



STATE OF IDAHO

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October 26, 1989

THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE  
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE

Reid G. LaBeck  
315 East 4th North  
St. Anthony, Idaho 83445

RE: Right-to-Work Complaint

Dear Mr. LaBeck:

Thank you for speaking with me on the telephone last week concerning the labor agreement between the Idaho Stud Mill and Western Council Industrial Workers No. 1117. Specifically, you have asked whether the agreement's recognition of the union as the sole collective bargaining agent for union as well as non-union employees violates Idaho's right-to-work law, Idaho Code §§ 44-2001 through 44-2011.

Generally, the field of labor relations has been preempted by federal law under the National Labor Relations Act (NLRA), 29 U.S.C. §§ 141-187. Section 14(b) of the NLRA, 29 U.S.C. § 164(b), provides an exception to federal preemption by allowing states to pass "right-to-work" laws prohibiting agreements requiring union membership as a condition of employment. Unless you are subject to a labor agreement requiring you to join a union or pay equivalent membership fees as a condition of your employment at the Idaho Stud Mill, your complaint is governed by the NLRA rather than Idaho's right-to-work law.

The NLRA expressly permits a majority of employees in a bargaining unit to elect a union to serve as their collective bargaining agent. 29 U.S.C. § 159. As explained in Cox v. C. H.

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Masland & Sons, Inc., 607 F.2d 138, 141 (5th Cir. 1978), a collective bargaining agent, once elected, represents all employees, including non-union employees, within the unit and is their exclusive bargaining agent. Because collective bargaining precludes individual employees from bargaining on their own behalf, the union has a duty to fairly represent all of the employees in the bargaining unit in negotiating and enforcing the terms of a labor agreement. Id.

The National Labor Relations Board possesses exclusive jurisdiction over disputes arising under the NLRA. If you feel that the union was not properly elected, or that it has not fulfilled its duties to fairly represent all the employees within the bargaining unit as required by the NLRA, you should direct your complaint to the United States Department of Labor.

I hope I have been able to provide you with some assistance. Please feel free to contact me if you have any other questions.

Sincerely,

ERIC E. NELSON  
Deputy Attorney General  
Local Government and  
Legislative Affairs