

Hard-Fought Labor Pact Gets Green Light from School Board

5/26/2009

By Emily Alpert

The San Diego Unified school board decided Tuesday to tie work on its \$2.1 billion facilities bond to a project labor agreement, a controversial step that will shape how workers and apprentices are hired to fix and renovate schools. It will require employers to provide healthcare largely through union plans, sets steep goals for local hiring, and gives apprentices from union programs the first shot at jobs to build their skills.

Project labor agreements typically involve a tit-for-tat in which the school district or other agency sets rules on bidding, such as hiring workers through the union halls, in exchange for the unions' promise not to strike or stall work.

In the four months since the school board voted to explore such a pact over Proposition S, it exploded into a bitter dispute between construction companies and unions -- two of the most muscular players in local politics -- divided the citizens charged with overseeing the bond, and put the new school board majority in the crosshairs of sharp editorials, mailers and radio ads.

"I'm not going to be intimidated into not doing the right thing," school board member Richard Barrera, who voted for the plan, said of the campaign against the labor agreement to the cheers and applause of an auditorium packed with union workers sporting orange stickers reading "Not Just a Job But a Career." The decision passed narrowly with Barrera, John Lee Evans and Shelia Jackson in support and school board members John de Beck and Katherine Nakamura in opposition.

Opponents hinted that their work was not done. "This is probably the worst (agreement) that I've ever seen and the most discriminatory," said Eric Christen, who led the campaign against the agreement. He added, "The good news for the public is that we do live in a democratic republic" and they could vote against school board members in the next election. Others said their companies would not bid on the bond.

Construction companies donated heavily to help pass the facilities bond last November while a push from the teachers union helped reshape the school board, now tilted towards labor. Some donors said they would not have helped push the bond if they knew a project labor agreement was in the works. Its foes kicked off a campaign through billboards and radio advertisements, arguing that the pact was unfair and could be costly, while proponents plugged it as a way to guarantee that employees get healthcare, avoid work stoppages, and ensure that local workers were hired to revamp local schools.

"This is truly a mini stimulus package for the city of San Diego," said Tom Lemmon, business manager for the coalition of unions that negotiated the agreement. "We're going to expect that when the citizens of San Diego put bond money on the table, they're going to get a lot out of it."

The agreement was first aired Friday afternoon after being hashed out behind closed doors this spring. It sets ambitious goals for local hiring, pushing for 100 percent of workers to come from San Diego County and 70 percent to live in the school district. San Diego Unified can also add requirements to hire workers from specific zip codes, though the agreement does not specify which zip codes would be used or how they would be selected. Several sources familiar with construction consulted by voiceofsandiego.org said the goals were strikingly high compared with other such agreements across the state.

It requires construction companies and subcontractors to use union hiring halls to find their workers, with the exception of three “core employees” of their own. Work crews typically range between seven to 10 employees for every \$1 million of work, and the average project costs \$9 million, according to Stuart Markey, the San Diego Unified director who is overseeing the bond. Contractors must also provide healthcare and other benefits for employees through the unions, unless they convince the school district that their own benefit plans are as good or better, in which case they can use their own plans for their core employees. And all builders must adhere to the work rules set by the unions for each trade.

“Someone in your office is going to need to understand between 1,500-2,000 pages of labor contract,” wrote Jim Ryan, executive vice president of the local chapter of the Associated General Contractors, in an e-mail to his members. His claim depends on an estimate of the length of a typical contract and the number of contracts that each bidder would need to sign onto. “That should encourage contractors to bid!”

The labor agreement applies to projects that cost \$1 million or more, covering the majority of projects planned in the next four years, and will kick into effect 90 days after all the unions involved have signed it. Several projects have already gone forward without the agreement, and no such agreement was adopted under the last bond, Proposition MM.

“I didn’t see substandard working conditions on those projects,” said school board member John de Beck, who voted against the agreement. He added, “Was it broken? I don’t think so.”

Workers are not required to join the union under the agreement, but they must pay a fee equal to monthly dues and application fees into school district programs that aim to get students interested in construction careers, as well as a fee to the union for its services. Apprentices will be hired first from union programs, which advocates contend have higher graduation rates and a more diverse membership than other apprenticeship programs, largely because they link apprentices directly to jobs.

“If you go with an open (non-union) shop, you have a resume and you have to go looking for work,” said Corinne Wilson, a research and policy analyst with the Center on Policy Initiatives, a left-leaning think tank. “This gives you a job.”

Non-union apprentices disputed their claims and contended that giving priority to union apprentices was discriminatory. Glenn Hillegas, who sits on the oversight committee and oversees apprenticeship programs for the Associated General Contractors, said he felt the school board had made the decision without good data on the programs he oversaw.

“You are discriminating against over 150 apprentices who live and work in San Diego by adopting this project labor agreement,” said Richard Markuson, a lobbyist for the Western Electrical Contractors Association.

The plan is loaded with escape clauses and exceptions that supporters argued would address the worries of critics. To assuage fears that the agreement will raise costs by thinning the pool of bidders, San Diego Unified does not have to follow the agreement if fewer than three bidders vie for a project or if the lowest bid exceeds their estimated costs by 10 percent or more. Allowing companies to use their own healthcare programs for their core employees, if the school district deems them acceptable, is meant to dodge a “double benefits” issue that could be caused by mandating that companies that already provide healthcare pay into the union plan.

Local hiring provisions can be waived if no qualified workers are available. And if the hiring halls take more than two days to find workers, a contractor is free to use other workers, who would register with the hiring hall after the fact.

“They didn’t say our way or the highway here,” said John Stump, an attorney who sits on the oversight committee for Proposition S who was impressed by the pact and its provisions around local hiring.

Critics were unconvinced. Studies on the labor pacts are far from conclusive. Researchers from the Maryland-based Foundation for Electrical Construction found no evidence that the agreements raised or lowered costs, while an earlier study from Boston found that costs were hiked by more than 14 percent.

Staffers from San Diego Unified discouraged the bond oversight committee from weighing in on whether or not to adopt an agreement or how to do so, arguing that the research was so polarized and the question so political that there was no way to make a factual recommendation. The bond overseers disregarded their advice, then deadlocked on the issue of whether a contractor group should join the unions and the school district and the bargaining table.

Similar agreements have been used by the San Diego County Water Authority, the Los Angeles Department of Public Works, and school districts from Sacramento to Santa Ana. Robert Homer, risk manager for the Water Authority, said his group had not seen any cost increases that were clearly due to the labor agreement, though skyrocketing prices for gasoline and steel had cost them money on the roughly \$1 billion. The agreements are likely to enjoy a renaissance nationwide after President Barack Obama reversed an order, made by former President George W. Bush, which banned their use on federal construction projects.