



I L L I N O I S

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**A Study of Illinois' Majority Interest Petition Provision
2003-2009**

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Introduction

In the spring of 2009 the School of Labor and Employment Relations (LER) at the University of Illinois conducted a study of the state's nearly six-year old mandated majority authorization process for organizing employees in the public sector. The project was inspired by the national debate surrounding the proposed federal Employee Free Choice Act. Corporate allegations that the national law will allow employees to be coerced into signing "card" or "petitions" motivated LER to conduct an objective assessment of how Illinois' law is working. The results of the study unambiguously revealed that the majority sign-up provision was used extensively without hint of union or employer abuse.

In brief, from 2003-2009, 21,197 public sector workers employed in state, county, municipal and educational institutions voluntarily joined a union. Most importantly, contrary to business claims, in nearly eight hundred petition cases, there was not a single confirmed incidence of union coercion.

In the public debate about the Employee Free Choice Act, it has been widely overlooked that several states have passed laws with similar majority sign-up provisions over the last few years. This report on Illinois is the first case of a larger study that analyzes what has happened in five additional states with a majority sign-up provision.

Background

In 2003 Illinois became the second state in the country to permit public sector workers in municipal, county, state and educational institutions to organize a union through a majority sign-up certification process.¹

¹. Including Illinois the other states which provide either comprehensive or limited majority sign up coverage for public sector workers are New York, New Jersey, Oregon, California, New Hampshire, Massachusetts, Montana, Oklahoma, Kansas, and North Dakota, New Mexico, New Nevada, Wisconsin, Iowa, Michigan, Minnesota, Washington and Ohio.

Illinois public sector collective bargaining statutes are administered by the Illinois Educational Labor Relations Board (IELRB) which has jurisdiction over employers and employees in public education and the Illinois Labor Relations Board (ILRB) which has jurisdiction over the rest of the public sector. The Illinois law also provides for a “local” labor relations board to have jurisdiction over cities with a population in excess of one million residents.

Known as “Majority Interest Petition (MIP)” certification, the process provides for the union to file a “majority interest petition,” accompanied by its evidence of majority status. Submitted in order to designate a “representative without an election,” the showing of interest in support of a majority interest petition may consist of “authorization cards, petitions, or any other evidence that demonstrates that a majority of the employees wish to be represented by the union for the purposes of collective bargaining.”² The law further provides for posting a notice in the workplace and requires the employer to supply to the Board a list of employees in the bargaining unit and handwriting exemplars for those employees.

Pursuant to the statute, Board regulations provide that a majority interest petition may be defeated by presenting clear and convincing evidence that the showing of majority interest was procured by “fraud or coercion.” In cases where a definitive finding of fraud or coercion is found, a representation election is ordered by the Boards.

The law further provides that if issues concerning the appropriateness of the bargaining unit or the inclusion of specific employees would affect the determination of majority status they are resolved by holding a hearing, but if the issues would not affect the outcome, they are resolved through the Boards’ unit clarification procedures. The IELRB regulations allow a party to petition to intervene, while the ILRB regulations allow a

² . According to *Title 80: Public Officials and Employees; Subtitled C: Labor Relations; Chapter IV: Illinois Labor Relations Board; Section 1210.80, “Showing of Interest.”*

competing union to file a representation petition supported by a 30 percent showing of interest.

Study Methodology

Case data on all MIP for the fiscal years 2003 through 2009 was collected from the Illinois State Labor Relations Board (ILRB) through a Freedom of Information request and follow-up interviews with a number of board agents.³ The ILRB data included MIP on municipal (cities under and over 1 million residents), county and state employers. Information on all MIP cases in the educational sector was gathered by the study's author and a research assistant reading through all the case files archived at the state's Education Labor Relations Board (IELRB).

Along with the data on MIP from both the state and educational sectors the study also included "voluntary recognition petitions (VRP)." A VRP is also a majority sign up provision whereby the employer voluntarily agrees to recognize the majority status of the union. The VRP provision preceded the adoption of the state's MIP statute.

The study aggregated data on the following variables: 1) year of certifications, 2) the name of the petitioning union, 3) the name of the employer, 4) the size of the bargaining unit, 5) the occupation of the employees, 6) the results of the petition, 7) complaints against the union for "coercion and/or fraud" and 8) confirmed incidences of union "coercion and/or fraud." Information on all of the above variables from both the ILRB and the IELRB was available by consulting the filed "Majority Interest Petition" and the issued "Order of Certification."

Findings

Since passage of the Illinois petition certification law approximately 21,197 public sector workers have organized under the guidelines of the states' "Member Interest Petition"

³. The period studied is from July 1, 2003 until April 30, 2009.

and “voluntary recognition” certification process. In this time period there have been 1,086 petitions filed and 799 “orders of certification” (i.e., bargaining units formed) issued. The ratio of ordered certifications to petitions filed represents a 73.5 percent non-electoral certification rate. MIP accounted for the overwhelming majority of the cases (90.4 percent) and employees unionized (87.6 percent).

State cases made up nearly three-quarters of the total bargaining units certified (71.9 percent) and 56.6 percent of all the employees represented. Approximately one-fifth (21.5 percent) of the cases were from the educational sector, which also accounted for 38 percent of the employees. Finally, local cases amounted to 6.5 percent of the total and provided 5.2 percent of the employees unionized

The types of job occupations unionized through MIP included a wide range of employee job categories. Employees who worked as accountants, auditors, transporters, cooks, nuclear safety policy analysts, graphic arts designers, insurance claims examiner, state mine inspectors, pipeline safety analysts and even animal caretakers joined a union by affixing their signatures to certification petitions. Organized employees in the health care fields included registered nurses (including school nurses and non-certified nurses), medical assistants, psychologists, social workers, therapists (including physical, occupational and music), vision and hearing technicians, radiographers, phlebotomists, speech language pathologists, dental hygienist and counselors.

In addition to certified K-12 teachers, educational employees included lunch monitors, teacher aides, home school liaisons, program specialists, program coordinators, ESL instructors, horticulture instructors, computer technicians, laboratory technicians, librarians, interpreters, telecommunications specialists, and paraprofessionals. There are also switch board operators, secretaries, accounting clerks, and storekeepers who became union members by indicating their interest. Workers who signed petitions also included custodians, engineers, aircraft technicians, project managers, mechanics, truck drivers,

carpenters, plumbers, landscapers, bus drivers, security guards, firefighters and police officers.

The breath and depth of the job occupations certified through MIP reflects that the law has been a reliable mechanism to bring workplace democracy to workers in all corners of the state's economy.

While the extensive use of MIP and their representativeness of the state's workforce are impressive, the most dramatic outcome of the provision's administration is the total absence of any employee or union abuse. In over 1,000 cases there is only one allegation of union coercion or fraud to compel or induce workers to sign authorizations. The ILRB found the complaint to be meritless. The solitary nature of this alleged incident justifies reprinting at length the Boards ruling on the matter:

“Certain employees filed written statements that [UNION X] used coercion in obtaining employee signatures for their showing of interest. However, the allegations of coercion consisted of hearsay statements that [UNION X] representatives came to employees' homes in an effort to obtain signatures on authorization cards. The mere fact that union representatives came to employees' homes in an effort to obtain signatures on authorization cards is not sufficient to establish that the union used coercion to obtain signatures... In the instant case, the mere fact that [UNION X] representatives called on employees at their homes is insufficient to establish even a *prima facie* case that [UNION X] sought to coerce employees into signing an authorization card or join [UNION X]. Therefore, I dismiss the allegations that [UNION X] used coercion in obtaining any employee signatures on authorization cards.”⁴

It is important to note that even in cases where an MIP petition did not end up with an MIP order of certification, union coercion was nonexistent. In no case was a petition withdrawn or dismissed because of union coercion. Over half of the petitions that were

⁴ . Case No: 2005-RC-0008-S Order of Certification, November 18th, 2004-Filed MIP

withdrawn were done so because the union was unable to show a majority interest. Petitions were mostly dismissed because the “union failed to show that it sought an appropriate bargaining unit.”⁵ Additionally, in a few cases, MIP were converted to representation elections because another union intervened and also petitioned to be the bargaining agent. Again in no case was any union intimidation evident.

Conclusion

Illinois has provided a mechanism for over 20,000 public sectors workers to express their interest in becoming union members. The process has worked without systematic or episodic employer or union abuse. Illinois’ majority sign-up provision, like many other state laws across the country, is very similar to the proposed federal Employee Free Choice Act. As the debate over the national legislation continues, it is important for policy makers to have access to hard data detailing the impact of a majority sign-up provision. States like Illinois can make a valuable contribution to the pursuit of an informed judgment about labor law reform.

As is true in so many other policy areas, on the subject of union representation the states are incubators for new ideas and practices. Illinois has demonstrated that a majority authorization petition can genuinely determine the will of the employees to be unionized and provides a functional, largely non-adversarial and event-less process for insuring a fair work environment for everyone.

⁵. Language taken from “MIP Petitions Dismissed,” ILRB-File, FOIA.

Illinois Public Sector Member Interest Petition Unionization						
Year		Total MIP Orders of Certification	Total MIP Petitions	Employees Certified	Number of complaints of union coercion or fraud	Number of confirmed cases of union coercion or fraud
2003	Local	2	2	276	0	0
	State	17	18	164	0	0
	Education	n/a	n/a	0	0	0
	Subtotal*	19	20	440	0	0
*includes 17 Voluntary Recognition Petitions (VRPs) and 425 employees certified through VRPs						
2004	Local	8	10	95	0	0
	State	104	137	2021	0	0
	Education	16	10	2481	1	0
	Subtotal*	128	157	4597	1	0
*includes 24 VRPs and 853 employees certified through VRPs						
2005	Local	1	1	65	0	0
	State	123	158	1079	0	0
	Education	34	39	1201	0	0
	Subtotal*	158	198	2345	0	0
*includes 10 VRPs and 861 employees certified through VRPs						
2006	Local	4	8	8	0	0
	State	124	161	2480	0	0
	Education	39	48	2020	0	0
	Subtotal*	167	217	4508	0	0
*includes 5 VRPs and 212 employees certified through VRPs						
2007	Local	21	29	200	0	0
	State	91	125	3517	0	0
	Education	31	38	946	0	0
	Subtotal*	143	192	4663	0	0
*includes 10 VRPs and 81 employees certified through VRPs						
2008	Local	8	9	471	0	0
	State	70	106	1500	0	0
	Education	46	54	1145	0	0
	Subtotal*	124	169	3116	0	0
*includes 5 VRPs and 53 employees certified through VRPs						
2009	Local	8	16	64	0	0
	State	46	86	1217	0	0
	Education	6	31	247	0	0
	Subtotal*	60	133	1528	0	0
*includes 6 VRPs and 417 employees certified through VRPs						
Total	Local	52	75	1179	0	0
	State	575	791	11978	0	0
	Education	172	220	8040	1	0
	Grand Totals*	799	1086	21197	1	0
*includes 77 VRPs and 2,629 employees certified through VRPs						

