

ORGANIZED LABOR'S LEGISLATIVE AGENDA AND ITS IMPACT ON CONSTRUCTION EMPLOYERS

Publication
Aug 13, 2009

Organized labor's membership in the private sector has plummeted to 7.8 percent, an all time low. To address this problem, unions have turned to an aggressive legislative agenda designed to tilt the scales in their favor. Among their priorities are the deceptively-named Employee Free Choice Act (EFCA) and the Re-Employment of Skilled and Professional Employees and Construction Tradeworkers Act (RESPECT Act).

EFCA, a bill that would radically alter 75 years of labor law governing the representation rights of employees, would fundamentally change three critical aspects of the National Labor Relations Act (NLRA): eliminating NLRB-supervised secret ballot elections in favor of "card check;" changing the rules of bargaining by imposing mandatory interest arbitration; and, subjecting employers to substantially increased penalties and remedial relief.

The RESPECT Act would narrow the scope of individuals who would be considered "supervisors" under the NLRA. If passed, it would reduce significantly the number of employees considered supervisory (thereby increasing the number of employees eligible for union representation) and effectively would decrease the number of employees permitted to campaign on behalf of the employer in response to a union organizing effort.

Reports that EFCA was dead were premature. While numerous Democrats have withdrawn their support for EFCA as presently drafted, the AFL-CIO has stepped up efforts to get EFCA passed in some form. A handful of

Related People



Todd A. Fredrickson

Partner

303.218.3650

compromises have been pitched to address reservations expressed by dissenting politicians, including the withdrawal of card-check, "quickie" elections, lesser penalties for employers, and various combinations of those proposals. Senator Tom Harkin (D-Iowa), the lead sponsor of EFCA, has vowed to continue to push EFCA through following the Congressional recess in August.

Less is known about the RESPECT Act. Once viewed as moving hand-in-hand with EFCA, there does not appear to be any timetable for passage of this troubling piece of legislation. Stay tuned. The next legislative session promises to be controversial as organized labor and the business community continue to butt heads on these important bills.

This article appeared in the August 13, 2009 issue of *The Denver Daily Journal*.