Opinion: Lawsuit threatens public unions' rights

By Peter Scheer

Public employee unions face a new, and mortal, threat. It's not the unfunded liability of union pension plans or municipal governments' resort to bankruptcy to void union contracts. It's not state initiatives to restrict collective bargaining rights or other outpourings of voter resentment. No, the new existential threat facing government unions comes from . . . the First Amendment.

In a scarcely-noticed lawsuit filed earlier this month in federal district court in Los Angeles, a conservative nonprofit, the Center for Individual Rights, claims that California's system for collecting union dues from government employees abridges free speech safeguards by compelling employees to subsidize union political advocacy and activities with which they disagree.

On first look, the suit looks like a loser because the challenged union practices were upheld in a 20-year-old US Supreme Court decision, Abood v. Detroit Board of Education. Nonetheless, on second look, the suit has a very respectable chance of succeeding because of a 2012 Supreme Court decision, Knox v. SEIU, in which five justices said, in effect, that the Abood decision was a mistake. Also, the plaintiffs are represented by Jones Day, one of the biggest and best law firms in the country, which wouldn't have taken the case unless prepared to litigate all the way to the nation's highest court.

And if they prevail? Public employee unions, not just in California but across the country, would lose the bulk of their dues funding—and with it, the ability to wield decisive political influence in state and local governments everywhere. That is a big deal.

Non-management government employees in California, as in many states, are required to belong to a union, and pay union dues, whether they want to or not. However, employees can’t be forced to pay for union political activities—as opposed to union representation on pay, benefits, job security and like issues—because of first amendment protections against “forced association” with political viewpoints. The question is: how, practically-speaking, to enforce this right?

The Supreme Court in Abood approved a system that requires employees, if they don’t wish to pay for their union’s political activities, to “opt out”—meaning, they must pay all dues first, then apply to receive a prorated refund later. The theory of the lawsuit filed Monday, Friedrichs v. California Teachers Association, is that an opt out procedure is constitutionally defective because it compels employees to make a loan to the union for its political activities, and because even the unions’ supposedly nonpolitical activities—such as opposition to charter schools or support for higher taxes to pay for pension benefits—are fraught with political and ideological choices that are objectionable to some employees.

The lawsuit contends that the first amendment requires an “opt in” procedure. While it may seem trivial, the difference between opt out (where the default is that the union has all your money and you have to ask for a portion to be refunded) and opt in (where the default is that the union has to persuade you to give money to support its political activities) is the difference between public employee unions that are rich and powerful and unions that are poor and politically neutered.

Last year in the Knox case, the Supreme Court decided, 5-4, that the first amendment requires California government unions to use an opt-in dues collection procedure for special dues assessments needed to finance political campaigns. Justice Allito, writing for five justices, went out of his way to raise doubts about the Abood decision and, in effect, to invite a test case to overturn it. The Friedrichs v. California Teachers Association lawsuit is an RSVP to that invitation.

How will the unions respond? In 2012 California unions spent some $75 million to defeat a ballot initiative, Prop 32, that would have shifted California's default from opt out to opt in. Now, consider that a successful Supreme Court challenge would yield the same result, not only in California but across the nation, and that it would be immune from legislative repeal. Organized labor, once it figures out what is happening, will treat this litigation like the existential threat that it is.

Peter Sheer is executive director of the First Amendment Coalition.

Letter: Heavenly employees making a difference

To the community,

For their fifth Bread & Broth Adopt A Day sponsorship of the year, Heavenly Mountain Resort covered the financial cost of the May 13 evening's meal. They also sent a first time crew of four from the Heavenly Tahoe Vacation office along with frequent B&B volunteer Jolena Hearn, assistant manager, greeters/hosts.

The “first timers” were Darcy Nealis, reservations manager; Kari Natividad, reservations assistant manager; Mary Hajdas, reservations; and Connie Yee, reservations.

Heavenly’s volunteer crew enthusiastically helped the B&B volunteers throughout the evening bagging giveaways, setting up for the dinner and working the serving line. With their help, over 90 meal were served and 60 giveaway bags were distributed to the evening’s guests. The Heavenly volunteer crew was impressed with how “everyone of the dinner’s guests were really appreciative” of the tasty and healthy meal they were served.

Bread & Broth would like to thank Heavenly Mountain Resort for their financial donation and their corporate program which supports and encourages employee volunteerism. In one year alone, Heavenly employees volunteer over 150 hours of their time at Bread & Broth’s Monday evening dinners.

As a nonprofit, all volunteer program, B&B is able to feed the needy of South Lake Tahoe with the backing of generous sponsors like Heavenly Mountain Resort.

For information on how you can support Bread & Broth, contact me at (530) 542.2876 or carolsgerard@aol.com.

Carol Gerard, Bread & Broth

Opinion: Look at Dotty’s one way, sports book kiosks

another

By J. Patrick Coolican, Las Vegas Sun

For the first time in years, the Nevada Legislature is seriously discussing gaming policy.

As R&R Partners gaming lobbyist Pete Ernaut said, “Protection of this industry: There can’t be a higher priority of this body than getting the No. 1 industry in this state right.”

Indeed, I couldn’t agree more that we need to strengthen our economic engine, after a period of intense consolidation and debt and bankruptcies and some serious questions about the goings-on in Macau.

Turns out that’s not what Ernaut was talking about. He was referring to the ongoing battle between restricted gaming licensees, which are the bars and slot parlors and other locations with no more than 15 slot machines, and on the other side, Ernaut’s clients — the big resorts with their nonrestricted licenses.

The Nevada Resort Association — especially Station Casinos — is livid about Dotty’s, the quiet little slot arcades that seem to anchor so many forlorn strip malls — including at Stateline as part of the old Bill’s Casino property.

Big Gaming argues, persuasively I think, that both legislators and regulators never intended to allow a slot arcade on every corner of our community, which is why the legal language always required that gaming be “incidental” to the main business in these establishments, be it a bar or convenience store. Bar first, gaming second.

Gaming is clearly not incidental at Dotty’s, where the only sounds are soft rock and creepy clacking of fingers on slot buttons.

(To be sure, Dotty’s was always properly licensed by regulators – you can’t really blame them for the policy drift here. And, they certainly deserve credit for their ingenious marketing.)

The Clark County Commission, at the urging of the Nevada Resort Association, put a vice grip on the smaller players two years ago with a bunch of new requirements for new locations, including a bar and a kitchen, which the Dotty’s storefronts traditionally lacked.

As I wrote at the time, it was like a David and Goliath story, but only if David were a little hustler who took money from old ladies.

There’s been so much uncertainty surrounding this issue that the Legislature should codify the policy in law – or perhaps I should say: Codify it in law again.

Sean Higgins, a bar owner and lobbyist for most of the 1,900 restricted licensees, says the resort association “plays Big Brother to other industries, dictating to us what is appropriate operation for us. Enough is enough.”

Higgins says the whole point of the legislation is to stifle competition.

I’m sympathetic, and I have no illusions about Big Gaming’s motives here, which involve money, currency, and also money.

To his point, however: Are we stifling competition? Yes, we are, and that’s OK. We aren’t talking about clothing or convenience stores here. The statute governing gaming begins with a preamble that lays out a far-reaching public policy explicitly stating that gaming’s pre-eminent place in Nevada’s social and economic life means we will take extraordinary steps to regulate it, for the health and welfare of the industry and the broader community.

Dotty’s is little more than a dopamine delivery device, and it contributes very little to the broader community — just a handful of jobs, no amenities and a paltry sum of taxes compared with the big resorts despite its more than 80 locations, more than 50 of which are restricted locations.

(I distinguish between Dotty’s and actual bars, where people meet and socialize and tell embellished stories and bad jokes and complain about the president and eat and drink — these are sacred places. Dotty’s is not.)

Indeed, in part because restricted licensees pay a small flat fee per slot machine instead of the gross gaming tax like the big resorts pay, the small guys paid just $13 million in taxes compared with $653 million by the resorts last year. And that’s just gaming taxes. Throw in room taxes, sales taxes, the live entertainment tax and all the rest, and the resorts paid $1.3 billion in total taxes, or 42 percent of general fund.

This doesn’t mean, however, that regulators or the Legislature should always favor the resorts over smaller competitors, especially when it comes to innovative new technology.

Gaming lobbyists also want to snuff out new sports betting kiosks, which resemble ATMs for sports betting, that you find in many taverns around the valley.

We can get deep in the weeds about how these machines were originally approved, about whether they are a “gaming device” or an “associated equipment,” but there’s no reason to bore ourselves.

This issue is entirely different from Dotty’s, which is like an invasive species around the valley.

The sports book kiosks, by contrast, are going into existing businesses that already have slot machines. It’s a nice convenience for people at a bar who are enjoying their team and their chicken wings and don’t want to have to trudge over to Sunset Station or another sports book to place a bet.

And really that’s the point: Station Casinos wants to force locals to come to their business — be it bricks and mortar or digital — to make sports bets. It’s bullying, and I see no public policy rationale for it.

As Joe Asher, the CEO of kiosk purveyor William Hill points out, the sports book betting handle and win both increased 20 percent last year, from $140 million to $170 million, despite the existence of the supposedly scary kiosks.

By contrast, the kiosks did only $600,000 in business last year. They aren’t hurting our most important commercial avenue, the Strip. William Hill also does business in the conventional sports books and has no interest in driving down that business, Asher said.

Ernaut, the gaming lobbyist, disagrees. He said in an interview that the kiosks will soon proliferate into every restricted license location, meaning every bar.

This is a violation of the implicit covenant the state has with the resorts, wherein they pay higher taxes and meet more stringent requirements — such as 200 hotel rooms and a bar and a 24/7 restaurant — in exchange for us not allowing every bar in the valley to offer sports betting.

It’s a slippery slope, Ernaut said: Next, the bars will try to get table games.

I think we can draw a bright line at the kiosks. You can have your 15 machines and your sports kiosk, and that’s it. I actually think the convenience would bring more sports betting customers into the fold, which in the end would be good for the wider gaming industry — including the resorts — and good for the state.

I’m open to higher taxes on the kiosks in restricted locations. Call it a “convenience fee.”

Or, hey, I have an alternate idea: If Station Casinos will allow the Culinary Union to organize at its properties with the same card check process the union has used on the Strip, thereby giving workers the rights they deserve, then, fine, I’ll advocate we shut down the kiosks.

No?

OK, kiosks it is, then.

Letter: Fallen Leaf Lake boat wash not adequate

Publisher’s note: ***This letter was originally sent to members of the Fallen Leaf Lake Community Services District board and others in that South Shore community. It is reprinted with permission. Since it was sent, the board has agreed to place the topic on the May 25 board agenda. The board meets at 9am at the FLL Fire Department.***

To the community,

On May 15 an announcement was made that the New Zealand mud snail had been found in the Truckee River. Per this article it was most likely introduced by a kayak or canoe being launched into the river. They have confirmed approximately one mile between samples found in the river, this is very scary.

New Zealand mud snail can be from about the size of a grain of sand all the way up to one-eighth inch in diameter.

Fallen Leaf Lake’s boat wash at the marina. Photo/LTN file

For the most part they “cannot be seen by the human eye”. They can populate a square yard with up to 900,000 snails. They can also have a severe impact on the ecosystem within lakes and streams as well as causing problems on lake front areas and beach with dead snail shells. There is a large potential for financial impact as they will get into pumps, water pipes, and water tanks leaving them unusable. Very serious.

When I started our boat wash program many years ago, the intention was to decontaminate each vessel before being launched into Fallen Leaf Lake. This would help to ensure the pristine waters of Fallen Leaf Lake would be maintained for future generations to enjoy. It has recently come to my attention that someone has changed the requirements of the program. Apparently if a boat comes in with a tag from Tahoe (only an inspection required), the attendants at the launch ramp will perform a visual inspection and if it looks good, they will let the boat be launched.

Please don’t forget many of these AIS [aquatic invasive species] cannot be seen by the human eye. The people at the launch ramp indicated that the existing boat wash system is now not considered strong enough per TRPA.

Has anyone looked into an upgrade? Has anyone tried to raise funds to purchase the upgraded pressure washer? Leaving the responsibility of keeping our lake healthy for our children, grandchildren, and great-grandchildren in the hands of people who have already allowed Tahoe to be infected with Eurasian water milfoil, curley leaf pondweed, Asian clams, and now the New Zealand mud snail is irresponsible on our part.

We can make a difference. The fact that Fallen Leaf Lake is still presumed to be clean proves it.

The Fallen Leaf Lake Protection Association and the CSD needs to get it together. Why has this program been allowed to change from the strict requirements previously set? There are now four potential AIS in our back yard, the program standards need to be up held as originally written. Although we have been unable to get the USFS to participate in the protection of our lake, there is no reason as a community we can not get together and hold our standards higher to protect the lake as much as we possibly can.

I would like to request a response from both the FLLPA and the CSD on this matter. This has the potential of impacting our entire community and the reduced protection that has been allowed for our lake is unacceptable, especially with the increased threat.

Mike Kraft, Fallen Leaf Lake U.S. Forest Service land leasee and creator of the now nearly 9-year-old FLL boat wash program

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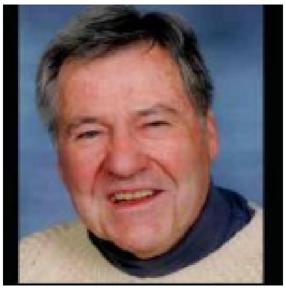
Letter: Paid parking is a

dead-end pursuit

To the community,

Many years ago when Kerry Miller was the city manager and before I was on the City Council, I attended a council meeting. That night the city parking garage was on the agenda. A citizen asked Miller why the private sector wouldn't build the garage. Miller's answer was short and sweet. He said because they know it will not work. Miller was right. It has been a loser since the ribbon was cut.



Bill Crawford

I realize that is the past and that nothing is gained by beating that nag that can't get to the finish line without a city subsidy. But we can use the past to guide us in the present and the future. We must keep a public memory. To build the garage at public expense was a crapshoot. And the present attempt at paid parking in the city is also a roll of the dice.

The main problem with city councils and city mangers is: They get a bright idea and though it looks shaky, might come up snake eyes, they force it upon the public to the bitter end and the public pays the bill for failure. Too often council members have a dream and say that it will be a sure fire success. They don't think in terms of probabilities. The present council and city manger argue that paid parking will create new big revenue for the city.

But there are sound arguments voiced by a loud opposition. Thinking back to what Kerry Miller said about the private sector not willing to build the parking garage, it appears that a majority of the council and city manger have no memory of past experience, past failures. That's disturbing when the game is a game of chance. Put your best down.

Bill Crawford, South Lake Tahoe

Letter: Boys & Girls Club says thank you

To the community,

The Boys & Girls Club of Lake Tahoe would like to express our sincere appreciation to Edgewood and Southern Wine and Spirits for the success of our recent Spirit of Spring fundraising event.

Because of their generosity and sponsorship of the event, we were able to raise $7,000. And 100 percent of those proceeds goes directly to our local kids and the programs at the Boys & Girls Club.

We also appreciate the numerous businesses who contributed to our great premium raffle packages. Thank you to everyone who attended.

The Boys & Girls Club needs and appreciates this support as we continue to grow, and the need in our community is critical for quality youth programs.

Thank you!

Karen Houser, executive director Boys & Girls Club of Lake Tahoe

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Letter: Barton Auxiliary deserves thanks

To the community,

Barton Memorial Hospital’s Auxiliary members provide vital support to our patients and staff. Without their determination and perseverance, Barton Memorial would not be what it is today – 50 years strong.

From the beginning (1960), many of the hospital and health care system’s strengths have been attributed to the thousands of dollars and hours the Auxiliary gives each year. These volunteers help in the hospital’s gift shop, at the front desk and assist in the skilled nursing facility. They also organize and help at local events and manage and operate one of their primary means of fundraising the Attic Thrift Store.

Barton Health recently held a celebration in honor of the 100-plus Auxiliary members. The event was not only an occasion to get everyone together to honor their hard work, but to see a check in the amount of $210,251.90 (total funds raised in 2012) be handed over to Barton CEO and President John G. Williams. This money, all made by the Auxiliary, will be donated to the Community Clinic project which treats the area’s underserved population.

A lot has changed since 1960, but the dedication of Barton’s Auxiliary members remains steadfast.

Thank you on behalf of everyone at Barton and our community for all you do.

Sincerely,

Barton Health board of directors and administration

Opinion: TRPA allocations are good policy

By Joanne Marchetta

With spring and a new building season having arrived, many are imagining their Tahoe dream home again, so questions about the Tahoe Regional Planning Agency's method of annual development allocation deserve some attention. As you will see, with Lake Tahoe nearing what is called "full buildout," this year's residential allocation distribution is the beginning of a new way forward for the finite amount of vacant land remaining at Lake Tahoe.

More than 40 years ago, TRPA was called on to put the brakes on the rampant over-development and residential subdivisions that were threatening Lake Tahoe's pristine environment. One way TRPA achieved that was to slow the rate and pace of new home building at Lake Tahoe so that environmental improvement and restoration projects could keep pace with growth. With limits on new subdivisions came a cap on the number of developable parcels region-wide and an allocation system was started. An allocation is basically the right to build or create a new "unit of use" which could be a home or an apartment. TRPA created different types of allocations, such as for tourist accommodations and commercial space, as well.

Joanne
Marchetta

Today, the remaining vacant land at Lake Tahoe is nearing the point when there will be no more vacant parcels to build on, what we call full buildout. Out of the total 43,000 private parcels that exist today, only around 4,000 are still vacant. This means that, depending on the rate of allocation, Lake Tahoe could see an end of new development on vacant land within the next two decades.

Having a limited number of new residential building allocations means there is less pressure on the Lake and there is more time for environmental restoration projects to respond to the impacts of development. It also means new home construction can continue for a longer period of time before all the vacant parcels disappear. Ultimately, this all leads to a healthier environment and a clearer Lake because what happens on the land at Lake Tahoe affects the water.

The building allocation system opens more opportunities to remodeling and redevelopment. Improvements to existing structures are needed to add environmental upgrades to more than 25,000 properties throughout the region. That is the number of properties that have not completed stormwater best management practices (BMPs), which are required to stop fine sediment and other pollutants from entering the lake. Permits to remodel or rebuild are only issued if BMPs and other environmental upgrades are included in the project. So, a more robust redevelopment market means improved water quality as well as extended job security for many in the construction trades.

With these facts in mind, the updated Lake Tahoe Regional Plan last year reduced the rate of annual residential allocation by 55 percent — to a maximum of 130 per year versus the historic maximum of 300. With private land at Lake Tahoe at 90 percent buildout today, the 2012 Regional Plan changed the maximum allocation rate to reflect changing dynamics on land and the continued need for environmental improvements throughout the region. For the 4,000 remaining vacant lots, the Regional Plan authorized 2,600 new residential allocations to be distributed over the next 20 years and 600 residential bonus units to be available only for environmental redevelopment projects in town centers. The 2,600 allocations will be distributed to local governments at the maximum rate of 130 per year, but some years it may be less. A faster rate of allocation would not bring the desired environmental benefits and would force the region to reach buildout more quickly—bringing an earlier end of this as a ways to seed the economy and construction trades.

This method of residential allocation answers the spirit of the Tahoe Bi-State Compact that calls for TRPA to create an orderly system for growth while protecting and improving the environment. Certain environmental improvements happen in-step with a limited amount of new growth, and a healthy market exists for environmental improvements to existing buildings. This method is also considered a cutting-edge sustainability measure and it along with other TRPA programs are studied by land use professionals around the nation and the world for resource protection. Keeping Tahoe at the forefront of global resource protection is a status that befits the Jewel of the Sierra.

Joanne Marchetta is executive director of the Tahoe Regional Planning Agency.

Editorial: Tweak big water projects bill

Publisher's note: ***This editorial is from the May 10, 2013, Sacramento Bee.***

The water infrastructure of the United States is aging, and aging fast. Yet Congress hasn't enacted a Water Resources Development Act, authorizing U.S. Army Corps of Engineers projects and providing policy direction, since 2007.

Senate Bill 601, now on the Senate floor, is an achievement. California Sen. Barbara Boxer, who chairs the Environment and Public Works Committee, won a rare unanimous vote to get the bill to the Senate floor.

The bill does a lot of good – creating a National Levee Safety Program, providing low-interest federal loans for flood control and water supply projects, using the Harbor Maintenance Trust Fund surplus to expand spending for channel maintenance, increasing the user fee on inland waterways to fund much-needed improvements. It emphasizes the use of natural infrastructure to deal with the threats of intensifying storms, floods and droughts.

The bill also has found a way to get around the sweeping, excessive House earmark ban for any project "targeted to a specific state, locality or congressional district." The Senate bill would give congressional authorization to a project that has a favorable report from the Corps chief engineer, plus a project plan. That helps Sacramento's Natomas levee project, which has been held up by the House earmark ban.

But the rare unanimity in the Senate committee has come at a cost.

Under the guise of "streamlining," Boxer has allowed provisions that would make the environmental review process of Corps projects more bureaucratic while undermining the nation's bedrock environmental laws.

Certainly all reasonable parties agree that key agencies should be brought together early to coordinate projects. The problem is that Sections 2032 and 2033 in S 601 make the process rigid, imposing a "deadline-and-fine" process. Feasibility studies would have to be completed within three years, or face bureaucratic hoops for extensions. Fines would kick in if agencies don't meet deadlines they've set, unless they can prove extenuating circumstances.

What is driving this? Certainly the Corps' Los Angeles River feasibility study has run into funding problems and years of delay – and studies of port projects to widen and deepen channels for bigger ships take a long time.

But before senators vote for a bill that would curtail environmental reviews, they should take a breath and remember Hurricane Katrina and the Corps' Mississippi River Gulf Outlet project that funneled Katrina's storm surge into New Orleans.

A May 6 report by the Congressional Research Service points out that environmental review for Corps of Engineers proposals on average takes two to three years. Obviously, some large, complex or controversial projects take longer, but that's what in-depth review is for. Most delays come from lack of funding and resulting backlogs.

With the House starting to work on its own bill, promising to undo reviews that can raise important concerns, the Senate should be wary of imposing requirements to complete environmental reviews within three years.

Boxer should accept amendments that modify Sections 2032 and 2033 so the bill streamlines but doesn't undermine review of Corps projects. The nation is long overdue for a new Water Resources Development Act, and S 601 has many good elements. But after the Katrina disaster, this is no time to go backward in making sure the Corps does projects right.

Letter: Warning from LTUSD

To the community,

Local contractors may be receiving phone calls and invoices regarding the "2013 California School Guide". Please be aware that this guide is not sponsored by, or affiliated in any way with LTUSD, nor is this guide recommended by the Lake Tahoe Unified School District. The "2013 California School Guide" is developed and distributed by School Publishing (aka Medical Publishing, aka Municipal Publishing, etc.), an independent publisher located in Riesel, Texas.

This publisher solicits companies that have done business with school districts, hospitals, municipalities, etc. to purchase an advertisement in their guides. The company claims that "the guide is a high quality online publication that provides a valuable resource to school districts and educational agencies". However, LTUSD cannot to confirm receipt of the publication either in print or online, now or at any time in the past.

Building contractors may not be fully aware of what they are agreeing to, as the district's name is discussed in the verbal and printed communication. Invoices received by contractors not only include a confirmation number and amount due, but specifically name the "Lake Tahoe Unified School District."

Please contact LTUSD at (530) 541.2850, ext. 225 if you have any questions or email info@ltusd.org.

Angie Keil, LTUSD