PCA: Trading Tax Relief For Unionization

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With much of the current focus among pro-management advocates on the card-check provisions of the Employee Free Choice Act, Congress is considering several other pro-labor legislative proposals that warrant scrutiny. One such proposal is the Patriot Corporations of America Act of 2009 (PCA) which, as drafted, requires clarification with respect to several key provisions. One thing that is clear is that if enacted, the PCA will render EFCA moot with respect to the goal of increasing the success of union organizing drives.

On its face, the PCA is packaged as a tax reduction for American corporations in exchange for certain conditions primarily designed to increase employee benefits and reduce outsourcing. Among the many provisions an employer must meet to attain "Patriot" status is to remain neutral in employee organizing drives and have a policy to that effect. This one provision alone may far outweigh any long-term benefit that flows from a Patriot Corporation designation. The result is a playing field where the union has no organized opposition.

While the PCA might otherwise be viewed as a fair and honorable exchange – tax relief in exchange for providing needed domestic jobs and employee benefits – the neutrality obligation should be approached with extreme caution by any corporation that wishes to remain union free. The short term benefit of a tax break will be palatable, perhaps irresistible, to many corporations, particularly if they see their tax rate begin to rise.

The long term effect of a unionized workforce, which could be an inevitable result to a patriot designation, is a burden that corporations may be neither willing nor able to bear.

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