

NLRB Permits Unions to Charge dues Objectors for Lobbying Expenses, and Seeks Further Briefing on “Germaneness” Standard

1 min read

Jan 10, 2013

A former Union member filed an unfair labor practice charge alleging that the Union, which represents hospital employees, violated the National Labor Relations Act by its treatment of the former Union member and other employees who resigned their Union memberships and objected to paying dues that were unrelated to collective bargaining, contract administration, or grievance adjustment.

The National Labor Relations Board (NLRB) issued a complaint against the Union, and an Administrative Law Judge sustained some allegations against the Union. However, all of the parties filed exceptions to portions of the Judge’s decision, so the NLRB took up the case.

The NLRB ruled that a union with a collective bargaining agreement that includes a union-security clause may charge nonmember dues objectors for union lobbying expenses that are “germane to collective bargaining, contract administration or grievance adjustment.” The NLRB found, for example, that lobbying expenses associated with minimum wage legislation, professional licensing, and state supplements to the WARN Act are chargeable to objectors, while those related to general economic stimulus or “broad social or environmental policies” are not chargeable. Although the NLRB provided such examples, it left unanswered precisely what lobbying expenses may be chargeable. The NLRB did, however, invite briefing on how it should apply its new standard going forward. The deadline to file amicus briefs addressing how the NLRB should define and apply a “germaneness standard” is February 19, 2013.

It is anticipated that the NLRB will accept the Union’s arguments that every lobbying function is meant to improve the lives of its members and is related to collective bargaining, thereby allowing for the vast majority of lobbying expenses to be charged to objectors, and creating a broad exception to the holding in *Communications Workers v. Beck*, 487 U.S. 735 (1988), where the U.S. Supreme Court held that those who object to paying the required dues may only be charged for the percentage of dues used for purposes of collective bargaining, contract administration, or grievance adjustment.

For more information read *United Nurses & Allied Prof'ls (Kent Hosp.)*, 359 N.L.R.B. No. 42, December 14, 2012.

Hinshaw & Culbertson LLP is a U.S.-based law firm with offices nationwide. The firm's national reputation spans the insurance industry, the financial services sector, professional services, and other highly regulated industries. Hinshaw provides holistic legal solutions—from litigation and dispute resolution, and business advisory and transactional services, to regulatory compliance—for clients of all sizes. Visit www.hinshawlaw.com for more information and follow @Hinshaw on LinkedIn and X.

Topics

National Labor Relations Act (NLRA), National Labor Relations Board (NLRB), Dues