Microsoft Outlook

From: Liebman, Wilma B.
Sent: Tuesday, May 03, 2011 1:36 PM
To: Cleeland, Nancy; Solomon, Lafe E.
Subject: FW: Economist Article--Boeing "Goin' to Carolina in my mind"

-----Original Message-----
From: Labor and Employment Relations Association [mailto:LERA-L@LISTSERV.ILLINOIS.EDU] On Behalf Of g.demarse@COX.NET
Sent: Tuesday, May 03, 2011 1:11 PM
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.

Greetings all!

I am attaching a would-be editorial "states' rights" op-ed piece which the Washington Post declined to publish.
I like it. It is "cutting," but so are scissors.

Don't get me wrong--I love the Post. I have read it every day for nearly the past eight years. However, their Board is highly anti-organized labor, particularly public sector labor. Their editorials have showed their colors clearly on many occasions, particularly to Montgomery County (I don't know why they love to pick on Montgomery County, MD--but they do).

In this piece I take issue with Kathleen Parker's Post column of April 24, in which she declares "war" on the NLRB who decided the recent Boeing case in favor of the union --and declares that the decision "is tossing a Kobe tender loin" to the South Carolina conservatives (which I guess she thinks is a good thing).

My piece points out that "right to work" states represent pretty much the "at will" employment doctrine, and that citizens of this country have not declared at will and states rights' employment systems as their preference. The decision of the NLRB represents a "big picture" approach which is sorely needed , and my article says to the contrary that the decision is "gluten free" blood pudding for the progressives.

My suspicions concerning the non-appearnce of any criticism to the article by Ms Parker were confirmed when the the Post came out with another anti-public sector union editorial today (May 3) in which it declares that the whole of collective bargaining and binding arbitration are "heavily tilted in favor of the unions." It seems more important to control "out of control labor costs" (to quote again) than it is to enforce labor contracts.

In summary, the Post Editorial Board believes that collective bargaining in the public sector can no longer be sustained in the name of the taxpayer, it costs too much, and the right to collectively bargain by public sector employees should be abolished --at least for Montgomery County (the "nuclear option" as the Post declares). Of course, the Post does not suggest that the solution might be better management negotiators.

This country as a nation must decide whether the right to "organize and collectively bargain" is a "right" or it isn't. We cannot sustain a hodge podge of labor law that says at the national government level, employees can organize and bargain collectively if what they bargain is "not otherwise provided by law'--meaning most wages and benefits are not bargained. This makes very little substantive bargaining in the federal sector possible--and forces trivial matters to the forefront. But don't forget Congress finds public sector collective bargaining "in the public interest" (while the states of Wisconsin and Ohio "don't" find it in the public interest). One can't be in the public interest and the other not be, it seems to me.

Likewise, other states are now choosing to make collective bargaining "optional" for public sector employees, I guess depending on their deficits or who is in office. In the private sector, the law is clear that employees can organize and bargain collectively, but it hasn't meant much in the leveling of wages and benefits--but at least it remains a right.. Do we say "Gee--it's too expensive to enforce civil rights/EEO laws and that we should go ahead and abolish these laws--spend the money elsewhere." No-- we don't. It won't do.

Let's finally decide--"it's not always easy; it's not always kind--but you're gonna have to make up your mind" ---to quote the Lovin' Spoonful.

Enjoy!

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

Attached
Letters to the Editor:

This is in response to the article in the Editorial section by Kathleen Parker (South Carolina, a union cannonade, April 24.) Ms. Parker discusses a National Labor Relations Board (NLRB) case in which the board purportedly holds that Boeing cannot open a plant in “right to work” state South Carolina because the move is “allegedly motivated by an attempt to avoid strikes and thus intimidate Boeing workers elsewhere.” Ms. Parker more or less summarizes the case as certainly wrong headed by the NLRB, and that corporations certainly have the right to “move wherever they want” as part and parcel of any business decision. She notes “the NLRB just tossed a Kobe tenderloin to the GOP.”

Not so fast. If global capitalism were delivering quality jobs with quality benefits to the middle class as it was 50 years ago, and if Americans were gung ho on “at will” and “right to work” employment systems-- where many workers are virtually “muted” concerning their working conditions-- Ms. Parker would have a winning argument.
Alas, global capitalism is not delivering those jobs, and good chunks of taxpayer money are being spent to lure the few good jobs that won’t employ many Americans anyway. It is not at all clear that Americans are fans of “at will” and “right to work” employment systems these days just because most South Carolina politicians are.
Contrary to Ms. Parker’s assessment, this NLRB case is “gluten free” blood pudding to the progressives.

George DeMarse
Alexandria, VA
April 25, 2011

---- "Secunda wrote:
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> 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

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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"

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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