

**BEFORE THE PUBLIC EMPLOYEES RELATIONS BOARD  
STATE OF OKLAHOMA**

**FILED**

AUG 09 2012

Public Employees Relations  
Board

INTERNATIONAL ASSOCIATION OF )  
FIREFIGHTERS LOCAL 176 )  
 )  
Complainant, )  
 )  
v. )  
 )  
CITY OF TULSA )  
 )  
Respondent. )

PERB No. 2011-ULPC-509

**ORDER DENYING UNION'S UNFAIR LABOR PRACTICE CHARGE**

This matter came on for hearing before the Public Employees Relations Board (the "Board") meeting in a Regular Meeting on the 12<sup>th</sup> day of April, 2012, at 9:00 a.m., in the Oklahoma Department of Agriculture, Agriculture, Food and Forestry Building, First Floor Board Room, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma, on the unfair labor practice charge (the "ULP") filed herein by the International Association of Firefighters, Local 176 (the "Complainant" or "Union") on September 7, 2011, against the City of Tulsa, Oklahoma (the "Respondent" or "City"). The Complainant appeared by and through its attorney Steven R. Hickman, Fraiser, Fraiser & Hickman, LLP, of Tulsa, Oklahoma. The Respondent appeared by and through its Assistant City Attorneys Gerald R. Bender and Brandon J. Burris.

The alleged violation(s) in this matter was filed by the Complainant on September 7, 2011 (the "Charge"), and alleged that, among other things, on September 1, 2011, the Respondent's Mayor, the Honorable Dewey F. Bartlett, Jr., sent an e-mail to all City employees including members of the Complainant regarding employee campaigning stating that certain actions by employees could lead to termination including, but not limited to, contributing to municipal candidates through the Union's political action committee, preparing and paying for

yard signs indicating Union endorsement of candidates, distributing campaign literature prepared by the Union, mailing Union-developed questionnaires to each candidate who filed for municipal office, etc. The Complainant also alleged that the Mayor's said e-mail attempts to dominate or interfere with the formation, existence or administration of any employee organization or bargaining agent as defined by 11 O.S.2011, § 51-102(6a)(2). Further, the Complainant alleged that the Mayor's said e-mail attempts to interfere, restrain, intimidate, or coerce employees in the exercise of rights guaranteed them in 11 O.S.2011, §51-101(B) as defined by 11 O.S.2011, §51-102(6a)(1). Collectively the Complainant alleges that the aforesaid actions by the Respondent constitute unfair labor practices in violation of Section(s) 51-102(6a)(1) and 51-102(6a)(2) of Oklahoma's Fire and Police Arbitration law, 11 O.S.2011, § 51-101 through 11 O.S.2011, §51-113 et seq. (sometimes referred to herein as the "FPAA"). Terms defined in the FPAA and used herein have the meaning ascribed to them in the FPAA.

On September 23, 2011, the Respondent filed a document herein entitled "Response in Opposition and Motion to Dismiss Unfair Labor Practice Charge of IAFF Local 176" (the "Motion to Dismiss"), which included its answer to the Charge that denied each and every allegation of the Charge, alleging that the Union's allegations are contradicted by undisputable facts and well-established law, including principles of preclusion and comity, and noting that the arguments relied upon by the Union in its Charge have been considered and rejected by the United States District Court for the Northern District of Oklahoma in *Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), Case No. 4:11-cv-00432-GKF-FHM, on August 12, 2011, and the Respondent formally moved for dismissal of the Charge.

On October 26, 2011, the Complainant filed a document herein entitled "Response to Motion to Dismiss ULP Charge" (the "Response"), seeking denial of the Respondent's Motion to Dismiss or in the alternative that any defect in the Charge should be specified and Complainant given an opportunity to amend.

On November 17, 2011, the Board heard oral argument on the Motion to Dismiss and the Response and on December 8, 2011, the Board issued an order entitled "Order Denying Motion to Dismiss Unfair Labor Practice Charge" that denied the Motion to Dismiss in writing.

On April 5, 2012, the Complainant filed a document herein entitled "Complainant's Hearing Brief" and the Respondent filed a document herein entitled "Hearing Brief".

During the evidentiary hearing conducted by the Board on April 12, 2012, Assistant Attorney General and Counsel to the Board Bryan Neal advised the Board that due to the amendment of 11 O.S.2011, § 22-101.1 by the Oklahoma Legislature by emergency effective June 24, 1983 (which amendment occurred subsequent to the issuance of A. G. Opin. 81-90 on October 21, 1981), the Board as an agency of the State of Oklahoma is no longer bound by the opinion of the Oklahoma Attorney General expressed in A. G. Opin. 81-90 decided on October 21, 1981. 1981 OK AG 90.

At the conclusion of the full evidentiary hearing in this matter on April 12, 2012, the Board, consistent with the provisions of 75 O.S.2011, § 312 and in order to facilitate the business of the Board, directed the parties hereto to prepare and submit in writing proposed findings of fact and proposed conclusions of law.

Subsequently, the Complainant filed a document herein on April 20, 2012, entitled "Complainant's Proposed Findings of Fact, Conclusions of Law, and Order of the PERB" containing a draft order containing eleven (11) proposed findings of fact, nine (9) proposed conclusions of law and language to dismiss the Charge on the merits (the "Complainant's Proposal"). On April 27, 2012, the Respondent filed a document herein entitled "Findings of

Fact, Conclusions of Law, and Order (Proposed)” containing a draft order containing eighteen (18) proposed findings of fact, sixteen (16) proposed conclusions of law and language to dismiss the Charge on the merits (the “Respondent’s Proposal”).

The Board, having considered the Respondent’s Proposal and the Complainant’s Proposal, having heard the arguments of counsel and having engaged in questioning of counsel and otherwise being fully apprised of this matter, expressly adopts certain proposed findings of fact contained in the Complainant’s Proposal numbers one (1) through and including ten (10), expressly rejects the proposed finding(s) of fact contained in the Complainant’s Proposal number eleven (11), expressly adopts certain proposed findings of fact contained in the Respondent’s Proposal numbers one (1) through and including four (4), number seven (7), numbers nine (9) through and including twelve (12), fifteen (15) and sixteen (16) as hereinafter provided, and expressly rejects certain of the proposed finding(s) of fact contained in the Respondent’s Proposal numbers five (5), six (6), eight (8), thirteen (13) and fourteen (14), and makes the following findings of fact:

#### **FINDINGS OF FACT**

The Board, having reviewed the written briefs of each party filed herein on April 5, 2012, having held a full evidentiary hearing herein with live testimony from sworn witnesses and having heard the arguments of counsel and otherwise being fully apprised of this matter, makes the following findings of fact:

It is the finding of the Board by a preponderance of the testimony taken and of the evidence, as follows:

1. The Union is the certified bargaining representative under the FPAA for firefighters employed by the City. Respondent's proposed finding of fact No.1.
2. Complainant is the certified bargaining representative under the FPAA for firefighters of Respondent. Complainant's proposed finding of fact No. 1.
3. The Union has 640 active members. Of those, approximately 60 are retirees. All other Union members are employees of the Tulsa Fire Department. Respondent's proposed finding of fact No.2.
4. Respondent's city charter prohibits its firefighters from engaging in political activities for elective office at Respondent [Article X, §§ 10.1-10.3, Article XI, §5.1]. Complainant's proposed finding of fact No. 2 (Amended).
5. The City is a municipal corporation which has adopted a charter form of government as set forth in the 1989 Amended Charter ("Charter"). Respondent's proposed finding of fact No.3.
6. Over the course of years, many of Respondent's administrations have not enforced the above referenced city charter provision [Article X, §§ 10.1-10.3, Article XI, §5.1]. Complainant's proposed finding of fact No. 3 (Amended).
7. The Charter prohibits City employees, including specifically firefighters, from "taking an active part" in municipal candidate elections, "except to vote and privately state a personal opinion." [Article XI, §5.1]. Respondent's proposed finding of fact No.4 (Amended).
8. Respondent's current administration, through Mayor Dewey F. Bartlett, Jr., issued notice that Respondent would enforce the referenced city charter provision [Article X, §§ 10.1-10.3, Article XI, §5.1], particularly with regard to the then upcoming city council elections in 2011. Complainant's proposed finding of fact No. 4 (Amended).

9. Complainant and others filed suit, which ended up in federal court [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of Tulsa, U.S.D.C. for the N.D., Case No. 4:11-cv-00432-GKF-FHM], requesting temporary and permanent injunctive relief to keep Respondent from enforcing such city charter provision [Article X, §§ 10.1-10.3, Article XI, §5.1]. Complainant's proposed finding of fact No. 5. (Amended).
10. The federal court on August 12, 2011 [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of Tulsa U.S.D.C. for the N.D., Case No. 4:11-cv-00432-GKF-FHM], denied the request for temporary injunctive relief, at least partially on the ground of its determination that the plaintiffs in that case were not likely to prevail on the merits. Complainant's proposed finding of fact No. 6. (Amended).
11. For at least 10 years prior to 2011, the City failed to enforce the Charter provision [Article X, §§ 10.1-10.3, Article XI, §5.1]. Respondent's proposed finding of fact No.7 (Amended).
12. The federal court order dated August 12, 2011 [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of

Tulsa U.S.D.C. for the N.D., Case No. 4:11-cv-00432-GKF-FHM], determined that, under the city charter, neither the union nor its bargaining unit members could participate in public elective activities for city elective office. Complainant's proposed finding of fact No. 7 (Amended).

13. Complainant then announced that it would advise its bargaining unit members not to participate in public elective activities relative to the upcoming city council elections. Complainant's proposed finding of fact No. 8.
14. In 2011, the City provided notice that the City would enforce the Charter provision [Article X, §§ 10.1-10.3, Article XI, §5.1]. Respondent's proposed finding of fact No. 9 (Amended).
15. Complainant indicated that it would endorse candidates, give candidates money through its PAC, and would actively campaign for candidates for city office through its members who were not employees of Respondent, or through others, such as friends, relatives, or firefighters of other municipalities. Complainant's proposed finding of fact No. 9.
16. The Union and certain of its members filed litigation [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), *Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of Tulsa* U.S.D.C. for the N.D., Case No. 4:11-cv-00432-GKF-FHM] requesting temporary and permanent injunctive relief to keep the City from enforcing its notice. Respondent's proposed finding of fact No. 10.
17. In response, Respondent put out the email of September 1, 2011, indicating various political activities that were forbidden by the union and its bargaining unit employees and

threatening discipline (including termination) to any of its employees who engaged in such activities relative to city elective office. Complainant's proposed finding of fact No. 10.

18. The Union and certain of its members filed litigation [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of Tulsa U.S.D.C. for the N.D., Case No. 4:11-cv-00432-GKF-FHM] requesting temporary and permanent injunctive relief to keep the City from enforcing its notice. Respondent's proposed finding of fact No. 11 (Amended).
19. On August 12, 2011, the United States District Court denied the request for temporary injunctive relief, in part based on its determination that the Union and its members were not likely to prevail on the merits [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of Tulsa U.S.D.C. for the N.D., Case No. 4:11-cv-00432-GKF-FHM]. Respondent's proposed finding of fact No. 12 (Amended).
20. On September 1, 2011, the Mayor sent an e-mail to all City employees, notifying employees of the United States District Court's August 12, 2011 Order [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of Tulsa U.S.D.C. for the N.D., Case No. 4:11-cv-00432-

GKF-FHM], identifying conduct which violates the Charter (as set forth in the Order), and making the Order available to employees. Respondent's proposed finding of fact No. 15 (Amended).

21. The purpose of the Mayor's September 1, 2011, e-mail was to clarify the confusion regarding whether City employees were allowed to campaign under the City Charter. Respondent's proposed finding of fact No. 16 (Amended).

### **CONCLUSIONS OF LAW**

The Board concludes as a matter of law as follows:

1. The PERB has jurisdiction over the parties and subject matter of this complaint. 11 O.S.2011, § 51-101(b). Complainant's proposed conclusion of law No. 1 (Amended).
2. The hearing and procedures herein are governed by Article II of the Administrative Procedures Act, 75 O.S.2011, §§ 308a et seq. and the meeting of the Board on April 12, 2012, was convened and conducted in accordance with the provisions of the Oklahoma Open Meeting Act, 25 O.S.2011, §§ 301 et seq.
3. The burden of proof in this matter is a preponderance of the testimony taken pursuant to 11 O.S.2011, §51-104b (C) and a preponderance of the evidence pursuant to OAC 585:2-7-12.
4. The Board is empowered to prevent any person, including bargaining agents and corporate authorities, from engaging in any unfair labor practice. 11 O.S.2011, §51-104b (A).

5. The Complainant, in asserting a violation of 11 O.S.2011, §§ 51-101 et seq., has the burden of proving the allegations of unfair labor practice by a preponderance of the testimony taken pursuant to 11 O.S.2011, §51-104b (C) and a preponderance of the evidence pursuant to OAC 585: 2-7-12.
6. Title 11 O.S. § 51-102(6a)(1) and (2) prohibits a municipality from interfering with, intimidating or coercing employees ["fire fighters" and "police officers" as those phrases are defined in 11 O.S.2011, §51-102(1)] in the rights guaranteed them by the FPAA or interfering with the administration of any bargaining agent. Complainant's proposed conclusion of law No. 2 (Amended).
7. Title 11 O.S.2011, § 22-101.1 grants municipal fire fighters [as defined in 11 O.S.2011, §51-102(1)] the right to engage in political activities, so long as such activity is not during work time and not in uniform. Complainant's proposed conclusion of law No. 4 (Amended).
8. Oklahoma law [11 O.S.2011, §51-101(A)] forbids police officers [as defined in 11 O.S.2011, §51-102(1)] and fire fighters [as defined in 11 O.S.2011, §51-102(1)] from striking, or engaging in any work stoppage or slowdown, but such prohibition does not require the denial to such employees of "other well-recognized rights of labor such as the right to organize, to be represented by a collective bargaining representative of their choice, and the right to bargain collectively concerning wages, hours, and other terms of employment." 11 O.S.2011, § 51-101(A). Respondent's proposed conclusion of law No. 5 (Amended).

9. The Oklahoma Attorney General in A. G. Opin. 81-90 decided on October 21, 1981, opined that 11 O.S. § 22-101.1 superseded any city charter to the contrary, but the federal court, in considering the request for temporary injunctive relief, ruled otherwise [*Tulsa Fire Fighters Association v. City of Tulsa, Oklahoma*, 834 F.Supp.2d 1277 (N.D. Okla.), *Tulsa Fire Fighters Association, IAFF Local 176, AFL-CIO, Dennis Moseby, Chad Miller, Jeff Smith, and Joseph Youngblood, v. City of Tulsa, Oklahoma, and the Honorable Dewey F. Bartlett, Jr., Mayor of the City of Tulsa U.S.D.C. for the N.D., Case No. 4:11-cv-00432-GKF-FHM*]. 1981 OK AG 90. Complainant's proposed conclusion of law No. 5 (Amended).
10. The Board finds that a fire fighter's [as defined in 11 O.S.2011, §51-102(1)] or a police officer's [as defined in 11 O.S.2011, §51-102(1)] right to campaign in municipal candidate elections does not constitute a "well-recognized right of labor" [under the FPAA]. Respondent's proposed conclusion of law No. 6 (Amended).
11. Due to the amendment of 11 O.S.2011, § 22-101.1 by the Oklahoma Legislature by emergency effective June 24, 1983, which occurred subsequent to the issuance of A. G. Opin. 81-90 on October 21, 1981, the Board determines that it is no longer bound by the opinion of the Oklahoma Attorney General in A. G. Opin. 81-90 decided on October 21, 1981 (1981 OK AG 90) and the Board further determines that the city charter provision at issue here [Article X, §§ 10.1-10.3, Article XI, §5.1] supersedes 11 O.S.2011, § 22-101.1. Complainant's proposed conclusion of law No. 6 (Amended).
12. The Oklahoma Constitution provides in pertinent part that "[a]ny city containing a population of more than two thousand inhabitants may frame a charter for its own government..." Okla. Const. Art. 18, § 3(a). Respondent's proposed conclusion of law No. 7 (Amended).

13. Respondent had no duty to bargain with Complainant over changing the city charter and could not be bound by any policy of not enforcing same. Accordingly, Respondent was within its rights to enforce its city charter provision against Complainant and its bargaining unit members. Complainant's proposed conclusions of law No. 7 and No. 8.
14. "The Oklahoma Constitution states, in pertinent part, that a city with 'more than two thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution of this State....' Okla. Const. Art. 18, §3(a). [S]uch charter provisions, when not inconsistent with the Constitution, supersede the statutes pertaining to municipal affairs, and thereby become [ ] the superior law in matters pertaining to municipal affairs." *Sallee v. Oklahoma City*, 2011 OK CIV APP 5, ¶ 5, 247 P.3d 750,752 (citing *Lee v. Norick*, 1968 OK 173, ¶ 15, 447 P.2d 1015, 1017-1018 (further citation omitted). Respondent's proposed conclusion of law No. 8 (Amended).
15. "Whenever a charter is in conflict with any law relating to municipalities in force at the time of the adoption and approval of the charter, the provisions of the charter shall prevail and shall operate as a repeal or suspension of the state law or laws to the extent of any conflict." 11 O.S.2011, §13-109. Respondent's proposed conclusion of law No. 9 (Amended).
16. Oklahoma courts have consistently held that municipal law supersedes all state laws with which it is in conflict when addressing "municipal" concerns, but not when addressing "statewide" concerns. *See e.g. Moore Funeral Homes, Inc. v. City of Tulsa, Okl.*, 1976 OK 96, 552 P.2d 702, 704. Respondent's proposed conclusion of law No. 10 (Amended).
17. Affairs conducted within municipal boundaries are purely municipal affairs in which the state has no interest. *Hampton v. Hammons*, 1987 OK 77, ¶ 26, 743 P.2d 1053, 1060

(removal of municipal judge, off-street parking, recall elections, widening of a state highway within city limits, and the form of city government are municipal concerns) (citations omitted); *Homeowners for Fair Zoning v. City of Tulsa*, 2005 OK CIV APP 90, 123 P.3d 67 (zoning ordinances are municipal concern); *State v. Dunnaway*, 1952 OK 297, 248 P.2d 232 (library operation is municipal concern); *Question Submitted by: The Hon. Wayne Cozort*, 1988 OK AG 63 (city manager residency requirement is municipal concern); *Moore Funeral Homes, Inc. v. City of Tulsa*, 1976 OK 96, 552 P.2d 702 (street widening and special assessment district are purely municipal concerns); *U.S. Elevator Corp. v. City of Tulsa*, 1980 OK 69, 610 P.2d 791 (municipal contracts are municipal concern). Respondent's proposed conclusion of law No. 11 (Amended).

18. The Charter provision in dispute here [Article X, §§ 10.1-10.3, Article XI, §5.1], regulates political activity in municipal candidate elections, a matter of local rather than statewide concern. *Sallee v. Oklahoma City*, 2011 OK CIV APP 5, 247 P.3d 750 Respondent's proposed conclusion of law No. 15. (Amended).
19. The 1989 Amended Charter of the City of Tulsa is the law and its provisions regarding municipal campaigning are not subject to negotiation. Respondent's proposed conclusion of law No. 16.

### OPINION

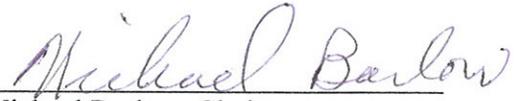
The Board, having reviewed the Complainant's Proposal and the Respondent's Proposal both filed herein, the briefs of the parties and having heard the arguments of counsel and otherwise being fully apprised of this matter, hereby determines as follows:

The Union's request for a ULP in this matter should be DENIED. Article X, § 10.1 and

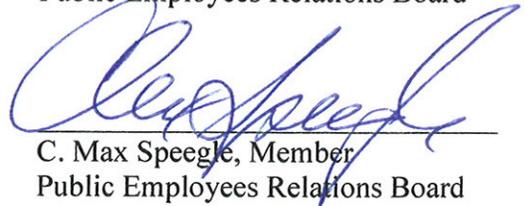
Article XI, § 5.1 of the Charter of the City of Tulsa prohibit political activities and the Charter cannot be amended through collective bargaining negotiations.

The Charge filed herein by the Complainant should be and hereby is DENIED.

Dated this 9 day of August, 2012.



Michael Barlow, Chairman  
Public Employees Relations Board



C. Max Speegle, Member  
Public Employees Relations Board

---

Larry W. Gooch, Member  
Public Employees Relations Board

(Dissenting, see attached Opinion)

I dissent from the majority opinion on PERB No. 2011-ULPC-509.

It is undisputed that the unequivocal long standing practice of the parties was to permit employees of the respondent to participate in local political elections, provided the participation was off duty and not in uniform, even though the city charter prohibited such participation. This gave credence to A.G. Opinion 81-90 regarding 11 OS 2011, ss22-101.1 which enabled political activity while off duty and out of uniform and superseded charter restrictions to the contrary. (Findings of fact # 6 & 11)

On September 1, 2011, the Respondent announced its intent to enforce its charter restrictions on political activity under threat of termination, therefore changing a condition of employment without notice or collective bargaining with the bargaining agent. Notwithstanding the court's decision speculating that the "plaintiffs were not likely to prevail on the merits", (finding of fact # 10) this action on its face is an unfair labor practice.

The Board is empowered to give meaning to the FPAA and it should avoid offering its interpretations of conflicting statutes exterior to the FPAA. These matters should be reserved for other forums where both sides of an issue can be fully argued,

I also disagree with the Board's conclusion that the right to campaign...does not constitute a well-recognized right of labor. I understand that there have been restrictions in the public sector that vary between federal and states but it is well known that unions have always been politically active, private and public, and though bargaining unit employees cannot be compelled to participate in their union's political activity, they certainly have a well-recognized right to. A threat of termination for an employee making contributions to his union political fund would interfere with the administration of the union and an unfair labor practice.

I do not disagree with conclusion of law #11 rendering the A.G opinion invalid. provided the amendment has the impact of substantially changing the statute. The Board was not provided information about what the amendment was or how it would have affected General Cartright's opinion and the parties were not provided an opportunity to discuss this issue.

In conclusion, I do not believe the Federal Court's speculation or the A.G. opinion are as controlling in this matter as the long , unequivocal understanding between the parties of how this matter was handled and for this reason I dissent from this opinion.



Larry W Gooch