



Compromise on Union Act Bodes Ill for Employers

Publication

9.01.09

There has been lot of talk in the media and in political circles about the Employee Free Choice Act, or EFCA. Much has been made of EFCA's card-check provision, which would eliminate the secret ballot in union elections. According to a recent *New York Times* article, card-check has been removed from EFCA in its latest form. It is believed that this will enable EFCA supporters in the Senate to collect the moderate votes necessary for passage. But some of the changes reportedly made to the new EFCA bill would bring dramatic change to union organizing.

One of these changes is the elimination of captive audience meetings. Under current law and, indeed, under the first EFCA – employers can hold meetings with employees during the work day. Attendance can be required. In these meetings, management has the opportunity to educate employees on the union issue and to respond to information the union has put out. It is reported that under the new EFCA, employers would not be able to require attendance at such meetings. This means that employees may be pressured not to attend the employer's meetings by those who do not want them to hear "the other side of the story."

The *Times* has reported that the new EFCA will also allow union organizers unprecedented access to private company property, to talk to employees and hand out literature. At present, except under the most unusual circumstances, an employer can prohibit union organizers from organizing on company property.

In addition, the much-maligned card-check clause in the first bill is reported to have been replaced by a quickie elections clause, which would require an election on unions within 10 days after the union files a petition for an election with the National Labor Relations Board. Current law provides for elections to be held 42 days after the filing of a petition. Ten days is hardly enough time for management to make its case, and the result would be much the same card-check – unions would benefit greatly.

Since EFCA significantly increases penalties for unfair labor practices, training supervisors and managers on the applicable law is also a priority. Remember: An open, two-way communication between employees and management is critical to maintaining a union-free workplace.

This article appeared in the September 1, 2009 issue of *The Mecklenburg Times*.

