

LABOR LEP EDUCATION PROGRAM

"What does labor want?...We want more school houses and less jails, more books and less guns, more learning and less vice, more leisure and less greed, more justice and less revenge.....we want more opportunities to cultivate our better nature."

Sam Gompers, President, AFL (Served all but one year from 1886-1924)

LABORLINE NEWSLETTER

INSTITUTE FOR ECONOMIC ADVANCEMENT

2001-2002 SPECIAL TOPIC SEMINARS

FALL & WINTER

Arbitration:

Preparation & Presentation *

October 10 -12, 2001

Using the Law to Strengthen Workers' Rights *

December 13 and 14, 2001

*Registration form enclosed

Presidents' School

January 25 and 26, 2002

SPRING

(Dates to be announced)

Creating a Local Union Website

Workplace Safety and Health

All union members are invited. All seminars are presented in cooperation with the Arkansas AFL-CIO and are held in the Little Rock area. Details of upcoming seminars will be mailed with the next newsletter.

From the Director



Organizing in Arkansas. Unions in Arkansas continue to face serious challenges in organizing and obtaining a first contract. As of this writing, the nurses at St. Vincent in the Little Rock metropolitan area, organized by OPEIU, will soon be voting on a hard fought first contract. The union has accused

the hospital of not negotiating in good faith, and the contract has not been recommended by the negotiating committee. A similar struggle continues at Salmon Brothers (organized last year by the American Postal Workers Union), a private company whose drivers haul mail for the Postal Service. Both unions have been assisted by a coalition of religious and union leaders, the Inter-faith Alliance for Worker Justice, which has urged the management of both companies to bargain fairly. After winning an election in April of last year, the USWA has been trying to negotiate a first contract with Wheatland Tube in Little Rock. Lack of progress led to a recent decertification election, but the union won and negotiations continue.

Building trades unions have scored significant organizing successes. Maintenance workers at Kimberly Clark in Conway recently voted to be represented by the Carpenters union, and six statewide contractors have become union contractors in the past year. The IBEW has also grown substantially, with Jonesboro Local 1516 tripling its membership since the early 1990s and Local 295 in Little Rock growing 10% over the past three years. The Painters have grown from less than 20 members three years ago to over 200 members today. Membership in the Ironworkers has nearly doubled in the last two years.

Hispanic Workers. Arkansas leads the nation in growth in its Hispanic population. In recognition of this trend, a resolution was passed at this year's AR AFL-CIO convention encouraging LEP to develop educational programs for the immigrant community. LEP has applied for an OSHA grant to provide training in basic OSHA rights and safety HAZARDS for workers in the poultry processing industry, which employs many Spanish-speaking immigrants and migrants.

In addition, LEP's Workplace Skills Enhancement Program has begun a training project for Hispanic workers at Quality Foods. The employees are learning English as a Second Language with a focus on work-related vocabulary as well as improving daily life skills such as shopping, accessing community services, and explaining medical problems.

- Diane Thomas-Holladay, Director, LEP

Steward's Corner

The 6 Grounds for a Grievance

One of the most difficult jobs a steward faces is deciding whether a particular complaint is grievable. The job of screening grievances from gripes becomes much easier if you have a thorough understanding of what constitutes a grievance in your workplace. Generally a grievance exists if there is a violation of one or more of the following:

1. The collective bargaining agreement, including memorandums of understanding or letters of agreement. The contract is the first place to look when considering whether a grievance exists. Contract violations are probably the easiest grievances to settle, especially when the contract language is clear and the facts of the case are not in dispute.

2. The law (municipal, state and/or federal laws.) Many contracts incorporate state and federal laws. Common clauses are those outlawing discrimination on the basis of sex, race, religion, disabilities, or union activity. Violation of the Civil Rights Act, the Americans with Disabilities Act, the National Labor Relations Act, and the Occupational Safety and Health Act are grievable if the contract forbids such discrimination. Other examples are the Fair Labor Standards Act, the Family and Medical Leave Act and the Age Discrimination in Employment Act. Most unions prefer to use the grievance procedure and courts often require the union to exhaust the grievance procedure before going to court. Nothing precludes the union from filing a grievance and a charge with the NLRB, EEOC, or OSHA simultaneously.

3. Management's rules, policies, or regulations. Under many collective bargaining agreements management has the right to unilaterally issue rules. The union has the right to grieve rules based upon their reasonableness. Management must also enforce rules evenhandedly and abide by them when dealing with those covered by the rules. This also includes regulations that apply to public sector employees.

4. Past practice. Violations of long standing workplace practices that are accepted by both parties are legitimate grounds for a grievance even if the practices are not referred to in the contract. To qualify as a past practice, conduct must be clear and consistent, long standing and repeated, and mutually accepted by labor and management.

5. Management's responsibilities. Though the management rights clause in most contracts reserves many areas to management's discretion, it also confers certain responsibilities. For example, by reserving the right to determine methods and processes of production, management can be held responsible for the proper functioning of the equipment and machinery, particularly if workers are on piece rate or if their health and safety is jeopardized by malfunctioning equipment.

6. Just cause. The vast majority of contracts stipulate that "just cause" must exist for the issuance of discipline or discharge. Although "just cause" is rarely defined in the contract, most arbitrators require that management meet the *seven tests of just cause* standard (see Spring 2001 LABORLINE) to insure discipline was issued fairly.

LEP courses and services can be found on the LEP web site at: <http://www.aiea.ualr.edu/lep/default.html>

Labor Education Program

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Diane Thomas-Holladay

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Safety And Health Update



Members of IBEW L. 733 identify hazards they face in ship building.

IBEW L. 733, out of Pascagoula, Mississippi, renewed its long-time partnership with LEP this year. Along with the New Orleans Metal Trades Council, Local 733 sponsored the first steward training class for workers at the newly organized Avondale Shipyard. Members also enjoyed workplace safety and health classes developed by the George Meany Center in both New Orleans and Pascagoula.

The new OSHA Ergonomics Standard, which took effect this past January, was repealed through an unprecedented Resolution of Disapproval passed by Congress and signed by President Bush in March. Senators Nickles (R-OK.), Enzi (R-Wyo.) and Hutchinson (R-AR.) introduced the legislation that killed the standard. The proposed regulations were intended to reduce the number of crippling musculoskeletal disorders suffered by workers and provide guaranteed ergonomic safeguards.

Average 401(k) Earnings Dip in 2000

Unions facing employer proposals to exchange traditional "defined benefit" pensions for 401(k) investment plans should consider a recent report issued by Cerulli Associates, a Boston and London-based firm providing financial and business development advice for major financial institutions. According to the report, the value of the average 401(k) account shrank from \$46,470 in 1999 to \$41,919 in 2000, with total losses of \$72 billion.

The report attributes this decline to several factors. As workers age or change jobs, more of them are cashing out their 401(k) monies, effectively reducing net contributions to such plans. Also, even though financial planners caution against it, many employees' 401(k) contributions are heavily weighted toward their own employer's stock. This lack of diversification can adversely affect a 401(k) account if the employer's stocks decline in value. These factors, when combined with the recent downturn of the stock market, may signal some lean times ahead for returns on 401(k) investments.

The Cerulli report also raises questions about recent proposals to change Social Security to allow workers to use a portion of their Social Security payroll taxes to create personal savings accounts since these accounts will expose even more retirement monies to the fluctuations of the stock market. To order the report visit www.cerulli.com or call 617-437-0084.

National Skills Standards in Manufacturing Announced

Announcements of layoffs and plant closures make frequent headlines in today's papers. Workers with years of seniority, many of whom are perceived as having very limited task specific skills, are faced with the prospect of having to start all over again. But workers may find help through a new national system for certifying their skills.

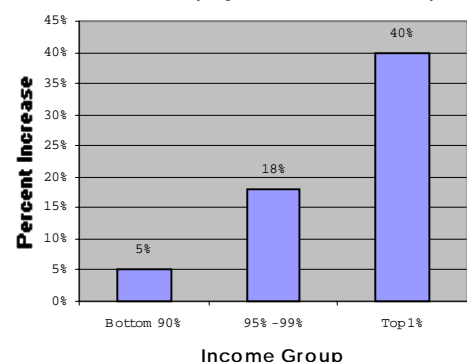
A national skill standards system for manufacturing has been developed by the Manufacturing Skill Standards Council (MSSC), a coalition of labor union, business, trade association, and educational organizations. The project, funded by the federal government, has identified:

- 1) core skills needed in all manufacturing jobs;
- 2) concentration skills necessary in broad occupational areas; and
- 3) specialty skills needed in specific manufacturing sectors.

The skill standards, designed to assess skills, develop training programs, and provide certification for employees, were drawn from the shop floor experience of workers, team leaders, and supervisors. It is hoped that the new system will make job skills more recognizable and portable, fostering greater employment security. For more information contact Dave Parks at 501-569-8483, or visit the MSSC website at www.msscusa.org

Common Sense Economics **FACTS**

After-Tax Income Growth from 1989 to 1998 (adjusted for inflation)



Source: IRS and Center on Budget and Policy Priorities

New IRS data indicate that the after-tax income of the wealthiest one percent of tax filers increased by \$69,000 in 1998 and has grown 40% since 1989. The after-tax income of the bottom ninety percent of tax payers grew by only 5% from 1989 1998.

RETURN SERVICE REQUESTED

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LEP LABORLINE

FALL 2001

REGISTRATION FORM ENCLOSED FOR THESE UPCOMING SEMINARS

October 10-12, 2001

Arbitration: Preparation and Presentation

Topics include:

- ® Case Preparation
- ® Case Presentation
- ® An Arbitration Simulation

December 13 & 14, 2001

Using the Law to Strengthen Worker Rights

Topics include:

- ® FMLA ® Arkansas Workers' Compensation
- ® ADA ® Civil Rights Act
- ® FLSA ® NLRA