

The Employee Free Choice Act

NSBA opposes 'card check' legislation

Organized Labor has made the deceptively named Employee Free Choice Act its number one priority for the 111th Congress. The bill would make it easy for unions to coerce workers of small businesses to unionize. Big Labor and its allies are pushing for Congress to pass the legislation within the first 100 days of the Obama administration. President-elect Obama is a past supporter of the Employee Free Choice Act.

Currently, if 30% of employees at a business sign cards authorizing union representation, the cards are submitted to the National Labor Relations Board (NLRB) for a secret ballot election. If more than 50% of employees certify their desire for representation, a union can, in theory, agree with the employer to let the union come in to represent the employees. However, under current law, the employer does not have to agree, and can require a secret ballot vote overseen by the NLRB. In these elections, employees are given both sides of the issue and can vote as they choose, without fear that the union will know how they voted. This is the time-honored American way.

The Employee Free Choice Act wrongly replaces this long-standing requirement for secret ballots. 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, 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 have the union in their workplaces. 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.

NSBA is not opposed to workers' rights to unionize. However, the Employee Free Choice Act undermines our nation's democratic principles – secret ballots in elections, and the freedom of contract.

In 2007, the Employee Free Choice Act passed the House of Representatives, but was killed by a filibuster in the Senate. The 111th Congress could introduce the legislation as one of its very first actions. Once again, the battle will be in the Senate, where 41 votes are needed to uphold a filibuster.

The Employee Free Choice Act would impose unfair and burdensome costs on small business and infringe on employee privacy. Real employee free choice allows an employee to decide in private whether to support unionization or not – free from the possibility of coercion and intimidation that are present when secret ballot elections are removed.

Small businesses already face countless challenges in the current economic climate. The Employee Free Choice Act could fundamentally alter the nature of the small business-employee relationship.

Contact NSBA today to join our fight to protect small business.