

WebMemo



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Congress Should Block Union Transparency Rollback

James Sherk

The Obama Administration recently rolled back union financial transparency reforms. New regulations will exempt many union trust funds, such as strike funds and apprenticeship programs, from financial disclosure laws. These regulations also end financial reporting for many government unions.

Financial transparency deters wrongdoing and enables union members to hold their officers accountable. Despite promising the “most transparent administration in history,” the President has reduced transparency for labor unions. Congress should not let this happen. It should use its powers under the Congressional Review Act to protect transparency for union members.

Union Transparency Reforms. Congress passed the Labor-Management Reporting and Disclosure Act (LMRDA) in 1959 following hearings documenting links between labor unions and organized crime. The act requires unions to publicly disclose how they spend their members’ money. Congress believed that this would discourage malfeasance and enable union members to hold their leaders accountable.

Until recently, however, the act did little to achieve these goals. For four decades the Department of Labor (DOL) required only aggregated financial reports that provided no meaningful disclosure.

Union Trust Funds. Many unions operate trust funds for the benefit of their members, such as strike funds, training funds, credit unions, and apprenticeship programs. Until the end of the

Bush Administration, the government did not require most union trusts to disclose their finances. Only trusts wholly operated and funded by an individual union were required to file financial disclosure forms.¹

These standards exempted large numbers trusts. Trusts funded by employer contributions negotiated by a union did not need to disclose their spending—they were not considered wholly union funded. Neither did trusts operated jointly by several unions.

These loose standards enabled union officers to engage in questionable behavior without their members’ knowledge. For example:

- One credit union for union members was almost entirely financed (97 percent) by members of one labor local. The credit union’s directors were all officers or employees of the local. Over 60 percent of the credit union’s loans went to just four people, three of whom were officers of the local. However, because other locals contributed a small amount of the credit union’s funds, it was not required to disclose its finances.²
- Nepotism drained millions of dollars from a health and welfare fund operated by the Labor-

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ers' International Union of North America. The fund paid the son-in-law of a board member \$119,000 a year to manage a scholarship program that gave out \$28,000 a year. A daughter of that board member earned \$112,000 as a "confidential secretary" who checked voice mail messages. One year she checked just 109 messages—at a cost to union members of over \$1,000 per call.³

- In collective bargaining, the United Auto Workers negotiated the creation of trust funds to retrain laid-off autoworkers. Reporters found that these training funds sponsored NASCAR racers, hosted a "Hollywood Showcase" at the 2000 Democratic Convention, and put on lavish conventions in Las Vegas.⁴³¹²⁴

Government Union Disclosure. The LMRDA covers unions that represent private sector workers. Some government unions, such as the National Education Association, represent a small number of private sector workers (for example, teachers at a unionized private school). Their national headquarters must disclose their finances.

Previously the local chapters of these unions were not required to file. This allowed the national headquarters to sidestep disclosure by transferring money to locals without private sector members.

Chao Reforms: Transparency and Accountability. In 2003, the DOL under Secretary Elaine Chao instituted reforms to address these problems. She required all unions covered by the LMRDA to itemize their expenditures so their members could see exactly how their money was spent. She issued

regulations clarifying that local chapters of government unions must file these reports.

Chao also created a new T-1 reporting form requiring trusts to separately detail their finances. The new T-1 closed the loopholes that had previously allowed many trusts to escape scrutiny. Under the new rules any trust that received more than half of its funding from labor organizations—including multiple unions—or that had a majority of its members appointed by labor unions had to file. Contributions that unions negotiated with employers counted toward this funding threshold.

Union leaders did not welcome this new accountability. They fought the financial disclosure reforms in court, repeatedly filing suit to block their implementation. The courts ruled against union leaders in most cases, but the lawsuits bogged down the trust disclosure measures until after President Obama took office.

Obama Rolls Back Transparency. Barack Obama promised "the most transparent administration in history." However, his Department of Labor has steadily rolled back the union transparency measures. In the first days of his Administration, the DOL delayed implementing the T-1 reforms. On December 1 of this year, the DOL finalized regulations eliminating the T-1 form altogether and ending disclosure for local chapters of government unions.⁵ Under the new rules the loopholes that allowed many union trusts to avoid disclosure will return, and many government unions will once again be exempted from financial disclosure.

1. Specifically, only those trusts had to file that for "which the ownership is wholly vested in the reporting labor organization or its officers or its membership, which is governed or controlled by the officers, employees, or members of the reporting labor organization, and which is wholly financed by the reporting labor organization." See *Federal Register*, Vol. 75, No. 230 (December 1, 2010), p. 74939, at <http://www.federalregister.gov/articles/2010/12/01/2010-29226/rescission-of-form-t1-trust-annual-report-requiring-subsidiary-organization-reporting-on-the-form#citation-2> (December 16, 2010).
2. *Federal Register*, Vol. 73, No. 192 (October 2, 2008), p. 57415, at <http://www.federalregister.gov/articles/2008/10/02/E8-22853/labor-organization-annual-financial-reports-for-trusts-in-which-a-labor-organization-is-interested#p-29> (December 16, 2010).
3. Steven Greenhouse, "Laborers' Union Tries to Oust Officials of Benefits Funds," *The New York Times*, June 13, 2005, at <http://www.nytimes.com/2005/06/13/nyregion/13labor.html> (December 15, 2010).
4. Robert Hunter, Paul Kersey, and Shawn Miller, "The Michigan Union Accountability Act: A Step Toward Accountability and Democracy in Labor Organizations," Mackinac Center for Public Policy, December 2001, p. 12, at <http://www.mackinac.org/archives/2001/s2001-02.pdf> (December 15, 2010).

Congress Should Protect Union Transparency. Union members want this transparency: 89 percent of union members agree that unions should disclose their spending. In part this is because 66 percent of union members believe their leaders mostly look out for themselves.⁶ Transparency holds self-interested union officials accountable to the rank-and-file. Members of UFCW Local 7 in Colorado voted out their President after they learned he gave his children six-figure jobs on the union payroll.⁷

Congress already has the tools to prevent these reforms from being rolled back: The Congressional Review Act allows Congress to overturn newly issued federal regulations. Congress has only until early April to invoke this authority. Congress should force the President to publicly choose between union members and self-interested union leaders. Rank-and-file union members deserve to know where the President stands.

—*James Sherk* is Senior Policy Analyst in Labor Economics in the Center for Data Analysis at The Heritage Foundation.

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5. *Federal Register*, Vol. 75, No. 230 (December 1, 2010), p. 74936, at <http://www.federalregister.gov/articles/2010/12/01/2010-29226/rescission-of-form-t1-trust-annual-report-requiring-subsidiary-organization-reporting-on-the-form#p-3> (December 16, 2010).
 6. The Word Doctors, “Benchmark Study of Union Employee Election Year Attitudes,” October 2010, at <http://www.theworddoctors.com/docs/Benchmark%20Study%20of%20Union%20Employee%20Election%20Year%20Attitudes.pdf> (December 15, 2010).
 7. Andy Vuong, “Accused of Nepotism, Head of Food Workers Union Voted Out,” *Denver Post*, September 23, 2009, at http://www.denverpost.com/ci_13397820 (December 15, 2010).