

Indian casino union formed in Conn. not a sure bet in Calif.

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SACRAMENTO – For the past decade, much of the tension in the push to expand Indian gambling in California has been generated by organized labor and its political allies.

The hotel and casino workers union UNITE HERE! has waged a relentless campaign for a stronger hand in organizing – the ability to establish a union simply by persuading a majority of workers to sign cards in support of a union. No election is required.

Indian casinos, where employees toil under surveillance cameras and have limited recourse against employer retaliation, can't be organized under the old-fashioned way with contentious campaigns and secret elections, labor leaders insisted.

But the United Auto Workers did just that last month, scoring a lopsided victory against a major casino in Connecticut after a six-month campaign.

The UAW win at Foxwoods Resort Casino has attracted national attention and prompted a round of second-guessing in California, where labor's push for what's known as “card-check neutrality” has led to another expensive ballot fight over tribal gaming.

UNITE HERE! is a major backer of four measures – Propositions 94, 95, 96 and 97 – on the Feb. 5 ballot that could block new gambling agreements, or compacts, for a group of powerful tribes that have refused to grant stronger organizing rules.

A racetrack owner and two other tribes also are bankrolling the referendums for Sycuan of El Cajon, Pechanga of Temecula, Agua Caliente of Palm Springs and Morongo of east Riverside County. The opposing camps have raised more than \$40 million for the battle, with more to come.

The four tribes say their existing compacts have permitted conventional union organizing with secret elections for the past seven years.

The UAW victory “just goes to show if a union actually tries to organize and workers want a union, they can have it,” said Jacob Mejia, a Pechanga representative.

But John Wilhelm, a president of UNITE HERE!, warned the UAW's victory at Foxwoods might prove hollow. It will be much more difficult to get a contract from the Mashantucket Pequot, the tribe that owns Foxwoods, he predicted.

It will take years to exhaust probable appeals to the National Labor Relations Board and federal courts. Even if the UAW prevails at the end of that long process, they still might be unable to negotiate a contract, he said.

“Absent an agreement either to arbitrate or some other method of concluding the collective bargaining, there is no effective way to strike a tribal casino, because the right of workers to picket a tribal casino has never been established,” Wilhelm said.

For those reasons, he said, “we think the NLRB process will prove to be a false hope for those employees.”

A handful of California compacts that allow card-check organizing don't permit lengthy appeals and have a process, including binding arbitration, to arrive at a contract, Wilhelm said.

“That's why there are contracts and better conditions in several tribal casinos in California,” Wilhelm said.

As it attempts to replace the dwindling ranks of auto workers, the UAW has become a growing force in the flourishing gambling industry. It represents casino workers in Detroit, Atlantic City and Rhode Island.

At Foxwoods, UAW officials said some of the casino's 2,400 dealers asked the union to step in. The dealers had grown increasingly frustrated with management indifference to stagnant wages and eroding benefits, said Jacqueline Little, a poker dealer with 15 years at Foxwoods.

The dealers approached the UAW because it had organized dealers elsewhere and negotiated “much better working conditions than we had, and we were working in one of biggest and best-known casinos in the world,” Little said.

On Nov. 24, more than 60 percent of the dealers voted to join the UAW.

“It's historic,” said Bob Madore, the UAW's director in the region. “It's going to go down in the books . . . and the domino effect it's going to have is of a seismic magnitude.”

Although they target different workers, such as food and beverage and other hospitality workers, UNITE HERE! had tried in vain to organize at Foxwoods for years.

Ironically, the UAW succeeded at Foxwoods with the help of a landmark decision that UNITE HERE! won in a lawsuit against the San Manuel band of suburban San Bernardino. In that case, a court ruled in February that Indian casinos are subject to federal labor laws.

Jack Gribbon, UNITE HERE!'s political director in California, said it took eight years just to get to the San Manuel verdict.

UNITE HERE! has some 440,000 members nationally, with 125,000 in the casino industry. The union represents roughly 5,000 workers at four California Indian casinos, including the Pala Casino, Spa & Resort in north San Diego County.

The Communication Workers of America represent several thousand workers at two other casinos, San Manuel's and the Viejas Casino in Alpine.

All of those contracts were negotiated by unions established through either card-check or other agreements with the casinos.

During a nearly yearlong deadlock over the compacts for Pechanga, Sycuan, Morongo and Agua Caliente, tribal leaders asked repeatedly why labor had not attempted to organize their casinos under the collective-bargaining terms provided in their 1999 compacts.

Assembly Democrats, who blocked the compacts at labor's behest, privately were asking the same question as they endured pressure to approve the multibillion-dollar deals that promise a much larger cut of revenues for the state.

In testimony before a Senate committee in April, Gribbon and Art Pulaski, head of the California Labor Federation, said unique conditions at Indian casinos make it virtually impossible to organize workers under existing rules.

For example, Gribbon has said, one tribe granted access but set up an organizing table under a surveillance camera. Moreover, although tribes agreed to allow organizing, workers have little recourse against intimidation or harassment, Gribbon said.

The UAW was also concerned about retaliation against workers. So it decided to organize off-site, rather than on Foxwoods' premises. The union obtained dealers' home addresses through public records held by the state gaming commission, which licenses the dealers.

The union then concentrated on house calls and one-on-one sessions with workers scattered from New York City to Vermont, Maine, New Hampshire, Rhode Island, Massachusetts and Connecticut, the UAW's Madore said.

Dan Cornfield, a Vanderbilt University labor authority, called the UAW's approach "cutting-edge."

"That would be considered not only part of the new union organizing in terms of which sectors they're trying to organize, but also the method of organizing, the method of recruitment would be considered an aggressive, full-court press," Cornfield said.

The UAW's victory ultimately will be judged by what the union can deliver in a contract. That figures to be a long and difficult process.

"The Mashantucket Pequots will no doubt appeal the court ruling making them subject to federal labor law, and will probably be able to avoid meaningful collective bargaining while that case

makes it way through the courts,” predicted Jeff Haydu, a sociology professor and labor specialist at the University of California San Diego.

Little, the Foxwoods dealer, said her co-workers know “we're not going to have a contract anytime soon. We're prepared for that.”

The stakes are high for the UAW, the Mashantucket Pequots and tribes nationally, the UAW's Madore said.

“There is going to be some healing that needs to take place,” he said. “Once that takes place, I think rational people will sit down and make rational decisions . . . Eventually, the workers here are going to get a contract one way or the other.”