



PROTECT THE RIGHTS OF EMPLOYERS AND EMPLOYEES

In the face of recent defeats on Capitol Hill, labor unions are using the regulatory process to promote an agenda that would undermine the rights of employers AND employees, and compromise job creation.

Thanks to aggressive engagement by small business leaders around the country, the prior Congress rejected the Employee Free Choice Act (EFCA or “card check), labor’s top legislative priority, despite strong Democratic majorities. EFCA would have scrapped the right to secret ballots in union organizing elections and imposed mandatory collective bargaining (by a government arbitrator) on employers and employees — even if neither party agreed to the terms of the final contract.

With their hands tied on the Hill, unions are working with allies in the administration to bypass Congress and implement the labor agenda. Agencies such as the National Labor Relations Board (NLRB), Department of Labor (DOL), and the Occupation Safety and Health Administration (OSHA) have been happy to oblige, issuing decisions and regulations hostile to employers.

For example, the NLRB recently issued a complaint against Boeing, challenging a decision by the company to move production activity from its unionized Washington State aircraft plant to a non-unionized South Carolina facility. Additionally, the NLRB has proposed a rule that would require all employers covered by the National Labor Relations Act (nearly six million companies) to post a notice advising employees of their rights to organize.

NLRB is also pursuing a major change in labor policy without following the public comment and cost-benefit analysis requirements of the Administrative Procedures Act. Specifically, the Board is reconsidering what constitutes an appropriate unit for purposes of union representation and collective bargaining in the context of a single administrative law case in which no party even requested such a sweeping review of existing law. Critics charge that this is yet another example of the NLRB making an end-run around Congress.

Congress must aggressively assert its oversight authority over administrative agencies to protect small businesses from regulations and other actions that unnecessarily drive up costs of doing business or that tilt the playing field against employers and job creation.

- Anti-employer policies create substantial uncertainty for business planning and diminish the control business owners have over their operations and property.
- Dr. Anne Layne-Farrar, an economist from the non-partisan firm LECC consulting, determined that job losses directly attributed to the passage of card check legislation would be equal to the entire population of Boston or 75 percent of San Francisco.
- Congress should conduct substantial oversight of agencies such as the NLRB, DOL, and OSHA and ensure that businesses are not hindered from creating new jobs as the nation seeks to regain its economic footing after the recent recession.