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One Cheer for Paycheck Protection

It won't stop unions from political mischief.

BY JEFF JACOBY & MICHELLE MALKIN

BECK IS BACK, and so is talk of "paycheck protection." On February 17, President Bush signed an executive order that will draw attention to the U.S. Supreme Court's decision in *Communication Workers of America v. Beck*. That 1988 case held that employees who choose not to join a union but are forced nonetheless to pay dues as a condition of employment have a right to withhold the portion of their payment used for anything unrelated to collective bargaining—most notably, Democratic politics.

Bush's order—one of four dealing with workplace issues that were signed on the same day—doesn't actually put teeth in the *Beck* ruling. It merely requires federal contractors to post signs notifying employees of their rights. But that was enough for AFL-CIO head John Sweeney to blast Bush's action as "mean-spirited" and "anti-worker" and to accuse the president of indulging in "pure retribution" for union support of Democratic candidates in the last elections.

Sweeney knows something about retribution. In the 13 years since the high court's ruling, unions have intimidated and harassed workers asserting their *Beck* rights, often saddling them with huge legal bills. The posting of workplace notices will not, by itself, protect workers who are brave enough to buck the union. But at least it will help publicize a fact that employees in union shops often don't know: No employee can legally be forced to join a union and pay full

dues as a condition of employment, and no non-member can be forced to subsidize a union's political or ideological activities. Bush deserves credit for taking his first small step toward protecting voters' paychecks from the grasp of union bosses.

To prove that he is as good as his word, however, the president will need to go considerably farther. During the campaign, Bush repeatedly called for a federal paycheck-protection law that would prohibit labor unions from spending any part of a member's dues on political activities unless the member first consents in writing. He promised to veto any campaign-finance bill—such as the one co-authored by his primary opponent, senator John McCain—unless it were rewritten to include such a provision.

On its face, paycheck protection would seem to strengthen dramatically the rights of political minorities in unionized workplaces. Unlike *Beck*, which empowers only employees who are not members of the union, paycheck protection would apply to everyone who pays dues. And while *Beck* makes the dissenting employee go through an elaborate ordeal in order to get his union fees reduced, paycheck protection would put the burden on the union, by requiring it to get written authorization before spending an employee's money on politics.

Several states have enacted paycheck-protection laws of their own. Under a bill just passed by the Utah legislature, unions would no longer be allowed to pay for political activities

political fund; to which members could donate via payroll deductions. But in asking members to support the fund, the union would be obliged to disclose "in clear and unambiguous language . . . that contributions are voluntary." Public-sector unions would be barred outright from using payroll deductions for political purposes. (Unionized government workers wishing to donate to a union's political fund would, of course, be free to write a check.) Governor Mike Leavitt is expected to sign the bill into law.

The case for paycheck protection is easily stated: No union should be allowed to spend an employee's earnings to promote political causes that the employee may well oppose. In the last election cycle, unions funneled an estimated \$800 million into campaign activities ranging from phone banks and literature drops to soft-money contributions and attack ads. Virtually every cent of that \$800 million came out of employees' pockets—and virtually every cent went to the aid of Democrats and Democratic priorities. Considering that 40 percent of union members vote Republican, that is a strikingly unfair arrangement.

Paycheck protection is grounded in the proposition that Thomas Jefferson articulated in 1779: "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical."

Alas, paycheck-protection laws are no panacea.

Experiences in Washington state and California show that laws intended to stop unions from spending forced dues on politics have been vastly oversold. They have done little to reduce massive union expenditures of mandatory dues on left-wing lobbying, Democratic party-building, and soft-money "issues" ads designed to hurt Republicans. Worst of all, they do nothing to curb the power of unions to extract dues from dissenting members in the first place.

- *Washington.* In 1992, voters approved Initiative 134, the nation's first campaign-reform measure for-

bidding unions from automatically deducting money from members in order to fund political action committees. The measure also specified that paycheck deductions for political purposes had to be renewed annually with an employee's written authorization.

Conservative strategists routinely cite the dramatic impact that I-134 had on the teachers' union in the Evergreen State. Before paycheck protection was enacted, the Washington Education Association had been billing 48,000 members \$1 per month to support the union PAC. After I-134 became law, however, the number of donors plummeted to just 8,000. Remarkable, no?

Well, actually—no. There was indeed a precipitous drop in the number of public school employees who were willing to contribute to the WEA's PAC once they had the option of refusing. But the rest of the story demonstrates the limits of paycheck protection. Tell a union it may not spend workers' money on political

activity without written permission and you merely invite it to recast those activities as nonpolitical. The WEA rechristened its political action committee a "Community Outreach Program" and—poof!—its I-134 problem was gone. Between 1994 and 1996, the new program, which, like the former PAC, was funded through a mandatory \$1 payroll deduction, raked in more than \$1.2 million.

This diversionary tactic was eventually declared illegal, but only after a costly legal battle by a group of courageous teachers willing to face down their union. The union admitted laundering at least \$319,000 of "outreach" money into political operations. In a toothless settlement, Washington state attorney general Christine Gregoire required the WEA to pay \$430,000 in fines, court costs, and a one-time rebate to members. Incredibly, the settlement allowed the union to keep spending money on politics as long as its "primary" purpose was not political.

- *California.* Despite the emascula-

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Employee Benefits.

tion of I-134 in Washington state, paycheck protection advocates in California pushed a similar ballot measure in 1998. On Election Day, a savage media campaign spearheaded by the California Teachers Association paid off: Fifty-three percent of the voters rejected Proposition 226. But even if the measure had won, little would have changed. As in Washington state, the unions would have found a loophole and continued their political operations as usual.

Proof emerged a few weeks after the election when researcher Mike Antonucci, whose Education Intelligence Agency covers the doings of teachers unions nationwide, dug up the 1998-99 budget of the California Teachers Association. Or rather, the two '98-'99 budgets—the union had prepared one with the designation "226 wins" and a second marked "226 loses."

The CTA had attacked Proposition 226 ferociously during the campaign, describing paycheck protection as "the biggest threat to teachers and public education by far." But behind the scenes, the union was far more sanguine. The amount it budgeted for the new fiscal year if Proposition 226 failed was \$97,394,400. The amount it planned to spend if Proposition 226 passed was . . . \$97,394,400: a difference of exactly zero dollars and zero cents. The two budgets differed in only one respect: The "226 fails" version allotted \$7.1 million to the union's Initiative Fund and political action committee. The "226 passes" budget shifted that \$7.1 million into a new line item, the "Public Policy Center."

Taking a cue from their union brethren in Washington, the CTA was planning to simply redefine its political activities as non-political "outreach." The Public Policy Center's purpose would have been to "engage in the development of public policies"—i.e., politics—and to conduct "organizational outreach to other interested groups with common goals and objectives to obtain visibility and coordinated advocacy." Instead of giv-

ing money directly to left-wing candidates and campaigns, that is, the CTA would have channelled its members' money to other liberal groups so that they could make the political contributions.

In short, Proposition 226 wouldn't have changed a thing. And neither, we fear, would most paycheck-protection schemes—including the new measure in Utah. If history is any guide, Utahans will discover, eight or nine months down the road, that union dues are still being siphoned off to fund Big Labor's favorite politi-

that paycheck protection be included in any campaign-finance bill sent to him, the McCain-Feingold proposal now includes language purporting to enforce the *Beck* rule. (Identical language appears in the House bill sponsored by representatives Chris Shays and Martin Meehan.) But according to labor-law experts who have analyzed it, the new language actually undermines *Beck*. For one thing, it would vest the sole power to enforce *Beck* rights in the National Labor Relations Board, which has a long record of hostility to workers trying to reduce the fees they are forced to pay to unions. For another, it would sharply restrict the meaning of "political activities." Unions would be barred from using nonmembers' compulsory dues to support candidates in an election, but they would be perfectly free to use those dues to lobby for judicial and executive branch appointments, to campaign for and against ballot measures, and to proselytize on a host of political and ideological issues.

In short, more regulation will simply make things worse—which is what usually happens with campaign finance "reforms."

Real paycheck protection is not about permission slips and the definition of "political." It's about ending compulsory unionism and preventing labor bosses from

raiding workers' paychecks in the first place. Employees who wish to join unions should always be free to do so, but no one should have to tithe to a union—or any other organization—as a condition of keeping his job. President Bush ought to follow up his modest executive order with something much more substantial: a serious push for a national right-to-work law, making union membership voluntary. At the end of the day, that is the only way to guarantee that no employee will ever have to subsidize union politics against his will. Until such a guarantee is the law of the land, Americans' paychecks will remain unprotected. ♦

No More Free Ride... For Union Officials.



Harry Beck, of Communications Workers v. Beck fame

cal causes—paycheck protection notwithstanding.

Paycheck-protection schemes are well-intentioned but, like *Beck*, do nothing to address the fundamental injustice of the union shop—the fact that federal law allows unions to coerce dues out of nonmembers or unwilling members in the first place. With hundreds of millions of dollars and vast amounts of political clout at stake, unions will always be able to find a way to divert workers' money into politics.

To meet President Bush's demand