



HEADS UP

RECONCILIATION AND EFCA

August 20, 2009

Using *reconciliation* to jam through Health Care Reform is now being openly discussed. Use of this rule to pass EFCA (with card check) requires little imagination. Until 1996, reconciliation was limited to deficit reduction, but in 1996 the Senate adopted a precedent to apply reconciliation to any legislation affecting the budget, even legislation that would worsen the deficit. Under the administration of President George W. Bush, Congress used reconciliation to enact three major tax cuts.

The budgetary rationale here would be that the proposed changes under this bill would save the NLRB money via less administrative costs to deal with lengthy representation hearings and refusal to bargain litigation, etc.

Under normal Senate rules, 60 votes of the 100-member Senate are required to shut off debate and force a final vote. Democrats currently have 60 Senate votes; however, some of the so-called “Blue Dogs” have rejected the EFCA’s card check element. Their opposition would nullify the filibuster-proof 60-vote bloc.

Recently, the Senate discussed a compromise that would replace card check with a fast-track election. Under reconciliation, a pro-EFCA Senate committee could re-introduce the bill as it was originally drafted and force it through with only 51 votes. In this case, those in the Senate who oppose the bill get only 20 hours of debate, and amendments are limited. This process empowers the majority party and means the majority’s committee could write card check back in and pass the bill with a simple majority.

Best regards,

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