



One Step Closer to The Employee Free Choice Act

Insights

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The Employee Free Choice Act was introduced in both houses of Congress today. The bill would allow labor unions to bypass secret ballot representation elections that have been in place for 75 years in favor of a streamlined process known as "card check." It also contains binding arbitration provisions that would allow an outside arbitrator to dictate the terms of a first contract in the event that the parties cannot reach agreement within the first four months of negotiations, and it would impose substantially increased penalties against employers who commit unfair labor practices.

On the heels of the November elections, proponents of the bill claim to have strong support in both Houses of Congress. Others, however, insist that a large number of "blue dog" Democrats are waffling under pressure from their constituents. A stagnating economy in unionized sectors and elsewhere, along with widespread reports that the American public has concerns over the card-check provisions, are said to be giving many politicians second thoughts.

As introduced today, the Senate bill listed 40 cosponsors, six fewer than in 2007. The House bill now has 223 co-sponsors, down from the 230 who signed an earlier version of the legislation.

Democratic Senators Tom Harkin and Majority Leader Harry Reid are said to be meeting this week to schedule debate on the Senate floor. Harkin said they hope for a vote some time after the Easter recess in late April.

Whether the bill in its current form, or a compromise of some sort, ultimately becomes law remains to be seen. This process is volatile and no one knows exactly when it will be resolved. Some believe that it could play out over the summer and into next fall. Others claim that its passage is more imminent. But one fact, remains clear -- the bill is now a step closer to becoming a reality, and the window is closing on opportunities to get out in front of it while there is still time.

Consequently, we urge employers to take a number of proactive approaches ranging from strategic planning to supervisor training. Your lawyers at Fisher Phillips stand ready to assist you in a number of other preventive areas as well, including implementation of updated policies and procedures, participation initiatives, issue identification and security audits, opinion surveys, and enhanced communication, orientation and safety programs.

There is no "one size fits all" approach, as the most effective plans are tailored to the unique cultural aspects of your organization. For more information, please contact your Fisher Phillips attorney.

