

Big Labor is Targeting Banks and Credit Unions??

Labor & Employment Law Update

By Peter Hansen and Jeffrey Risch and Larry Tomlin on March 21, 2022



Although labor unions have historically not targeted banks and credit unions for organizing, desperate times call for desperate measures as union membership continues to fall in the United States with only 6.1% of the private sector workforce

belonging to a labor organization. While just over 1% of all financial services employees are unionized, there has been an uptick in unionization hitting the financial industry since 2020; with signs of more aggressive action on the part of labor organizations not slowing down.

Recent Union Organizing of Financial Institutions

Recent successful efforts by big labor to organize and unionize bank and credit union workers in New York, Washington, Oregon and California, highlight the financial industry's vulnerability. Of course, supervisors and managers are generally prohibited from assisting and excluded from forming a labor union under the National Labor Relations Act (NLRA), nearly every other type of employee in the private sector is generally free to organize and bargain collectively with their employer and engage in other protected concerted activities related to terms and conditions of employment, or choose to refrain from such activities. Being simply employed by a bank, credit union or other financial institution does not prevent the worker from forming or joining a union under the NLRA.

Indeed, on January 31, 2022, employees of Genesee Co-op in Rochester, New York, formed a union with Communications Workers of America ("CWA") a union traditionally focused on workers in the telecommunications and information technology, media, and airline industries. 10 Genesee Co-op workers unanimously elected to be represented by the CWA. Interestingly, this particular employer (a credit union) voluntarily recognized the union after the workers executed a petition seeking the union's representation.

Perhaps more alarming to financial industry employers is what developed on the West Coast in 2020. Beneficial State Bank (f/k/a OneCalifornia Bank) employees across Washington, Oregon and California, joined the CWA and ratified its first union contract on September 29, 2021. The workers represented by the CWA include consumer loan servicing representatives, loan processors, underwriters, file clerks and custodial staff.

The fact that both Genesee Co-op and Beneficial State are located in historically union-friendly states makes the outcome a bit less surprising, but make no mistake: the CWA can and will continue to push for unionization in the banking services industry, with particular attention to community (as opposed to nationwide) banks and credit unions. This is not to suggest that financial institutions who are not keen on unionization have no recourse – indeed, both Genesee Co-op and Beneficial State management agreed to remain neutral during the organizing campaigns. Lawful “push back” and educating the workforce on the good, bad and ugly of union membership did not occur.

Interestingly, part of the CWA's push for unionization relies on the 2008 financial crisis along with claims that unionization will somehow improve financial services and access to the public. It's not entirely clear how unionization would impact consumer protections – if anything, unionization will drive up the cost of banking by increasing labor costs and removing bank autonomy – but the CWA's press releases and campaign lay out a clear strategy for swaying public opinion in favor of unionizing banks and credit unions. Regardless, the CWA's efforts, combined with the ongoing unionization campaign at Amazon and Starbucks, demonstrate a continued nationwide push for unionization that all employers must be aware of – including those in traditionally non-union industries such as financial services.

The NEW Pro-Union Labor Board

The National Labor Relations Board (NLRB) is poised to usher in new reforms and implement pro-labor priorities with the intent of reversing the modern-day trend of unions losing members in the private sector and penalizing employers under the National Labor Relations Act (NLRA) who attempt to push back against labor unions and related union organizing. As a reminder, it is the NLRB that administers and enforces labor law for the private sector. All private employers must take notice what is happening at the NLRB, regardless if they have a union workforce or not.

While Big Labor continues to push pro-union legislation in Washington, D.C., there are many changes being implemented by Jennifer A. Abruzzo — as the NLRB's General Counsel and top policy maker.

Bottom Line

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The financial industry needs to be on top of labor law developments. Intimately knowing and understanding the rules of engagement in all things traditional labor law, and what could trigger an unfair labor practice charge or the ire of the NLRB, is critical. From c-suite executives to frontline supervisors, banks, credits unions and other financial industry employers need to know the law — as it develops and evolves in a very pro-union environment under the current NLRB.

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