BNA, INC.

Collective Bargaining Bulletin

A REVIEW OF CONTRACT NEGOTIATION AND ADMINISTRATION

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Illinois Employees OK Four-Year Contract Boosting Pay But Requiring Pension Payments

Illinois state employees represented by the American Federation of State, County and Municipal Employees ratified a four-year contract providing 17 percent wage increases for most of the 37,000 covered employees, despite the state's precarious financial condition, the union announced July 1.

However, in return for those pay increases, employees agreed to forgo a general wage increase during the first year and make their own pension contributions equivalent to 4 percent of annual earnings. Illinois had been making those contributions for the last 12 years.

''If the administration wanted employees to resume pension payments, the committee insisted that employees receive an equivalent 'extra' salary increase, over and above the new base salary increases in the tentative agreement,'' the union said. ''That is what management agreed to do in the end.''

The contract specifically calls for most state employees to pick up their pension contributions in two increments of 2 percent each. The first stage takes effect Jan. 1, 2005, and the second Jan. 1, 2006. Wages increase 2 percent Jan. 1, 2005 (to offset the pension payment), 2 percent July 1, 2005, 3 percent Jan. 1, 2006 (including a 2 percent pension offset), 3 percent July 1, 2006, 1 percent Jan. 1, 2007, 3 percent July 1, 2007, and 3 percent Jan. 1, 2008.

State employees covered by an ''alternative'' pension formula, including law enforcement and corrections personnel, will receive an 18.5 percent wage increase over four years to reflect their 5.5 percent pension contribution that traditionally has been made on their behalf.

To help offset health care costs that are climbing at a rate of 15 percent each year and prescription drug costs that are climbing at a rate of 18 percent, state employees will pay a larger portion of monthly premium costs and have higher copays for office visits and prescription drugs.

Other provisions expand paid paternal leave to four weeks, broaden family leave, and improve flex-time scheduling provisions, the union said.

Employer-Paid Health Care Maintained Under UFCW Contracts With Grocery Chains

The United Food and Commercial Workers negotiated maintenance of employer-paid health care in new contracts covering about 14,000 employees at grocery stores throughout Arizona and 5,300 workers at 36 stores in Pennsylvania and West Virginia.

UFCW members June 24 ratified two separate but identical 52-month contracts with Safeway Inc. and Fry's Food & Drug Stores, which operate hundreds of stores in Arizona.

Under the new agreements, employees will pay no health insurance premiums provided they work at least 20 hours per week. However, a pay increase of 25 cents per hour for top-scale workers due in November 2007 may be diverted to health insurance if needed to maintain benefits.

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In addition to the 25-cent increase, workers at the top of the scale receive a ratification bonus of 30 cents per hour worked from Oct. 26, 2003, when the prior contract expired, to June 19, and annual bonuses in June 2005 and June 2006. Top hourly pay now is $14.97 for food clerks and $18.29 for meatcutters.

Top-scale courtesy clerks will receive a 25-cent-an-hour raise, to $12.30 an hour, after working 780 hours following ratification, and a second 25-cent raise after a second 780 hours. The ratification bonus for clerks is 15 cents for hours worked from Oct. 26, 2003, to June 19.

Meanwhile, UFCW members at Giant Eagle stores in Pennsylvania and West Virginia June 27-28 ratified two three-year contracts that preserve one health insurance plan option that does not require employees to pay any premium. Under a second, point-of-service plan, employees now have to pay 10 percent of premium costs, which UFCW said amounts to about $62 per month for family coverage.

In return for maintaining the no-premium health insurance option, the union agreed to permit outside salespersons to handle setting up certain displays in the supermarkets.

Under the agreement covering about 1,100 employees in the meat and deli unit, those who retire with more than 30 years of service will continue to receive fully employer-paid health insurance, those with between 20 years' and 30 years' service pay 10 percent of premiums, workers with between 12 years' and 20 years' service will pay 20 percent, and those with less than 12 years' service will pay 25 percent. The contract covering 4,200 clerks does not provide retiree health coverage.

Wages increase $1.10 per hour over contract term, but progression lengthens from 36 months to 48 months for new hires.

Saturn Agreement Paves Way For Production of Other Cars

Members of the United Auto Workers June 25 ratified a local agreement with Saturn Corp. that paves the way for the assembly of other General Motors vehicles at Saturn facilities in Spring Hill, Tenn. The agreement covers approximately 6,000 employees.

Saturn, a GM subsidiary formed in 1985, traditionally had a labor agreement with UAW that was distinct from the contract covering other GM workers. However, in December 2003, UAW members at Saturn facilities ratified a four-year contract that set wage and benefit levels identical to those in the September 2003 contract covering other UAW-represented workers throughout GM (8 COBB 152, 12/25/03; 8 COBB 115, 10/2/03). As part of that agreement, GM agreed to invest $90 million in the Spring Hill assembly facility, and the parties pledged to undertake efforts to transition into the UAW-GM national contract during 2004.

With Saturn moving under the national GM-UAW labor contract, the Spring Hill facility can produce any GM vehicle, ''which enhances job security,'' Saturn told BNA.

The local agreement also brings UAW-represented workers in Spring Hill under the national contract's provisions regarding layoffs. The national agreement permits layoffs—although not plant closures unless otherwise specified—and provides for severance benefits that, when added to unemployment compensation, replace most of a laid-off worker's previous salary. The previous Saturn agreement had a no-layoff provision, but included an exception in the case of a ''catastrophic event.''

Missouri Electricians Negotiate Pay Hikes, Work Rule Changes

Wage-benefit package increases and several work rule changes are included in a three-year contract between the International Brotherhood of Electrical Workers and the National Electrical Contractors Association that was ratified June 29.

The agreement, which covers about 3,000 workers and 143 union contractors in a 25-county area of eastern Missouri, provides journeymen electricians with over-term wage increases of $1.45 per hour and boosts employer contributions to the health-welfare fund by a total $1.98 per hour, raising the overall wage-benefit package from $47.03 to $51.16 per hour.

Work rule changes include the phase-out of a worksharing program, which will be replaced by a supplemental unemployment benefit plan June 1, 2006. The worksharing program required time-off for all electricians when journeyman unemployment exceeded 10 percent of the workforce over an extended period of time to keep the burden of unemployment from being borne by just a limited number of union members. Contractors and customers had complained that the program raised costs and lowered productivity.

Other work-rules changes include a change in the standard workday from seven and a half hours to eight hours, reduction of overtime pay to time-and-a-half from double-time, and greater flexibility for contractors in making overtime assignments and establishing work-shift schedules.

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Facts & Figures

First-Year Wage Hike of 3.4 Percent Reported in First-Half 2004

The all-settlements average first-year wage increase under contracts negotiated in the first half of 2004 was 3.4 percent, the same as that reported in the first half of 2003. The second- and third-year average increases in agreements reported in the first half of 2004 were 4.2 percent and 3.2 percent, respectively, compared with second- and third-year increases of 3.4 percent and 3.5 percent, respectively, reported in the first half of 2003.

The first-year median increase in agreements reported in the first half of 2004 was 3 percent, compared with 3.1 percent reported in first-half 2003. Second- and third-year median increases in agreements reported in the first six months of 2004 each were 3 percent, the same increases reported in the corresponding period a year ago.

The first-year weighted average increase in agreements reported to date in 2004 was 2.5 percent, the same increase negotiated in first-half 2003. Second- and third-year weighted average increases in agreements reported in the first six months of 2004 each were 2.7 percent, compared with second- and third-year increases of 2.9 percent and 3.3 percent, respectively, reported in the year-ago period.

The analysis was based on a database of 394 agreements covering more than 540,000 workers reported in CBNC's Table of Contract Settlements (tab 19) during the first half of 2004. Not included in tabulations of averages, medians, and weighted averages were wage increases of unspecified amounts and cost-of-living adjustments.

Fifty-two percent of contracts reported to date in 2004 called for first-year raises in the more than 2 percent to 4 percent range, 24 percent called for increases of more than 4 percent, 13 percent called for increases of up to 2 percent, and 12 percent called for a wage freeze.

The manufacturing average first-year increase in contracts reported in the first half of 2004 was 2.7 percent, compared with 2.4 percent in first-half 2003, and the median increase was 2.6 percent, the same increase reported in the first half of 2003.

The nonmanufacturing (excluding construction) average first-year increase in first-half 2004 was 4.2 percent, compared with 4.1 percent in the year-ago period, and the median increase was 3.1 percent, compared with 3.6 percent.

Construction contracts reported in first-half 2004 showed an average first-year gain of 3.4 percent and a median first-year increase of 3.2 percent, compared with an average increase of 2.8 percent and a median of 2.9 percent negotiated in the first half of 2003.

State and local government contracts reported in the first six months of 2004 provided an average first-year increase of 2.8 percent, compared with 3.2 percent in first-half 2003, and a median of 3 percent, the same as that reported a year ago.

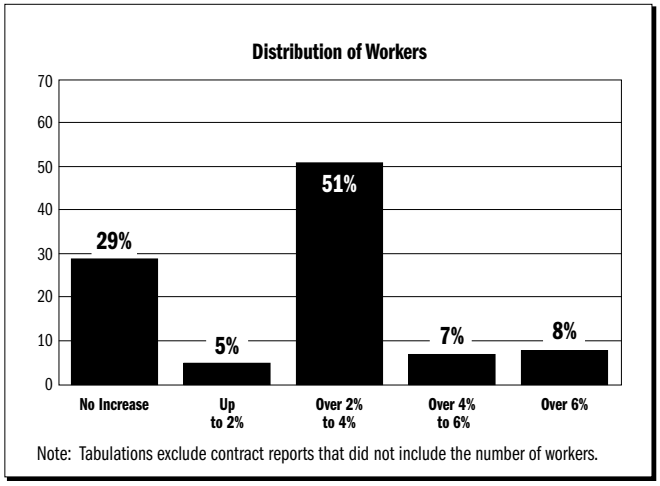
Lump-sum payment provisions were found in 13 percent of contracts reported in first-half 2004, compared with 10 percent reported in the first half of 2003 and 13 percent reported in the first six months of 2002. The all-settlements average first-year increase with lump-sum factoring was 3.7 percent in first-half 2004, the same increase reported in the first six months of 2003. The median increase

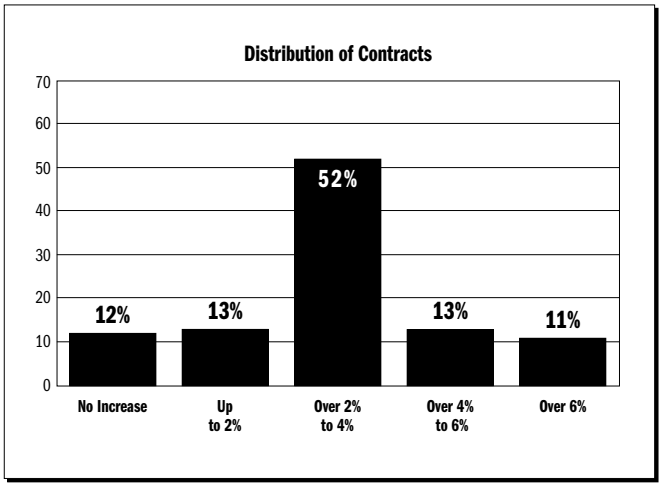
FIRST-YEAR WAGE INCREASES IN PERCENT—FIRST HALF OF 2004 AND 2003

	All Settlements			All except Construction/Govt.			Manufacturing			Nonmfg. except Construction			Construction			State/Local Government		
	Wgt. Avg.	Avg.	Median	Wgt. Avg.	Avg.	Median	Wgt. Avg.	Avg.	Median	Wgt. Avg.	Avg.	Median	Wgt. Avg.	Avg.	Median	Wgt. Avg.	Avg.	Median
Without lump sums:																		
2004 Year to Date	2.5	3.4	3.0	2.4	3.7	3.0	2.0	2.7	2.6	2.5	4.2	3.1	3.9	3.4	3.2	2.1	2.8	3.0
First Quarter	1.8	3.4	3.1	1.5	3.6	3.1	1.7	2.5	2.4	1.5	4.0	3.4	2.9	3.4	3.2	2.3	3.2	3.0
Second Quarter	3.4	3.4	3.0	3.4	3.7	3.0	2.1	2.7	2.7	4.0	4.2	3.1	4.5	3.4	3.2	1.4	2.4	2.5
2003 Year to Date	2.5	3.4	3.1	2.5	3.5	3.1	3.3	2.4	2.6	2.4	4.1	3.6	1.8	2.8	2.9	2.8	3.2	3.0
First Quarter	2.4	3.4	3.1	1.8	3.3	3.0	4.6	1.8	2.4	1.4	3.9	3.5	3.4	3.4	4.1	3.2	3.5	3.5
Second Quarter	2.7	3.4	3.1	3.0	3.7	3.3	2.8	2.8	3.0	3.1	4.3	3.9	1.7	2.7	2.8	1.7	3.0	3.0
With lump sums:																		
2004 Year to Date	3.1	3.7	3.1	3.2	4.1	3.2	4.7	3.6	3.0	2.8	4.4	3.4	3.9	3.4	3.2	2.1	2.8	3.0
First Quarter	2.4	3.8	3.3	2.3	4.0	3.4	4.2	3.5	3.1	2.0	4.3	3.5	2.9	3.4	3.2	2.3	3.2	3.0
Second quarter	4.1	3.7	3.0	4.4	4.1	3.1	5.0	3.6	2.9	4.1	4.4	3.2	4.5	3.4	3.2	1.4	2.4	2.5
2003 Year to Date	2.7	3.7	3.2	2.9	4.0	3.4	5.1	3.6	3.0	2.4	4.2	3.6	1.8	2.8	2.9	2.8	3.2	3.0
First Quarter	2.4	3.4	3.1	1.8	3.4	3.0	4.6	2.0	2.4	2.4	3.9	3.5	3.4	3.4	4.1	3.2	3.5	3.5
Second Quarter	3.1	3.8	3.4	3.6	4.5	3.7	5.3	4.6	3.5	3.1	4.4	3.9	1.7	2.7	2.8	1.7	3.0	3.0

NOTE: The statistical summary above is subject to revision as more information becomes available. The summary does not include automatic increases effective after 12 months (designated as deferred increases) or cost-of-living adjustments. Portions of construction wage increases may be diverted to benefits.

First-Year Wage Settlements—First-Half 2004





Source: BNA PLUS® Database
Note: Sums may not add to 100 percent due to rounding.

A BNA Graphic/cbn414g1

with lump-sum factoring in all settlements reported in first-half 2004 was 3.1 percent, compared with 3.2 percent in the year-ago period.

Benefit changes were detailed in 221 contracts, or 56 percent of settlements reported in first-half 2004. Most often mentioned was insurance, found in 77 percent of contracts itemizing changes.

Of 171 contracts specifying insurance changes, the most frequently modified benefits were life insurance (12 percent), prescription drug insurance (8 percent), and dental insurance and sickness and accident insurance (each 6 percent). Forty-two contracts contained measures to control health care costs.

Pension plans were altered in 92 contracts reported in first-half 2004. In 16 contracts specifying increases, monthly payments by end of term were to average $47.80 per year of service. Increases in monthly benefits over term were to average $5.80 per year of service under 15 contracts specifying amounts.

New or revised 401(k) plans were called for in 6 percent of contracts reported in the first half of 2004, the same percentage reported in the comparable period a year ago.

Duration of settlements reported to date in 2004 broke down as follows: terms of more than three years, 33 percent; three-year terms, 51 percent; two-year terms, 11 percent; and terms of one year or less, 5 percent. Seven agreements extended the contract term by an additional time ranging from one year to five years.

FIRST-YEAR WAGE INCREASES AND REVISED BENEFITS[1] BY REGION—FIRST HALF OF 2004

	Middle Atlantic	Midwest	New England	North Central	Rocky Mountain	Southeast	South-west	West	Multi-state
Total contracts[2]	92	29	41	85	9	44	20	50	24
First-year increase (wgt avg)	3.2%	2.9%	3.9%	2.0%	2.7%	5.0%	1.1%	1.5%	1.5%
First-year increase (avg)	3.9%	3.0%	3.6%	2.9%	1.2%	3.7%	3.1%	4.4%	2.4%
First-year increase (median)	3.4%	2.8%	3.0%	3.0%	0.5%	3.0%	3.0%	3.1%	2.3%
Deferred increase	87	28	36	81	6	42	16	47	24
Cost-of-living clauses	—	—	1	1	—	—	1	1	1
Vacations	12	3	4	9	—	3	1	7	1
Holidays	3	1	2	8	—	6	5	8	2
Pension plans	22	9	12	18	1	10	5	13	8
Insurance	47	14	22	45	3	23	8	21	14

[1] Figures pertain to new or revised benefits implemented over the term of the contract.
[2] Includes some contracts carrying wage increases of unspecified amounts, which are not included in tabulations of weighted averages, averages, or medians.

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Legal Developments

Amtrak Unions' Attempt to Call One-Day Protest Strike Is Halted

Unions representing Amtrak employees are barred from staging a one-day strike to protest congressional funding because the action would violate the Railway Labor Act, the U.S. Court of Appeals for the District of Columbia Circuit ruled July 2 (*National R.R. Pass. Corp. v. Transport Workers Union*, D.C. Cir., No. 03-7185, 7/2/04).

The five unions announced last September that they wanted to stage a ''political protest'' to Congress and the Bush administration about what they called lack of adequate funding for Amtrak. The unions later agreed to postpone the strike until a district court ruled on Amtrak's request for an injunction to prevent the action.

Reversing the lower court, the D.C. Circuit found that a one-day strike by the unions would be focused on a core issue in their disputes over collective bargaining agreements and therefore they were required to exhaust their remedies under the RLA before calling a strike.

''[T]here can be no doubt the planned strike over the level of the congressional appropriation for Amtrak 'grow[s] out of' the dispute over pay and working conditions presently in negotiation or mediation between Amtrak and the unions,'' the court said. ''Because the proposed strike grows out of a major dispute concerning rates of pay and working conditions, the parties must exhaust the procedures of the RLA before either may resort to self-help such as a strike.''

The appeals court also found that the proposed strike created problems because any economic action on a nonmandatory subject of bargaining is unlawful. Although the unions may believe that a strike is designed to influence policy, the ramifications of the strike on Amtrak would be economic and therefore the action is barred under the law, the court said.

''Call it a political protest rather than a strike; no matter,'' the court said. ''When the RLA prohibits a strike it also prohibits any union tactic 'which has the consequences of a strike' '' the court added, citing *Air Line Pilots Ass'n v. United Air Lines Inc.*, 802 F.2d 886 (7th Cir. 1986).

Salary 'Bump-Up' Plan Violated ADEA by Excluding Some Workers

A contract that allowed teachers who met certain age and service requirements to elect between retiring early and receiving a $20,000 payment or continuing to work in exchange for a ''bump up'' in their salary for three years violated the Age Discrimination in Employment Act, the U.S. Court of Appeals for the Second Circuit ruled July 1 (*Abrahamson v. Board of Educ. of the Wappingers Falls Cent. Sch. Dist.*, 2d Cir., No. 02-7841(L), 7/1/04).

A 1998 contract contained an elective program, referred to by the court as ''Option 1,'' that allowed tenured teachers who had at least 15 years of service with the school district and 35 years in the New York State Teachers' Retirement System to receive a $20,000 ''termination bonus.''

A 2001 contract permitted tenured teachers who met certain age and service requirements to choose between a $20,000 termination bonus or a salary ''bump up'' of $7,000 per year for up to three years. The new program, which the court referred to as ''Option 2,'' stated that teachers who were eligible but did not accept the $20,000 termination bonus under Option 1 were excluded from participating in the bump-up option.

Teachers who were eligible for the termination bonus under Option 1, but who declined to take the bonus, filed a lawsuit alleging Option 2 violated ADEA. The teachers alleged that by not making the bump-up option available to them, the district and the union discriminated against them because of their age.

The appeals court agreed with a district court that Option 2 violated ADEA because it was based solely on a teacher's age rather than on his or her years of service. In so ruling, the appeals court agreed with the teachers that their exclusion from Option 2 was an adverse employment action in violation of ADEA because it excluded them based on their age.

Although Option 2 did require 35 years of service per its provision requiring teachers to be eligible for a service pension under NYSTRS, it was ''extremely unlikely'' that a teacher who had not reached age 55 would have accumulated 35 years of service, the court said.

News in Brief

CWA Members Ratify SBC Accord

Members of the Communications Workers of America have ratified a five-year agreement covering about 102,000 workers at SBC Communications Inc., CWA announced July 1. Four nearly identical contracts provide wage increases totaling 11.5 percent, maintain employer-paid health care premiums for employees and retirees, grant employees new access to jobs in growth areas of the telecommunications industry, and ensure protection from layoff (9 COBB 61, 5/27/04). Meanwhile, the International Brotherhood of Electrical Workers June 27 reached a tentative five-year agreement for about 11,300 SBC employees in Illinois and Northwest Indiana that would closely track the CWA accord.

ATA Pilots Amend Contract

Members of the Air Line Pilots Association at ATA Airlines have ratified changes to their contract that will freeze pay levels for 1,150 pilots for two years and save the carrier approximately $43 million over the next two years, the parties said. The contract, which was to have become amendable July 1, 2006, and has been extended by one year, defers pay raises scheduled to take effect July 1 and July 1, 2005, but calls for a small raise on July 1, 2006, and a 4.5 percent raise July 1, 2007. A new pay scale for pilots who fly smaller 110-seat jets that the Indianapolis, Ind.-based airline is considering buying also is established. The changes are ''something that will pay numerous dividends when our airline again becomes profitable,'' ALPA said.

Compensation Up 1.6 Percent

Total employee compensation paid by private sector employers rose 1.6 percent in the first quarter of 2004 to an average of $23.29 per hour, as the cost of benefits increased at a faster pace than wages, according to figures released June 24 by the Bureau of Labor Statistics. The cost of benefits rose 12 cents, or 3.4 percent, to $6.65 per hour in private industry, while wages and salaries increased 0.9 percent, going from $16.49 per hour in the fourth quarter of 2003 to $16.64 in the first quarter of 2004. The report is available at http://www.bls.gov/news.release/pdf/ecec.pdf.

Conference Report

SEIU's Stern Outlines Plan to Change Labor Movement

Declaring that his union cannot build a stronger, nationwide labor movement on its own, Andrew Stern, president of the Service Employees International Union, described changes in the structure of AFL-CIO that he believes are needed.

Addressing delegates to SEIU's international convention held in San Francisco June 21–23, Stern said AFL-CIO, formed through the merger of separate labor federations 50 years ago, has not changed to meet the challenges of the 21st century.

The labor movement today should have one united strategy—not 65 individual unions' strategies—on how to build industry, national, global, community, and political strength, Stern said. Unions should be large enough to organize and bargain for employees in a specific industry or an industrial sector. Also, unions should pool their resources in organizing efforts and should all follow the same standards, he said.

''We cannot possibly build effective strategies to take on industries and help members in a loose AFL-CIO structure that cannot produce a joint plan to unite workers' strength in each industry and sector, build workers strength in the largely unorganized South and Southwest, work with unions in other countries that deal with the same employers and industries, or win on important goals like affordable health care,'' Stern said.

Discussion on Change Needed

After his speech, Stern told BNA that he has a set of principles in mind for changing the labor movement, but said there needs to be a discussion after the presidential election before there is any decision on changes. Different people might have different problems or solutions, so discussion needs to take place.

Stern said that he and other union leaders are seeking changes because labor's numbers are getting so small; ''people understand the consequences of not doing anything.''

Five union presidents have formed the New Unity Partnership to seek changes in AFL-CIO. They are Stern; Bruce Raynor, president of UNITE; John Wilhelm, president of the Hotel Employees and Restaurant Employees; Terrance O'Sullivan, president of the Laborers' International Union; and Douglas McCarran, president of the Carpenters and Joiners of America.

NUP will continue pushing for dramatic changes in AFL-CIO's structure, culture, and priorities at the federation's convention in July 2005, Stern said. If that fails to work, he and other like-minded union leaders will ''build something new that gives workers a fighting chance to unite our strength and win.''

Union Numbers in Decline

In laying out his case for change, Stern said the percentage of the union-represented workforce has fallen to 13 percent from 32 percent in 1956. In the private sector, union membership is below 9 percent. As a result of declining membership, workers have lost the bargaining power needed to win higher wages and benefits, he said. Also, a changing economy is fueling job growth in industries such as retail, services, and health care, but union strength is declining in those industries.

Citing problems he sees in the existing structure of AFL-CIO, Stern said one union can negotiate lower pay and benefits than another union that represents workers in the same industry or the same occupation because there is no requirement for coordination between unions to negotiate similar pay and benefit structures.

Unions that traditionally have organized in one or two industries now are organizing in multiple industries and eventually there will be about half a dozen generalized unions with no industry focus and no strength to bargain for workers, he said.

In addition, numerous unions are competing with each other for workers in particular industries, Stern said. For instance, 15 unions represent workers in transportation and construction, while six unions represent health care workers.

Stern also told delegates that the 55 smallest unions in the federation have an average membership of 50,000 members each and do not have the resources or the strength to effectively organize and bargain for the workers they represent.

Other Initiatives Approved

In other convention action, major initiatives designed to strengthen working families in the global economy were adopted.

Delegates approved a plan for SEIU to become a global union by forming partnerships with unions in other countries in order to win global agreements with multinational corporations.

In presenting the proposal, Executive Vice President Eliseo Medina said SEIU plans, for example, to join forces with UNITE, HERE, and unions overseas to organize employees of multiservice outsourcing companies such as Sodexho, based in France and operating in 76 countries; Compass, based in Britain and operating in 90 countries; and Aramark, based in the United States and operating in 19 countries.

Delegates also approved a plan to contribute $1 million in startup money to create a movement that can ''reverse the decline in living and working standards being led by nonunion service companies in what many call today's 'Wal-Mart' economy.'' Stern told BNA that the union is trying to help organize activists concerned about Wal-Mart into a network composed of the United Food and Commercial Workers, which is trying to organize the chain; environmental groups, which are challenging the chain's environmental practices; and individuals who have filed lawsuits challenging Wal-Mart employment practices.

The union will launch an Internet-based effort to reach nonunion workers who share interests in social and economic issues. Under the program, the union will recruit people who are not covered by an SEIU contract to become members and pay a nominal annual membership fee.

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