



HEADS UP

Employee Free Choice Act ... What Now?

November 5, 2008

Congress will attempt to pass this bill next year. That effort will succeed if Senate Democrats can harvest a few votes from pro-labor Republicans. If they reach the 60 votes needed to kill a filibuster, President Obama will sign the Employee Free Choice Act into law. Nothing our congress does should surprise anyone, and a compromise can never be ruled out.

If this effort fails, Senate Democrats could get a second bite at the apple in two years when many Republican seats will come up for re-election.

If this bill is enacted, there will be the inevitable court challenges by employers and their associations, but ultimately, the way unions form, and labor relations in the United States will be dramatically changed.

1. Employees will now be organized via a simple majority signing union cards.
2. Once the unit is certified, employers will be required to begin bargaining within 10 days, reach a contract with pay, benefits, and other working conditions acceptable to the union. If a contract is not reached within 120 days, a government-appointed arbitration panel will set the terms and conditions of the labor agreement.
3. Employers found to have violated their employees' rights to form a union will be subjected to double back pay awards and civil lawsuits, for punitive damages.
4. Union-free employers facing organizing in the coming months need to consider it an urgent matter. Smart unions will begin to collect signature cards now and wait until the EFCA is law. (Remember union cards are good for 1 year.) Then they will send the employer a demand for recognition of their union and request the NLRB to certify them as the bargaining representative for your employees. If the union holds a majority of signatures from employees in an appropriate bargaining unit...the union is in.

At a minimum, we will see a pro-labor majority on the NLRB and a General Counsel who will decide cases in favor of union. Unions will be bolstered by this alone.

You may be in an organizing campaign...right now.

Much can be done to rebuff the Employee Free Choice Act's use by unions. For a confidential assessment of your union-free defenses, contact us at 800.237.3942 or email me at wadams@anh.com.

Best regards,

A handwritten signature in blue ink, appearing to read "Bill Adams", is placed over a light yellow rectangular background.

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