New Job Law Prohibits Discrimination by Unions

(Last week, the VOICE began a simplified explanation of the new Federal Equal Employment Opportunity Law as set forth in Title VII of the Civil Rights Act of 1964. In the segment presented last week, we covered what the law means to Employers and Employment Agencies. This week and next, we will explain what the law means to Labor Unions, Employees (with a detailed analysis of enforcement procedures) and to the various States of the Union. This presentation will serve as a preface to Workshop Reports on the recent White House Conference on Equal Employment Opportunity, at which Nevada was represented by State Equal Rights Commission Chairman William (Bob) Bailey and VOICE Publisher Dr. Charles I. West of Las Vegas, and Assistant Attorney General Daniel Walsh of Carson City.)

WHAT IT MEANS TO LABOR UNIONS

Section 703(c) proscribes three unlawful employment practices by unions. They are:

- To exclude or to expel from membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin.
- To limit, segregate, or classify membership or to classify or fail or refuse to refer an individual for employment in any way that would deprive or tend to deprive him of employment opportunities or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment because of his race, color, religion, sex, or national origin.
- To cause or attempt to cause an employer to discriminate against an individual in violation of the Act.

Unions also are subject to the prohibitions against retaliating against those who invoke the law's processes, discrimination in the operation of apprenticeship and training programs, and advertising that indicates a preference or discrimination based on race, color, religion, sex, or national origin. The exceptions relating to members of the Communist Party or its organizations, employees denied security clearance, and jobs in which religion, sex, or national origin is an occupational qualification apply to unions as well as to employers and employment agencies.

Definition of 'Union'—Title VII contains a long and involved definition of a "labor organization." It essentially is the same definition used in the 1959 Landrum-Griffin Act, except that state and local central bodies are covered in the same way other labor organizations are. A "state or local central body" is excepted from the definition in the Landrum-Griffin Act. So the Title VII definition is a broad one covering national or international labor organizations and their subordinate bodies, independent unions, employee representation committees, and so forth.

To be subject to Title VII, however, a union must be engaged in an industry "affecting commerce." It so qualifies if it meets either of two requirements:

- It maintains or operates a hiring hall or hiring office that obtains employees for employers or jobs for employees.
- It has 100 or more members during the first year after the effective date of the Title, 75 or more during the second year, 50 or more during the third year, or 25 or more thereafter. It also must be a certified bargaining representative or a recognized or acting bargaining representative of employees in an industry affecting commerce or a parent or subordinate body of a bargaining representative.

Although a union may not discriminate on the basis of race, color, religion, sex, or national origin in admitting persons to membership, it is not required to take affirmative steps to rectify an existing imbalance in the number or percentage of minority-group persons in its membership. Unions must make and keep records prescribed by the Commission.

(To Be Continued)