



ISSUES

- Accomplishments
- Business Votes 2006
- Chamber Testimony
- Elections
- Grassroots Alerts
- Index of Issues
- Letters to Congress**
- Priorities
- Regulatory Comments
- State Resources
- Litigation Center
- Weekly Commentary

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Letter Opposing H.R. 800, the "Employee Free Choice Act"

February 13, 2007

The Honorable George Miller
Chairman, Committee on Education and Labor
United States House of Representatives
Washington, DC 20515

Dear Chairman Miller:

It has come to our attention that the House Education and Labor Committee has scheduled a markup of H.R. 800, the "Employee Free Choice Act" (EFCA) this week. The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, urges you to oppose this legislation.

The National Labor Relations Act (NLRA), enacted more than 70 years ago, established a system of industrial democracy that is similar in many respects to our system of political democracy. This system allows employees to determine if they wish to be represented by a particular union through an employee secret ballot election overseen by the National Labor Relations Board (NLRB). It protects the interests of both the employee and employer by ensuring that both sides have an opportunity to make their case, and employees are able to express their decision in private—free from coercion and intimidation.

Secret ballot elections have long been recognized as the preferred method for determining representation questions. However, under certain conditions, a union and an employer are allowed to agree to union recognition through the so-called "card check" process. The Employee Free Choice Act would amend the NLRA by giving unions the right to achieve recognition solely through the "card check" process; thereby, permitting labor unions to avoid secret ballot elections.

Under the card check approach, union organizers collect signatures of employees on authorization cards and present them as representing the true intent of the employees. However, as the Seventh Circuit Court of Appeals observed, "Workers sometimes sign union authorization cards not because they intend to vote for the union in the election but to avoid offending the person who asks them to sign, often a fellow worker, or simply to get the person off their back."¹ Therefore, the card check process exposes employees to abuse, threats and intimidation because the union must accumulate the required number of signatures. The Employee Free Choice Act would elevate this inferior card check process to the principle method of recognizing a union; thereby, eliminating the employees' long-standing right to secret ballot elections.

Due to the inherent and long-recognized problems with the card checks process, union members recognize that secret ballot elections are the fairest way to choose whether or not to form a union. In a poll by Zogby International, union members overwhelmingly (84% to 11%) indicated that employees should have the right to specifically vote whether or not to join a union.

Despite this, unions are emphasizing the card check process in their organizing drives, not because they do not win secret ballot elections—they win over 50%—but because it eliminates any chance of losing. As an open ended process, they can keep a campaign going as long as necessary rather than resolve the issue on a specific date as with an election. Not only are employees often targeted for intimidation, but the card check process also often leads to other coercive tactics, known as "corporate campaigns." The campaigns are designed to pressure employers through demonstrations, false and misleading stories in news media, and other public expressions to recognize unions as the exclusive bargaining representative of their employees without having an election. These tactics are how organized labor's leadership intends to restore its declining membership base in the private sector.

Reliance on stale 1930s rhetoric that falsely castigates employers will only perpetuate organized labor's current membership difficulties. The answer to organized labor's failure to get more members lies in developing an agenda and message that is relevant and attractive to the modern workforce not in subverting proven election procedures that protect an employee's right to vote for a union in secret free from coercion.

For these reasons, the Chamber urges you to oppose EFCA when considered by the Committee.

Sincerely,

R. Bruce Josten

cc: Members of the Committee on Education and Labor

¹ *NLRB v. Village IX Inc.*, 723 F.2d 1360, 1371 (7th Cir. 1983). These views of the court on card checks as not indicative of true employee intent are reflected in other case law and are far from unique.

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