



A Changing Climate

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Organized labor's membership in the private sector has plummeted to 7.8 percent – an all-time low. As a result, 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 (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," enabling unions to organize employees merely by convincing or coercing a majority of them to sign union authorization cards; changing the rules of bargaining by imposing mandatory mediation and interest arbitration on parties that are unable to reach an agreement on their own within 130 days; 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. In effect, this act would deprive employers of individuals who are the eyes and ears of the company in responding lawfully to a union campaign.

EFCA would further tilt the process in favor of unions, depriving employees of the fundamental right to vote. 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.

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