



December 8, 2008

[TO MEMBERS OF THE PA CONGRESSIONAL AND SENATE DELEGATION]

The Lancaster Chamber of Commerce & Industry, representing nearly 2,800 businesses and over 120,000 individuals, writes with great concern regarding H.R. 808/S. 1041, the “Employee Free Choice Act,” which is expected to be re-introduced and considered early in the 111th Congress. We ask for your careful consideration before you cast your vote.

The Chamber believes this bill causes pause because it seeks to undermine the long-standing principles of workplace democracy and fairness by restructuring 60 years of labor law in a severely negative way for business. Here’s how:

Eliminates Secret-Ballot Elections: First, and most troubling, the bill would eliminate secret-ballot elections for union organization. Under current law, union organizers can request the National Labor Relations Board (NLRB) to hold a secret-ballot election once 30 percent of the workforce signs authorization cards. Before the election, both the union and the employer are given the opportunity to make their case to workers. Once workers hear from both sides, they cast votes in a federally supervised secret-ballot election. If the union gets more than 50 percent of the vote, they are certified by the NLRB and the employer must begin collective bargaining.

The Employee Free Choice Act would abolish the secret-ballot process. Instead of a secret election, union organizers would simply ask workers to sign a card. Once 50 percent of employees sign a card, the NLRB would certify the union – without any election. Employers would be forced to recognize the union and all workers would be forced into the union, whether they had signed a card or even knew there was an organizing drive under way. In fact, union organizers have no obligation to tell an employer it is launching an organization drive. An employer may not find out an organizing campaign is underway until ordered by the Federal government to start collective bargaining. This provision is most troubling from the standpoint of fairness and transparency between employer and employee.

Employees should have the right of privacy in a secret ballot election to avoid bullying or strong arm tactics by union organizers. It is only through a secret ballot election that an employee can vote his or her conscience with out fear of intimidation or reprisal.

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Forced Binding Arbitration: Second, under the Employee Free Choice Act, after a union is certified, if both sides cannot reach an agreement on an initial contract after 120 days, they would be forced into arbitration, where a panel – who may not have any understanding of the business or marketplace – would develop and rule on a binding contract. Neither employer nor employee could appeal the arbitrator's ruling and the contract would last for two years. Under current law, after a union is recognized, both sides bargain on a first contract in good faith where a fair and appropriate compromise is reached and not put under the pressures of an unachievable deadline.

Unfair Penalties on Business: Lastly, the Employee Free Choice Act would impose stiff penalties on business for unfair action against a worker during an organizing drive. What concerns us is the fact that the provision is one-sided – it does not apply to unions for unfair action against workers or business. Let's be clear, any unlawful termination or action by employer *or* union should be fully investigated, but this provision sends the message that union actions are less of an injustice than employer actions.

In a time of economic uncertainty, additional challenges and distractions to businesses are the last thing that should be considered. Rather, we suggest the Federal government explore policies that will encourage businesses to be innovative, expand their markets and create high-quality jobs.

We ask that as you prepare to tackle the tough issues before you in the 111th Congress, you carefully consider the ramifications of this bill. Should you have any questions, please do not hesitate to call The Lancaster Chamber at 717-397-3531.

Sincerely,

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Thomas T. Baldrige, C.C.E.
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cc: Lancaster County State Delegation