

# Temp Workers May Be Able To Join Unions

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The World Street Journal

*WASHINGTON* -- The National Labor Relations Board is poised to make it easier for the growing number of temporary workers to join labor unions.

Current rules that make it "virtually impossible" for temps to join unions alongside an employer's permanent staff are based on a "flimsy premise" says NLRB Chairman William B. Gould IV.

Today and tomorrow, the board will hear arguments in cases in which the unionization of temporary workers is at issue. While board members won't discuss pending cases, several of them, such as Mr. Gould, have said publicly that they believe existing rules are outmoded in light of the recent growth in the temporary employment industry.

Business groups warn of repercussions -- and a probable court fight -- if the regulations are changed. "If you start messing around in this area," says Dan Yager, general counsel for the Labor Policy Association, a business lobbying group, "clearly it's going to discourage the use of temporary workers."

The issue has taken on greater significance with the changes in the temporary staffing industry. The Labor Department says about 2.2 million people worked as temporary employees last year, up from just 417,000 in 1982.

Once limited mainly to clerical workers, temporary agencies today offer a wide range of occupations. Factory workers, engineers, architects, computer programmers, designers and even lawyers can be hired through temporary agencies. Manpower Inc., the nation's largest temporary employment agency, recently said it would begin supplying physicists for some of its high-technology clients. On any given day, Manpower sends more than 165,000 people to work in various companies, says Terry A. Hueneker, the company's executive vice president. It will employ about 800,000 people this year. And, he says, Manpower's billable hours are growing at a rate of about 12% a year. Mr. Hueneker wouldn't discuss the labor cases.

Despite the industry's growth, the labor laws that govern temporary workers have not changed, critics say. For example, if temporary workers are sent into a unionized company, they are prohibited from joining that company's bargaining unit without first getting consent from both the company and the temporary agency that sent them. For labor-law purposes, the two companies are deemed to be "joint employers." In the cases now before the labor board, union and their lawyers will argue for changing that rule.

In one case, Teamsters Local 89 is seeking to represent temporary workers at American Commercial Marine Service Co.'s Jeffboat division of Jeffersonville, Ind. The Union has represented the company's 600 permanent workers since 1971. Jeffboat, which manufactures tugboats, barges and floating casinos, also employs about 100 temps supplied by TT&O Enterprises Inc.

In an earlier ruling, an NLRB regional director said that because Jeffboat and TT&O were joint employers, the Teamsters would need joint consent to represent the temporary staff. The Union had

argued that since Jeffboat controls virtually every aspect of the work environment, it alone should be considered the true employer.

In papers filed before the labor board Jeffboat called the Teamsters a “financially bankrupt union” looking to collect union dues. The company's lawyer, David W. Miller, says the temporary workers never asked for Teamsters representation. Officials of Local 89 couldn't be reached for comment.

As employers have slashed their payrolls, unions have accused some of hiring temporary workers to avoid paying benefits to permanent staffs. Stephen Lerner, assistant organizing director at the AFL-CIO, calls it a “moral issue,” as well as a legal issue. The current rule, he says, allows employers to “do a half-step” and duck their responsibility for workers.

Mr. Gould, the NLRB chairman, says the rule also has had the unintended effect of widening the economic gap among American workers. “The whole nature of the employment relationship is changing,” he says.

In a second case, the NLRB must decide if 15 temporary workers at M.B. Sturgis Inc., a maker of flexible gas hoses in Maryland Heights, Mo., should be included with the company's 35 permanent workers represented by Textile Processors Local 108. While the permanent staff gets health and life insurance, paid holidays, vacations, and contributions to an employee stock ownership plan, the temporary workers get none of that. Although Sturgis has agreed to include the temporary workers in its bargaining union [sic], the temporary agency that supplies them has not.

Mr. Yager of the Labor Policy Association says most temporary workers have no desire for union representation. “A lot of the people who are in the temporary work force are in it by choice,” he says, “and they are not in it for an extended period of time.” He says Mr. Gould, appointed by President Clinton, is out to “rewrite labor law” as a favor to union leaders.

Aside from temporary workers, the labor board also will hear arguments concerning contract workers, who are not covered by many of the labor laws that protect employees. In recent years, Mr. Gould says, employers have been expanding their definition of contract workers in an attempt to circumvent those laws. The board is expected to rule on the cases sometime next year.