

OLIVER BELL, INC.
TEN MINUTE - WHITE PAPER

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2012 Forecast – What’s Facing You in Labor & Employee Relations More Jobs – Power Politics – Confrontational Bargaining – Social Media

The future is upon us. What should operational and labor/employee relations leaders expect as we enter 2012? “The Kitchen Sink!” It is all going to get thrown at you this year... even more so than last year. 2012 is here... so get ready to rumble! The key to success will be how you respond in order to:

- Keep business goals for safety, quality, service and production in focus,
- Coach leaders on best practices, communications and issue resolution
- Ensure fairness and consistency in your labor/employee relations
- Minimize uncertainty in the business environment, domestically and internationally
- Ensure compliance with regulatory changes in multiple operating jurisdictions

To try to streamline our 2012 analysis, we will focus on United States domestic employment issues, but rest assured many of the potential changes have global employment implications.

Our domestic focus includes:

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| <ul style="list-style-type: none">• On-shoring• Pressure to perform• Election year politics | <ul style="list-style-type: none">• Regulatory concerns• Labor & Employee Relations• Social Media |
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“On-Shoring”

Jobs are going to start coming home! Yes that’s right some of that work that has been more efficient or more economical to perform overseas has reached an economic tipping point. Global wages in manufacturing are moving upward in some key areas like manufacturing. Recent statistics noted that wages for like type manufacturing jobs in China are about 1/3 of US wages. US skilled trade’s employees are about 3 times as productive as their foreign counterparts, have better safety standards, and exhibit better environmental compliance.

This effectively means that we have an economic balance in direct production costs. When we add in the cost of transportation, goods that could once be produced overseas and shipped back to the US more cheaply than they could be produced here have reached a tipping point. The tipping point... domestic production may now be more efficient and less costly. This trend will increase in domestic employment. The “Region of the Americas” (Canada, Mexico, Central America and the Caribbean) will share in this resurgence. The trend will impact surrounding countries slightly behind the US as some costs in those countries are higher and the tipping point has yet to be reached... but is clearly within reach.

Pressure to Perform – Workforce Fatigue

There is another factor impacting leaders. It is an economic malaise brought on by a constant pressure to perform that is contributing to workforce fatigue. There is an all out drive to increase productivity, drive quality, reduce costs, and create efficiencies in every aspect of American industry. No other country is so singularly focused. This drive domestic drive for performance improvement is clearly outpacing productivity in Pacific-rim manufacturing countries by multiples of 2-4 times. This is a grand effort.

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However, this effort - within organizations who fail to clearly and concisely communicate its purpose for the organization and its benefit to employees - can create fear, uncertainty, and reticence in a workforce. Leaders who fail to explain why the push and pressure is necessary will have less employee support for those efforts. Those employers who connect such efforts, via communications, to opportunities for growth, job security, greater employment, employee satisfaction, customer satisfaction and overall workplace stability will be far more successful and see that communication effort rewarded by a workforce that is engaged and rises to meet the challenge.

Election Year Politics

The big unknown is here. What will candidates do in the process of seeking the national stage that will impact employers and employees? There are a host of election year regulatory changes that could occur to curry favor with various special interests. There are promises to made covering every quarter and again sparking the support of special interests. Groups such as the:

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| • business lobby | • pro-tax lobby | • foreign investment lobby |
| • labor lobby | • pro-growth lobby | • foreign divestiture lobby |
| • climate change lobby | • isolationist lobby | • open immigration lobby |
| • climate change hoax lobby | • big government lobby | • closed immigration lobby & |
| • no tax lobby | • small government lobby | • a cast of others... |

You name it... are all looking for some sign that the next four years will be more positive for them.

The candidates that can hobble together the best coalitions will be the most successful. For each of you, make sure your issues are known and pursue them as you deem fit. Failure to get in the game will leave you sniveling miserably on the sideline come next November. Yep, we said it. If you are not in the game don't cry later. Those who participate in the process have a true right to commentary - positive or negative. Those who currently chose to sit on the sidelines should not complain later when their world seems to be changed for the worst.

By the way, the trend of on-shoring of jobs will likely be a positive for all incumbents. If it hits early enough and with enough impact, incumbents will likely benefit more than challengers

Regulatory Concerns – Federal, State & Local

The alphabet soup of regulatory agencies will be working overtime to impact policy. It may be to your advantage or detriment; you will have to monitor the changes to know. Several federal agencies, DOL, NLRB, NMB, FLRB, EEOC, and OFCCP have recently made or proposed changes that will impact employers in 2012. DOL proposed changes in Labor Management Reporting & Disclosure Act (LMRDA) enforcement that would place greater scrutiny on any activity employers have related to union organizing and require employers to report virtually all employee relations activity to the government.

The National Labor Relations Board (NLRB) has enacted (delayed for now but effective in 2012) new posting requirements regarding labor law. They have also changed well established union election requirements that would so shorten the time frame for elections that the term "ambush election" is now being widely applied. We have also seen relationships between Board members take on a new tone. There has been open discord among members including discussions of resignations, being locked out of the process, failing to engage in the process, and questions about what approach best secures employee interests. We expect this to continue to some degree at least for the first six months of 2012.

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The National Mediation Board (NMB) has taken it upon itself to change long standard rules that affect the balance of labor-management relations. Also there has been major effort to curtail government contractor employee relations by the OFCCP and others. These changes place an economic penalty on employers who discuss employee relations issues with their workforce that can, in any way, be tied to maintaining a union free workplace. The change is so broad that employers, who are federal contractors, have to question if they can discuss any aspect of employee relations without risking being financially penalized by the federal government.

Further, recent reports from offices such as the Equal Employment Opportunity Commission (EEOC) indicate that litigation rates are well above normal, employers are losing well above historic trends, and financial consequences are more severe. If employers are bad actors in this scenario, then this is a good outcome. However, if this is a result of government overreach, then employer's tax dollars are working against their own interests.

On a state level, employers simply have to keep up with the local jurisdiction. There are changes unfolding from Maine to California, Texas to Minnesota. Some favor employers, some favor employees, some reduce the cost of doing business, but most add to the cost of doing business. Good in-house employment counsel or outside counsel/consultants can help employers monitor these changes. It is also a good idea to stay in touch with industry trade organizations that tend to monitor these issues. These organizations may be an asset to employers.

Labor & Employee Relations

In 2012, there will be more strident collective bargaining. Unions will claim they are pressing to regain/reclaim pay and benefits they conceded during the recession. Employers will not be ready yet to reverse this trend. This will lead to a greater need for work stoppage contingency planning as there will be more saber rattling in regard to strikes. Strikes are likely to increase as some labor leaders try to press situations based on their beliefs. The work stoppages will be larger and impact more employees. There will be greater liability for employers, unions and employees as a result of these strikes. Some parties are going to engage in illegal conduct and the courts will be involved. There will be very few "unfair labor practice" strikes unless an employer is just dumb or ill-advised. The majority of strikes will be economic strikes, and employers will have to make big decisions on waiting out the strike or continuing operations with smaller workforces or replacement workers in the face of a strike.

In the world of employee relations, employee surveys will continue to be important. However, employers need to find survey companies that can complete surveys in a matter of days and turn around results with tentative action plans within 30 days of survey completion. The concept of the instant survey or quick result survey is going to become more popular. One hundred page (or more) diatribes of survey results will be tossed out the window. They irritate employers and are rarely acted on with complete success. Employers need to have a notion of issues and solutions from their employee's perspective. Those surveys are valuable. Concise action plans will also carry the day. When implementing, the most effective action plans focus on delivering 7-12 focused actions per business unit/department/work team etc. per 6-12 months.

If implemented properly, communicated effectively, and adjusted in a timely manner based on post implementation feedback, then the action plan is far more important than the survey. Get the data – initially implement high return actions (those actions may have little or no cost in many cases) and make sure your work forces knows you have done so. That means you have to tell them you took action... a

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step many employers claim they “omit out of humility.” They also omit this step to their detriment. These same employers often don’t get credit for the changes they enacted at the suggestion of employees because the feedback loop was not closed. Publicize change especially if your employees asked for it. Get credit for being decent.

Social Media

Lastly, social media gets a category of its own. The focus on this area is going to continue. The big discussion point will be, “What is private and what is not?” Some people think their postings should all be private... however, their put postings out that are accessible to all. (If you really want privacy, write a diary and keep it at home, locked away... that may secure your privacy.)

Posting considerations:

- Many people say things in some of their postings that they would never say to anyone’s face. (That tells me posting is already an issue.)
- People post things for the world to see that they would never show a person at the desk next to them (This calls their judgment into question.)
- People then want a “pass” when something they voluntarily posted online now appears to have an element of backlash.
- Are people who post things for the public to view turning themselves into a public entity that has less protection and less right to privacy?
- If you post your life on line, can you really be upset that people think you are “ultra cool” or others think of you as an “ultra fool?”
- If it is posted on the web does that make it true or can it be “just a joke that misinterpreted... high spirited fun?”
- When is the posting “journalism” and when is it just “random information?” When is it libelous?
- If you post about yourself, who knows more about you than you? If you misrepresent yourself for the world to view... how is one to judge that?

Social media is going to continue to raise more questions than it answers. The watch word to employers in 2012... use it discreetly, if at all.

Economic Impact

Finally – is there an economic impact to all of this? The answer is YES.

1. *On-Shoring*: If jobs come home, that will be positive. A rising tide will lift all boats.
2. *Performance Pressure*: The pressure to perform will be a positive as long as employers provide a pressure release valve for employees?
3. *Election Year Politics*: This will be a toss-up. Where you stand at the end of the year will depend on where you sit now.
4. *Regulatory Concerns* – as fears swirl have it, this is going to impact the cost of doing business in a negative way. Posting by itself may have a minimal cost. But the cost of compliance, and in some case the cost of foregoing current best practices to comply with ludicrous regulation, cannot be marginalized.
5. *Labor Relations* – Rules that lead to easier organizing for unions will drive up employer administrative costs 17-25%. That is the administrative cost difference of managing in a

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unionized over union free environment. Depending on the size of your business and the union activity within, this cost could be in the millions for midsize companies and larger. It could be in the over a hundred thousand for smaller companies.

6. *Social media* – Cost unknown. But if you are involved in litigation it will be lost profit... period.

Finally a hidden cost to this... the \$5 Billion Multiplier Question:

- Income to be generated by organized labor in their “each one, reach one” growth campaign.
 - There are 16 million union members in the US
 - 7% of the private sector workforce
 - 35% of the government workforce
 - Easing organizing rules by some projections would create the circumstances where:
 - Unions could increase their current membership by 100% (16 million members) within a year
 - And continue that trend for with only modest effort for the next 3-4 years.
 - This cash windfall to unions with an average dues amount of \$300 per (this is low) would be:
 - Almost \$5 billion per year or
 - Up to a \$20 billion per year increase in union dues by 2016.
- This type of cash infusion to labor would greatly change the national politics and irretrievably alter the US political landscape.
- This is one of the major items labor is seeking in the changes advocated to the NLRB and others.
- If this occurs our economy will suffer.

That’s how we see 2012. It has highs and lows. There are many more areas we could discuss, but these should be the most relevant.

We encourage you to get in the game and influence things. Sit on the sidelines at your own peril. Only those who are proactive will have the opportunity to create positive outcomes for their organization or recognize early how to limit your exposure to negatives.

About the Author: Oliver J. Bell - CEO of Oliver Bell, Inc., is a labor relations strategist. The firm provides pro-employee/pro-employer strategies for union and nonunion employers in the United States, Canada, Central America and the Caribbean. Our consultants work with clients to find the most effective approach to align organizational and stakeholder goals to enhance employee relations while reaching safety, productivity, customer service, and revenue goals.

Mr. Bell is also the founder of the “Texas Labor & Employee Relations Consortium.” TLERC is an invitation only, professional networking forum of senior operations, labor relations, human resources leaders who want to discuss relevant people management activities and to review the latest information impacting leadership in organizations and labor relations.

Mr. Bell also is Chairman of the nine-member Texas Board of Criminal Justice overseeing the \$3.0 Billion per year, 40,000 employee Texas state prison system.

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