ISSUE BRIEF

Union Reporting and Disclosure

Several current legislative proposals would impose greater reporting and disclosure obligations on unions and increase sanctions for noncompliance with the Labor Management Reporting and Disclosure Act (LMRDA). Yet unions are already subject to more extensive reporting and disclosure requirements under the LMRDA than are businesses under Securities and Exchange Commission (SEC) rules. Congress should oppose discriminatory and burdensome new reporting and disclosure requirements for unions that do not apply equally to businesses of comparable size and whose cost would bankrupt many smaller unions.

The LMRDA of 1959, also known as the Landrum-Griffin Act, gives union members the right to personally inspect union financial records and imposes detailed financial reporting and disclosure requirements on labor organizations. Unions with more than $200,000 in annual revenues must file especially detailed financial disclosure forms—called LM-2s—with the U.S. Labor Department every year. The purpose of these reports is to help union members regulate the affairs of their unions, not to hobble unions and keep them from carrying out the direction of their membership.

Reporting requirements for unions are more extensive than for businesses. Union financial reporting requirements under the LMRDA are far more onerous, in numerous respects, than those applicable to publicly held corporations under the Securities and Exchange Act (SEA) and SEC rules. In fact, corporations with annual receipts comparable to almost all labor organizations are rarely subject to SEC reporting requirements in the first place, because they are rarely publicly held. Even when they are publicly held, they may qualify for SEC reporting exemptions for small corporations.

Unions are typically small and often staffed by volunteers. The average size of labor organizations required to file LM reports is quite small. Only unions with annual receipts of more than $200,000 are likely to maintain full-time staff, yet these account for only 5,520 of the 30,627 unions required to file LM reports in 2001, according to the Labor Department. Even among these largest 5,520 labor organizations, only 70 are national and international unions; the rest are union locals.

Burdensome requirements lead to filing delays. Critics of late-filing unions often have failed to distinguish between large and small unions, and between short delays and failure to ever report. Virtually all unions with annual receipts of more than $200,000 do file their LM-2 reports, even if a small percentage file them late. According to data supplied by the Labor Department, as of June 2002, only .4 percent of all unions with annual receipts of more than $200,000 had failed to file LM-2 forms that were due in March 2000 (20 out of 5,433 unions). Only 3.8 percent of unions of all sizes had not yet filed. Problems with timely filing involve mainly small organizations that lack adequate staff. As Deputy Assistant Secretary of Labor Don Todd has acknowledged, late filing is almost always unintentional—the consequence of overly burdensome requirements and a shortage of staff and resources.

The administration is proposing more reporting requirements for unions. On Dec. 27, 2002, the Bush administration proposed new and crushingly burdensome paperwork and accounting requirements that would make it even more difficult for unions to file their LM-2 reports on time. Economists estimated that a nearly identical draft proposal in 2002 would cost unions $280 million

to $1 billion per year, not counting enormous start-up costs. The cost of complying with these new requirements would bankrupt many smaller unions. Even larger labor organizations would have to completely revamp their record-keeping and accounting practices. The assistant secretary of labor in the first Bush administration stated that a similar proposal in 1992 would produce “a lot of junk” and impose an “unconscionable” burden on labor organizations.

The administration is proposing additional penalties against unions. The Labor Department is simultaneously promoting a legislative proposal to establish new civil penalties for LMRDA violations, such as late filing. The department already has abundant enforcement authority, however, including authority to audit union financial statements on a random basis, to seek injunctions to mandate compliance with the LMRDA and to impose criminal sanctions against union officers for LMRDA violations, including criminal fines up to $10,000 and up to one year imprisonment.

The administration weakened reporting requirements for businesses. Meanwhile, the Bush administration has gutted the few LMRDA requirements applicable to employers. In April 2001, the Labor Department reinterpreted the LMRDA to effectively free employers from having to report payments to union-busting consultants.

There is a double standard for businesses and unions. It is inconceivable that Congress or the White House would ever require comparably sized businesses to meet the same reporting requirements applicable to unions, let alone impose crushingly burdensome additional requirements and slap fines on firms that cannot keep up. The double standard is telling. In fact, these punitive legislative and regulatory proposals originated with employer-funded anti-union groups intent on bankrupting unions.