

CRAIG BECKER: UNIONS' MAN ON THE NLRB

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On July 9, 2009, President Obama nominated Craig Becker to be a member of the National Labor Relations Board (NLRB). This is bad news for employers. Becker goes beyond espousing pro-labor positions; he occupies the very fringe of the left wing of the labor movement. As a member of the NLRB, he would be in a position to radically change the rules for retailers and all other businesses.

THE IMPORTANCE OF THE BOARD

The NLRB is a federal agency that sits as a tribunal for cases involving union issues. For a relatively obscure agency, its power is far-reaching. If its members choose to exercise their full authority, the NLRB can make policy for all employers – not just employers with unions. The political leanings of its members can have a tremendous effect on how business is done in America.

To take only one example, the NLRB under President Clinton enacted a policy that required an employer to allow an “employee representative” to sit in on disciplinary meetings. That rule was swiftly revoked by Bush appointees to the NLRB.

Expect a return of that rule, and many other bad policies and rules, if Becker and others of his stripe form a majority on the NLRB.

THE VIEW FROM THE FAR LEFT

Becker is currently Associate General Counsel to both the Service Employees International Union and the AFL-CIO. He is strongly pro-union. That’s expected of a

Democrat nominee and, standing alone, is not a problem. But even by the standards of labor activists, Becker stands out for his extreme positions.

For example, in a 1993 Minnesota Law Review article he explained that “traditional” democracy should not apply in union elections. He believes that employers should be barred from attending NLRB hearings regarding elections, and from challenging election results even when there are allegations of union misconduct. He wrote: “The law leaves the Board discretion to determine the appropriate parties to hearings in representation cases. It should exercise this discretion by specifying that the only parties to both pre- and post-election hearings are employees and the unions seeking to represent them.”

Becker also believes that union elections should be removed from the work site and held on “neutral grounds,” or via mail ballots. Employers should also be barred from “placing observers at the polls to challenge ballots.”

Furthermore, Becker favors a new “body of campaign rules” that would severely limit the ability of employers to argue against unionization. Becker wrote that any “captive audience” meeting a company holds in which it states its anti-union positions ought to be grounds for overturning an election. He also contends that a company that distributes anti-union material should be forced to allow union access to its private property to distribute pro-union material.

And Becker goes even further – he’s even suggested that unions should be *mandatory*, whether employees want them or not. As reported by the National Right to Work newsletter, Becker stated, “Just as U.S. citizens cannot opt against having a congressman, workers should not be able to choose against having a union as their monopoly-bargaining agent.”

LOOKING AHEAD

A major piece of legislation that has been frequently discussed in labor law circles and among employers is the Employee Free Choice Act (EFCA). When questioned about EFCA by a Senate committee in July 2009, Becker unsurprisingly stated that he supports EFCA, supports the elimination of secret-ballot elections, and supports card-check certification. When asked whether secret ballots were also the best and most honest way for employees to *decertify* a union, Becker avoided the question and stated that he could not answer this question as it may come before the Board while he is a member.

Becker’s appointment does not bode well for retailers and other employers.