

SUPREME COURT OF OHIO

Ohio State Building & Construction Trades Council v. Cuyahoga County Board of Commissioners

98 Ohio St. 3d 214, 2002-Ohio-7213 (Ohio 2002) · No. 2001-2036 · Decided December 27, 2002

SUMMARY

The Supreme Court of Ohio held that Sections 8(e) and 8(f) of the National Labor Relations Act preempted R.C. Chapter 4116. The Ohio statute broadly prohibited public authorities from requiring project labor agreements on public construction projects, including agreements containing terms authorized by the federal labor law. The court affirmed that enforcement of R.C. Chapter 4116 was barred under the Supremacy Clause.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Alice Robie Resnick; Thomas J. Moyer; James A. Sweeney; Paul E. Pfeifer; Maureen O'Connor; Evelyn Lundberg Stratton; Terrence O'Donnell; Francis E. Sweeney
JURISDICTION	Ohio
DECIDED	December 27, 2002
DOCKET	2001-2036
DISPOSITION	reversed
PROCEDURAL POSTURE	Discretionary appeal from a split decision of the Eighth District Court of Appeals reversing a trial court judgment that declared R.C. Chapter 4116 invalid under the Supremacy Clause and permanently enjoined its enforcement.
STANDARD OF REVIEW	De novo review of federal preemption and constitutional questions.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Ohio State Building & Construction Trades Council, Cleveland Building & Construction Trades Council, International Union of Operating Engineers, Local 18 v. Cuyahoga County Board of Commissioners, State of Ohio

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QUESTIONS PRESENTED

1. Whether R.C. Chapter 4116's prohibition on specified terms in public-construction project labor agreements is preempted by Sections 8(e) and 8(f) of the National Labor Relations Act.
2. Whether R.C. Chapter 4116 constitutes state regulation or permissible proprietary conduct by the State as a market participant.
3. Whether the controversy was sufficiently concrete to support declaratory relief.

HOLDINGS

1. A real controversy existed because the county and the trades council were attempting to negotiate the very type of project labor agreement containing terms expressly prohibited by R.C. Chapter 4116.
2. Sections 8(e) and 8(f) of the National Labor Relations Act preempt R.C. Chapter 4116's blanket prohibition against entering into or enforcing project labor agreements on public construction projects.
3. R.C. Chapter 4116 is regulatory and tantamount to policymaking, not proprietary conduct by the State as a market participant.

KEY QUOTATIONS

“Sections 8(e) and (f) of the National Labor Relations Act, as enacted by the 1959 Landrum-Griffin Act, Sections 158(e) and (f), Title 29, U.S.Code, preempt R.C. Chapter 4116, as enacted by Am.H.B. No. 101 of the 123rd General Assembly, which flatly prohibits public authorities from entering into or enforcing project labor agreements on public construction projects.” (98 Ohio St. 3d at 214)

“Accordingly, we hold that Sections 8(e) and (f) of the National Labor Relations Act, as enacted by the 1959 Landrum-Griffin Act, Sections 158(e) and (f), Title 29, U.S.Code, preempt R.C. Chapter 4116, as enacted by Am.H.B. No. 101 of 123rd General Assembly, which flatly prohibits public authorities from entering into or enforcing project labor agreements on public construction projects.” (§96)

“R.C. Chapter 4116 is a blanket, across-the-board prohibition that precludes any sort of ad hoc determination as to the benefits or advantages of utilizing a PLA on a particular project.” (§95)

FACTUAL BACKGROUND

Cuyahoga County officials met with the Cleveland Building & Construction Trades Council between September 1998 and July 1999 to discuss a project labor agreement for a proposed juvenile detention center. The proposed agreement would have included union-security provisions, use of union hiring halls, work rules, no-strike and no-lockout provisions, and possible requirements that contractors and subcontractors sign collective bargaining agreements. After Ohio enacted Am.H.B. No. 101, codified as R.C. Chapter 4116, the county concluded that it could not pursue the proposed agreement.

PROCEDURAL HISTORY

The appellants filed an action for declaratory and injunctive relief in the Cuyahoga County Court of Common Pleas, challenging Ohio's statutory prohibition on project labor agreements in public construction. The trial court declared R.C. Chapter 4116 preempted by the National Labor Relations Act and enjoined enforcement. The court of appeals reversed, concluding that the statute did not prohibit all project labor agreements and, alternatively, that the State was acting as a market participant. The Supreme Court of Ohio accepted the discretionary appeal, reversed the court of appeals, and reinstated the trial court's judgment.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The court of appeals' judgment was reversed, and the trial court's judgment declaring R.C. Chapter 4116 preempted by the NLRA and permanently enjoining its enforcement was reinstated.

CASES CITED

- Nat'l Labor Relations Bd. v. Int'l Longshoremen's Ass'n, AFL-CIO, 473 U.S. 61 (1985)
- Local 1976, United Bhd. of Carpenters & Joiners of Am. v. Nat'l Labor Relations Bd., 357 U.S. 93 (1958)
- Woelke & Romero Framing, Inc. v. Nat'l Labor Relations Bd., 456 U.S. 645 (1982)
- Jim McNeff, Inc. v. Todd, 461 U.S. 260 (1983)
- Donald Schriver, Inc. v. Nat'l Labor Relations Bd., 635 F.2d 859 (D.C. Cir. 1980)
- Bldg. & Constr. Trades Council of Metro. Dist. v. Assoc. Builders & Contrs. of Massachusetts/Rhode Island, Inc., 507 U.S. 218 (1993)
- NLRB v. Iron Workers, 434 U.S. 335 (1978)
- Allis-Chalmers Corp. v. Lueck, 471 U.S. 202 (1985)
- Malone v. White Motor Corp., 435 U.S. 497 (1978)
- Metropolitan Life Insurance Co. v. Massachusetts, 471 U.S. 724 (1985)
- J.A. Croson Co. v. J.A. Guy, Inc., 81 Ohio St. 3d 346, 691 N.E.2d 655 (1998)
- San Diego Bldg. Trades Council v. Garmon, 359 U.S. 236 (1959)
- Garner v. Teamsters, Chauffeurs & Helpers Local Union No. 776, 346 U.S. 485 (1953)
- Amalgamated Ass'n of Street, Elec. Ry. & Motor Coach Emp. of Am. v. Lockridge, 403 U.S. 274 (1971)
- Weber v. Anheuser-Busch, Inc., 348 U.S. 468 (1955)
- Lodge 76, Int'l Ass'n of Machinists & Aerospace Workers, AFL-CIO v. Wisconsin Employment Relations Commission, 427 U.S. 132 (1976)
- Nat'l Labor Relations Bd. v. Nash-Finch Co., 404 U.S. 138 (1971)
- Wisconsin Department of Industry, Labor & Human Relations v. Gould, Inc., 475 U.S. 282 (1986)
- Golden State Transit Corp. v. Los Angeles, 475 U.S. 608 (1986)

- Local 20, Teamsters, Chauffeurs & Helpers Union v. Morton, 377 U.S. 252 (1964)
- Golden State Transit Corp. v. Los Angeles, 493 U.S. 103 (1989)
- United States Chamber of Commerce v. Reich, 74 F.3d 1322 (D.C. Cir. 1996)
- Colfax Corp. v. Illinois State Toll Highway Authority, 79 F.3d 631 (7th Cir. 1996)
- Associated Builders & Contractors, Inc. v. San Francisco Airports Commission, 21 Cal. 4th 352, 981 P.2d 499 (1999)
- Associated Builders & Contractors of Rhode Island, Inc. v. Providence, 108 F. Supp. 2d 73 (D.R.I. 2000)
- George Harms Construction Co. v. New Jersey Turnpike Authority, 137 N.J. 8, 644 A.2d 76 (1994)
- Building & Construction Trades Department, AFL-CIO v. Allbaugh, 295 F.3d 28 (D.C. Cir. 2002)
- Associated General Contractors of North Dakota v. Otter Tail Power Co., 611 F.2d 684 (8th Cir. 1979)

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