

## DUTIES OF THE LOCAL UNION BUSINESS MANAGER

The duties of the Business Manager or Business Agent are specifically set forth in Section 103 of the United Association Constitution. This section sets out specific constitutional authority and power over certain important matters in conducting the affairs of a local union on a day-to-day basis expressly conferred upon the Business Manager.

In interpreting our Constitution, we must always keep in mind that a specific provision controls the general. Thus Section 103, in the opening sentence, sets a very practical approach to the control of the daily business affairs and operations of a local union by stating that it is in the hands and control of the Business Manager, as follows:

The Business Manager and/or Business Agent meets in daily contact with the public and with the employers . . .

and it states a very important principle that by virtue of the office of Business Manager, he becomes

...the trustee of the welfare of the members of the local union.

This sentence is the constitutional recognition that the daily affairs and business operation of a local union are under the control and supervision of the Business Manager who is generally a full-time paid officer, and in many instances, the only full-time paid officer, of a local union. Section 103 then goes on to make specific delegation of constitutional authority and power to a Business Manager by stating:

It is his solemn duty and obligation to vigilantly protect the trade jurisdiction of the United Association in the plumbing and pipe fitting industry of his locality;

Further, it then states it is the duty of the Business Manager to compel employers to observe and respect collective bargaining agreements, and that a further duty of the Business Manager is:

... adjusting all grievances between members of his local union and their employers with justice and fairness . . .

And a further duty:

...as well as fostering and promoting employment for the members of the local union.

Further, under Section 104, it is the responsibility of the Business Manager or Business Agent to file all collective bargaining agreements with the General Office, as well as any supplementary wage increases.

Under Section 100(b), when there is a Business Agent or Assistant Business Agent besides the Business Manager, the Business Agent or Assistant Business Agent is under the supervision and control of the Business Manager.

Thus, the full-time daily operation of a local union in all of its affairs and operations is under the control and supervision of the Business Manager by virtue of Section 103 of the United Association Constitution.

This area of the daily functioning and operation of a local union by a Business Manager under Section 103 in carrying out the terms and conditions of the local union's collective bargaining agreement, including referral of members, settlement of jurisdictional disputes, enforcement of the contract, and organizing non-union contractors is specific, and thus, controlling under the United Association Constitution.

In accordance with Section 104 of the United Association Constitution, the Business Manager by virtue of his office is automatically Chairman of the Negotiating Committee.

Under the provisions of Section 104 of the United Association Constitution, the Business Manager, as Chairman of the Negotiating Committee, should appoint the Negotiating Committee or he may elect the Negotiating Committee in accordance with the By-Laws of the local union. The procedure for appointment under the local By-Laws may vary from local to local and area to area, depending on what is worked out in a democratic fashion in the best interest of the membership.

The Business Manager shall appoint the Committee for Political Education, Journeyman Training Committee and Apprentice Training Committee as covered under Sections 118, 119 and 120 of the United Association Constitution.

#### DUTIES OF THE LOCAL UNION PRESIDENT

Section 101 of the United Association Constitution states:

The President shall preside over all meetings and conduct the same in conformity with rules of order and common sense. He shall have a general supervisory control over all matters pertaining to the welfare of the local union. The President shall be ex officio over all committees.

Generally, throughout the jurisdiction of the United Association, the office of President of a local union is not a full-time paid office. His duties as set forth in the Constitution are to preside over all meetings of the local union and there is a general statement that "He shall have a general supervisory control over all matters pertaining to the welfare of the local union."

There should not be any conflict between the duties of the Local Executive Board and the duties of the President. Under the United Association Constitution, the terms "Executive Board" and "Committees" are not interchangeable. They are two separate and distinct bodies. By its terms, Section 101 only vests the President with ex officio status over committees. The term "all committees," however has been consistently interpreted as not including any local union offices enumerated in Section 100. If the President, for example, were an ex officio member of the Executive Board or the Finance Committee, then the Executive Board would consist of six members, not the five members specified in Section 100, and the Finance Committee would consist of four members, not the three members specified in Section 100.

Section 101 does not exist in a vacuum, but must be read in conjunction with other provisions of the Constitution, particularly in conjunction with Section 100. Reading Section 101 with other related sections of the Constitution, the proper interpretation of Section 101 is that the President may not attend the meetings of the committees or boards that are offices enumerated in Section 100. Thus, the President of the local union does not have a right to attend meetings of the Executive Board, the Finance Committee or the Examining Board.

There is nothing in Section 101 that vests in the President the authority to appoint all committees. Each local union has the autonomy to specify the manner in which committees are constituted, except for those committees and boards which have been specified in the United Association Constitution. For example, under Sections 118, 119 and 120, the Business Manager is vested with the authority to appoint the Committee for Political Education, Journeymen Training Committee and the Committee on Apprentice Training.

Accordingly, for those committees where a method of composition is not spelled out in the United Association Constitution, a local union can vest this power in the President if it so desires, or it can vest it in another officer.

Further, since Pension and Health and Welfare Funds are legal entities that are separate and distinct from the local union, Section 101 does not vest in the President the authority to attend meetings of these trust funds. A local union, including the President, has no control over a pension and welfare fund other than the designation of

Union trustees on the fund, but then only in accordance with the designation procedures set forth in the trust agreements establishing the fund.

With respect to those committees where a President does have an ex officio status, his ex officio position merely vests in the President the right to attend the meetings of the committee, and a right to participate in the deliberations of the committee. The President's ex officio position does not give him a right to chair a meeting of a committee.

In contrast, the duties of the Business Manager are specifically set forth in Sections 103 and 104 of the United Association Constitution. These sections set forth the specific constitutional authority and power over certain important matters in conducting the affairs of the local union on a day-to-day basis, and they are expressly conferred upon the Business Manager.

Thus, the full-time paid Business Manager of the local union has control and supervision over the daily operation and business affairs of the local, and there should not be any interference by the President of the local union with the Business Manager in conducting the daily affairs and operations of the local union or attempting to control same by the appointing of committees.

#### DUTIES OF THE LOCAL UNION

##### VICE PRESIDENT

(Under Sections 102, 112 and 113)

Section 102 of the United Association Constitution states:

The Vice President shall be Chairman of the Local Union Executive Board.

Under our Constitution, the Vice President of the local union is the presiding officer at the Executive Board meetings and the hearing of trials on disciplinary charges. He is an Executive Board member. Thus, a majority of the five member Executive Board, which, of course, includes the Vice President, constitutes a quorum. Therefore, if the Vice President and two members of the Executive Board are present, there exists a quorum.

Under Section 113 of the Constitution, the Vice President, a member of the Executive Board and Chairman, can only refer to the Board for transaction such business that has been referred to the Board by local union action at a membership meeting or by "the duly elected local union officers." The duly elected local union officers are the Business Manager and those other elected officers when the matter at issue relates to the specific duties and responsibilities of their office. Thus, a Local Union Executive Board, inclusive of the Vice President, does not have the authority to issue orders to officers and members.

The remainder of Section 102 spells out other specific duties of the Vice President relating to meetings in self-evident language:

The Vice President shall be chairman of the Local Union Executive Board and have supervision over all members entering the assembly room and upon a member presenting his membership card in good standing he will give him the password. He shall also have super-vision over all members departing from the room, assist the President to keep order during meetings, and in the absence of the President will assume the chair.

##### DUTIES OF THE LOCAL UNION FINANCIAL SECRETARY-TREASURER

The duties of the Financial Secretary-Treasurer are clearly stated in the United Association Constitution and should be clear to all concerned.

As covered under Section 106 of the United Association Constitution, the Financial

Secretary-Treasurer shall keep a correct amount of the financial receipts and account for all monies received and disbursed by order of the local union.

He shall forward to the General Office members' dues, reinstatement fees, initiation and reinitiation fees, withdrawal card dues and cash sheets.

Section 107 of the United Association Constitution states:

"It shall be the duty and responsibility of the Financial Secretary to obtain a surety bond for the local union so that every officer, agent, representative or employee of the local union who handles funds or other property of the local union, are bonded as required by law."

Section 108 states:

"The Financial Secretary shall require all members to affix their signatures upon the membership roll book, also upon the back of the membership cards and on travel cards and transfer cards."

Section 110 states:

"The Treasurer shall receipt for all monies turned over to him by the Financial Secretary, at the close of each meeting, and pay all bills upon proper vouchers ordered by the local union. He shall deposit all money in a bank designated by the Local Union Executive Board..."

In interpreting a union Constitution, we must always keep in mind that specific provisions control the general. Section 103 of the United Association Constitution sets

forth the specific duties of the Business Manager in the opening sentence, and sets a very practical approach to the control of the daily business affairs and operations of the local union by stating that it is in the hands and control of the Business Manager. There should not be any interference by the Financial Secretary-Treasurer with the Business Manager of the local union in conducting the daily affairs and operations of the local union. Therefore, a Financial Secretary-Treasurer has no constitutional responsibility other than covered in the above-mentioned sections of the United Association Constitution, and should act in a spirit of cooperation with the Business Manager.

## DUTIES OF THE LOCAL UNION

### EXECUTIVE BOARD

Regarding the duties of the Local Union Executive Board, a careful reading of Section 113 of the United Association Constitution should make it clear that there should not be any conflict between the duties of the Local Executive Board and the local union officers. Section 113 clearly states:

The Local Union Executive Board shall, between the meetings of the local unions, transact such business as may be referred to it by the local union, or the duly elected Local Union Officers.

Thus, the Local Executive Board has no constitutional authority to assume to itself the authority or power to act on its own motion and assume control and supervision over any matter or business of the local union unless it is referred to it by the local union or the local union officers.

As local union members, the members of the Local Executive Board have all the rights and privileges of any other member, and may very well make motions as members at local union meetings which would require that certain business be referred to the Local Executive Board for disposition. Other than that, they are not local union officers and only

function as officers when they meet in a body as the Local Executive Board.

We cannot emphasize too strongly that a Local Executive Board does not have authority to run the affairs of the local union. This is the responsibility of the duly elected officers, and specifically the Business Manager under the provisions of Sections 103 and 104 of the United Association Constitution. The Local Executive Board only has authority between membership meetings to consider and act upon matters referred to it by the local union membership meetings or by the duly elected officers.

#### DUTIES OF THE RECORDING SECRETARY

Under the United Association Constitution, the Recording Secretary's duties, as set forth in Section 105, are to keep a correct and intelligent account of all resolutions, motions and the general business transacted at local union meetings.

There should not be any conflict between the duties of the Business Manager and the Recording Secretary. Under Sections 103 and 104, the Business Manager handles all correspondence from the General Office pertaining to local union business and all other correspondence pertaining to the business and affairs of the local union.

The general statement that the Recording Secretary performs any other duties, special or otherwise, that may devolve upon him by action of the local union, is limited directly to those cases where he is directed to do so by:

- (1) Action of the Local Union Executive Board, when the Board requests the Recording Secretary to be present at the hearing upon the charges against a member to keep minutes of the proceedings;
- (2) Action of the Local Union Executive Board, when the Board requests the Recording Secretary to be present at the Board meetings to keep correct and intelligent records of the business transacted if they deem it necessary; or
- (3) By a specific provision of the Constitution.

As further spelled out in Section 105,

"He shall immediately after the election of officers forward to the General Secretary-Treasurer the names and addresses of the Officers upon a blank form furnished by the United Association."

The statement "the Recording Secretary shall also handle all official correspondence to the United Association Journal" is a general statement and must be read in conjunction with other provisions of the Constitution, including the provisions on the Business Manager.

#### DUTIES OF THE FINANCE COMMITTEE

The duties of the Finance Committee of a local union are clearly spelled out in Sections 115 and 116 of the United Association Constitution.

Section 116 of the United Association Constitution authorizes the Finance Committee to examine the finance records of the local union to determine if the local funds are properly being accounted for and are being spent in accordance with the By-Laws or action of the local union. The Committee then reports to the local union membership meeting.

The Finance Committee's authority is to examine the financial records of the local union and report its findings at Local Union membership meetings. The United Association Constitution does not give the Finance Committee authority to set policy on what the

local's funds can be spent for or how much can be spent -- that is the function of the membership expressed through the By-Laws or as approved at the local union meeting.

The Finance Committee can only act as a Committee -- that is, one member of the Committee does not, individually, have the authority of the Committee. A quorum of two members is required for the Committee to act.

#### DUTIES OF THE LOCAL UNION EXAMINING BOARD

Section 114(a) of the United Association Constitution states in part:

Every Building and Construction Trades local union and combination local union shall elect an Examining Board for the purpose of examining and determining the qualifications of all applicants as Building and Construction Trades journeymen in said local union.

Section 114(a) does not exist in a vacuum, but must be read in conjunction with other provisions of the Constitution. Reading Section 114(a) with other related sections of the Constitution, particularly in conjunction with Section 2 of the Constitution, one comprehends that the basic foundation of the labor movement is based on organizing the unorganized, and making union membership available to all qualified persons. When the United Association awards territorial jurisdiction to a local union under Section 2 of the United Association Constitution, it is with the understanding that the local union will diligently protect the trade jurisdiction of the Plumbing and Pipe Fitting Industry.

This cannot be done without a continuing organizing program, and the initiation of new members. Therefore, the United Association will neither condone, nor tolerate, the closing of membership to qualified applicants who desire to become members of the United Association.

The words "examining and determining the qualifications of all applicants" means that the Examining Board shall look at and examine the proofs of qualification offered by an applicant and determine if they are authentic. If there is a reasonable doubt as to their authenticity the board may give the applicant a test.

The word "determining" means that an applicant's qualifications are determined by the proof of current qualification, and is not to be interpreted to give the Examining Board the authority to determine the qualifications of an applicant prior to the applicant being referred to the Examining Board for their resolve. This is a function of the Business Manager.

Further, the Examining Board is not granted authority under Section 114(a) to establish tests contrary to the historic past practices of the local union or United Association. The Examining Board must keep in mind that denying an applicant membership with current proof of qualification could place the local union in a difficult

legal position. Individual members of the Examining Board cannot act in any capacity by themselves. They only represent the local union when the Examining Board is in session and all decisions must be made by the "board" rather than an individual member of the board.

Persons currently employed at the trade and being organized under a program of the local union or United Association are to be considered differently than "applicants" seeking membership in a local union under Section 114(a) of the United Association Constitution.

In addition, all local union membership tests, test results and records should be in the possession of the local union office at all times between meetings of the Examining Board.

#### DUTIES OF THE INSIDE GUARD

The duties of the Inside Guard of a local union are clearly spelled out in Section 111 of the United Association Constitution. He shall have charge of the door and be under the direct supervision of the Vice President.