it had experienced at its plants in Seattle in recent years. The unions sued over the move, and the National Labor Relations Board has now awarded them a preliminary order blocking the factory from operating pending an investigation into whether the company's shift of production to a union-hostile state in order to avoid union activity constituted "anti-union animus".

To lay the groundwork here, it's important to understand what "right-to-work" means. It doesn't mean "the government stays out of the labour negotiations business". Right-to-work laws specifically ban employers and unions from signing contracts stipulating that anyone who works at the company has to join the union. That's a basic step that unions always try

to negotiate for, since without it they find it very hard to establish themselves as the negotiating partner with management.

Anyway, here's the sentence I found most amusing in the WSJ's editorial: "Boeing management did what it judged to be best for its shareholders and customers and looked elsewhere." Boeing's motivation for shifting production to an anti-union state was not to benefit customers. If Boeing felt it could raise prices for the airplanes it builds without losing market share, it would do so in a second, regardless of whether that was "best for its customers". Companies try to lower operating costs in order to raise profits or cut prices and win market share, not out of a selfless desire to benefit customers.

But the more important flaw here is that the reason why Boeing might have judged its decision to move production to South Carolina "best for its shareholders" was that it didn't think it violated labour law to flee your union. If it did violate labour law, then Boeing made a bad decision and delivered negative value to its shareholders. To put things another way, if America had labour laws that were uniform from state to state like any other normal economic power, rather than a race-to-the-bottom system where states are pressured to weaken labour laws in order to entice employers, then there would have been no reason for Boeing to move production. There is simply no moral content to Boeing's decision to move production to South Carolina. Boeing doesn't get brownie points for engaging in regulatory arbitrage and stiffing its unions just because it judged that move to be best for shareholders. Congratulating Boeing for trying to deliver shareholder value is like congratulating it for building and selling airplanes. That's simply what the company does. Boeing's decision was a judgment about how to play, given its evaluation of the rules of the game. The question of whether companies should be allowed to flee their unions is a question about what the rules of the game ought to be, in order to deliver value to the economy and to society.

So, should companies be barred from moving production to a right-to-work state to flee their unions? Niklas Blanchard thinks not. He calls it "protectionism".

While I don't begrudge the right for unions to form and attempt to bargain, I also don't begrudge the right of management the say, "FU, we're going somewhere else". In an ideal world, they would do this free of government playing for either side. But in this case, we have the government contemplating restricting capital flows between states! The United States, as understood properly, is the largest free trade area in the world. That has been a huge comparative advantage for the US historically, and arguably the reason that we are at the top of the world economic pyramid today. Restricting the flow of capital makes us poorer by reducing productive employment, and increasing prices. It's a very poor precedent to set.

I think this is a confusing analogy. Mr Blanchard may be right that, given that labour and other business laws differ from state to state, the United States might best be understood as the world's largest free trade area, rather than a single country. But does anyone think that the United States

would be a dramatically less prosperous country if it had uniform labour and business law throughout its territory? Have right-to-work laws in 22 states made such an immense contribution to American prosperity that without them America would not be the world's largest and wealthiest economy? Really? Seriously? Would American technological ingenuity have been crippled if the whole country had to follow the labour laws that obtain in Silicon Valley?

I don't think so. I think if there were no right-to-work states, American GDP wouldn't be significantly different than it is today. And if America did have uniform labour laws, then Boeing's decision as to whether to produce in Puget Sound or South Carolina would have nothing whatsoever to do with unions. If labour laws in South Carolina and Washington were equivalent, the only thing the workers in Puget Sound would have to worry about is whether their demands would lead the company to lose market share or to move production overseas. The first might be a real worry; the latter is a marginal issue for Boeing workers because the company is a defence industry-supported national champion firm.

Now maybe unionised Boeing workers should be more worried about hurting the company's market share as it competes with EADS and with regional-jet builders like Embraer and Bombardier. It certainly sounds like the company has a strike problem. But EADS's labour force is hardly non-unionised. If Boeing is having more trouble with its unions than its competitors are, it's possible that the fault lies with the company, rather than with the unions. What's happening here is that anti-labour laws in certain states allow companies to shift investment to those states in order to get around their unions. And efforts by unions to block that manoeuvre can then be condemned as "restrictions on capital flow". The issue isn't freedom of capital. The issue is whether employers can use a threat to move production to a union-hostile state as a negotiating tactic in collective bargaining.

----- Stuart Basefsky <smb6@CORNELL.EDU> wrote:

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