

Fair Labor Practices in the Workplace

Ill-advised labor initiatives could devastate small businesses.

The current divided 112th Congress provides countervailing forces for ill-advised labor law initiatives of the past. Nevertheless, organized labor and their allies' top priority will continue to be supporting initiatives that increase their private sector membership. Additionally, federal agencies can be expected to reciprocate political support given by unions to organized labor causes through promulgating labor-friendly board decisions and regulations.

Organized labor's agenda includes legislation that could have a significant impact on the employer-employee relationships in small businesses, including, but not limited to, the deceptively named *Employee Free Choice Act*. Moreover, federal agencies, such as the Department of Labor and the National Labor Relations Board have been seized by a culture of union favoritism, with consequences that reach far into every small business.

Employee Free Choice Act or 'Card check'

The *Employee Free Choice Act* would take away a worker's right to a federally supervised private ballot when deciding whether or not to join a union. Instead, the proposed bill would require the NLRB to certify a union that brings in signed authorization cards from a majority of employees in the company bargaining unit. The card check system makes it easier and less expensive for unions to target and organize small businesses of any size, using any means available—false or misleading promises, threats or coercion. Employees who sign just to get persistent organizers out of their living rooms will now be stuck with the union in their workplaces indefinitely. As if this weren't bad enough, the Act could then impose a contract on the employer, based on what a government-selected arbitrator decides. Even if a wage increase can't get passed along, or a union pension plan is underfunded, the arbitrator could force it on an unwilling small business.

Regulatory Burdens

Small-business owners face unique challenges in navigating federal regulations. According to a recent NSBA survey, regulatory burdens represent the fourth largest challenge to the future growth and survival of small firms—even before federal taxes. Despite some key progress—including passage of the *Plain Language Act* and a recent move by the administration to more closely examine federal regulations—small businesses are increasingly voicing their concern with regulatory burden. The number of small-business owners who picked regulatory burdens as both a challenge (up from 28 percent to 30 percent) and a key issue for Congress to fix (up from 14 percent to 17 percent) increased slightly in the last six months. Moreover, according to a report by the Office of Advocacy at the Small Business Administration, the total cost of federal regulations has increased to \$1.75 trillion. The cost per employee for businesses with fewer than 20 workers now averages \$10,585.00.

The National Labor Relations Board's (NLRB) recent culture of union favoritism does not help alleviate these massive regulatory burdens. Recent activity from the Board has led to an agenda that provides special treatment to Big Labor over worker privacy, threatened worker rights to a secret ballot, endangered the rights of private property, and jeopardized economic growth. Several recent cases and proposed rules suggest the board is eager to tilt the playing field in favor of powerful unions instead of small businesses and their workers. Regulatory threats have not been isolated at the NLRB, however. Project labor agreements, high-road contracting, and unwarranted ergonomic rules from the Department of Labor's regulatory agenda are forcing a heavy hand on small businesses ability to achieve our nation's economic goals.

Policymakers and administration officials must be mindful that the U.S. is nearing two years of consecutive unemployment rates above nine percent. Future goals must focus on economic recovery and getting the unemployed back to work. NSBA supports fair labor, economic growth, and job creation. We look forward to working with Congress and the administration to achieve these goals.