

# Bill on union organizing would hurt business, democracy

I've been listening to the debate, reading the arguments on both sides. Now I've just got to weigh in—from a business perspective—about one of the most controversial and potentially harmful pieces of federal legislation I've seen in a long time.

I'm talking about the Employee Free Choice Act, an amendment to the National Labor Relations Act that was introduced in Congress in 2007. So far, it has failed to pass the entire Congress, but it gained significant momentum late last year when then-presidential candidate Barack Obama began talking about it as a necessary step to revitalizing and protecting the middle class. That momentum continues to build and could result in adoption by Congress this year, which many people feel could have a detrimental effect on the work force, employers and the general economy.

Organized labor says the bill is necessary to remove unfair barriers to union representation and collective bargaining, to prevent employers from intimidating workers who want union representation. Adopting this bill, they argue, is the only way to guarantee that workers will get better jobs and benefits.

I've looked at this bill, and I have to say that I don't think it's about making things better for workers. It's about growing the power of unions and the people who run them. A closer examination of some of the changes proposed under EFCA bears that out.



**ON BUSINESS**  
Sandra Parker

One of the key provisions of the bill effectively does away with the National Labor Relations Board's election process of secret balloting and allows unions to be approved simply if a majority of workers sign authorization cards, a system known as card check. Not only does that contradict a cornerstone of our democratic society, the right to private ballot, but I also believe it invites union leadership to coerce workers into signing the cards and leaves employees open to on-the-job harassment.

The EFCA would force a company to recognize a union after the card-check process and would allow a government arbitration panel to impose an agreement for two years, without judicial review, if the union and employer cannot agree to terms within 130 days.

I recently attended a seminar during which an attorney from Canada—where card check exists—said the legislation as drafted is subject to dangerous interpretation. For instance, it effectively excludes employers from a hearing to decide the

validity of the cards, which unfairly prohibits the employer from raising legal arguments against the process. It also fails to address how long an employee's signature is valid, whether an employee may revoke the signature and a host of other legal issues, he said.

In a recent article in the Philadelphia Inquirer, Pat Toomey, a former Pennsylvania congressman, called the card-check authorization "intimidating" and "divisive" and said passage could deepen the recession.

"The card-check legislation takes what the private sector does best—job creation—and puts it in the hands of people who have never created a single job," Toomey wrote. "Jobs aren't created by government arbitrators or union bosses; they're created by the small business and local entrepreneurs who would be hit hardest by this law."

And in a recent Wall Street Journal article, University of Chicago law professor Richard Epstein, a senior fellow at the Hoover Institution, went so far as to call EFCA "constitutionally suspect" because it takes away an employer's right to walk away from an unpalatable agreement that "could well impose terms that might cripple the firm competitively."

That extends to the extreme increases in penalties that employers could face for unfair labor practices during the organizing effort, such as triple back pay and civil penalties up to \$20,000 per violation. Fur-

ther adding to the imbalance: There is no change to penalties for unions' violations during organizing.

Organized labor is pushing hard for this amendment. But I have to question whether the average worker really wants it.

According to the Bureau of Labor Statistics, union membership in the United States rose last year, with 12.4 percent of the work force in unions. But that's still significantly less than the 20 percent in union jobs in 1983. By far, the biggest chunk of today's union jobs is in government—36.8 percent representation, compared to 7.6 percent in the private sector.

A survey released this month by the Center for Union Facts found that 82 percent of non-unionized Americans say they do not want their jobs to be unionized.

The Labor Relations Institute Inc. put it bluntly: "Make no mistake. Should this law pass nearly every private-sector company in America will be vulnerable to a stealth organizing campaign. Overnight, companies that today have little reason to worry about unions will find themselves targets. This is especially true for small businesses."

Workers don't want it. Employers can't afford it. There's nothing fair or free about the Employee Free Choice Act. Now it's up to us to let our federal legislators know that, so they can make the right choice for all, not just for the unions.

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