

Card Check

Issue

The Employee Free Choice Act (EFCA) (H.R. 1409, S. 560) is pending legislation that would amend the National Labor Relations Act to change the system for how employees form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and to provide for mandatory arbitration of disputes involving the terms of a first contract.

Background

In order for a workplace to organize under current U.S. labor law, the card check process begins when an employee requests blank cards from an existing union, and requests signatures on the cards from his colleagues. Once 30% of the work force has signed the cards, the employer may decide to hold a secret ballot election on the question of unionization. In practice, the results of the card check are not presented to the employer until 50 or 60% of employees have signed the cards to help ensure winning the election. If the majority of votes favor the union, the National Labor Relations Board will certify it as the exclusive representative of the employees for the purpose of collective bargaining.

Proposed Changes

If enacted, EFCA would require the NLRB to certify the union as the bargaining representative without directing an election if a majority of the bargaining unit employees signed cards. Employees may request a secret ballot election if 30% of employees petition for one.

In addition to changes to the standards for card check elections for unionization, the legislation provides that if an employer and a union are engaged in bargaining for their first contract and are unable to reach agreement within 90 days, either party may refer the dispute to the Federal Mediation and Conciliation Service (FMCS) for mediation. If the FMCS is unable to bring the parties to agreement after 30 days of mediation the dispute will be referred to arbitration and the results of the arbitration shall be binding on the parties for two years. Other changes in the bill address penalties, remedies and fines for unfair labor practices.

How Agriculture May be Impacted

While agricultural field workers are not subject to the provisions of the National Labor Relations Act (NLRA), workers in many other agricultural jobs do fall under the provisions of the NLRA. Workers in packing plants, processing plants, and cooling facilities; workers in trucking and transportation; workers who handle commodities of multiple farmers; and workers at many other off-the-farm worksites would be subject to the EFCA.

Workers would effectively lose the right to vote by secret ballot elections in union organizing campaigns; they would be deprived of the right to hear the employers' side of the story; and they would be denied the right to vote on a first union contract that is decided by a third party arbitrator. Businesses would be denied their right to explain what they see as the downside of unionization and deprived their right to bargain freely for a mutually beneficial union contract. Businesses also could have first union contracts unilaterally imposed upon them.

Proposed Position

Winegrape Growers of America is a member of the Agricultural Coalition for Immigration Reform that has collaborated with union representatives and the faith community to create a bipartisan compromise on AgJOBS which would provide a practical agricultural guest worker program and a pathway to earn legal status for agricultural workers who continue to be employed in agricultural jobs. Winegrape Growers of America should monitor EFCA but focus its efforts on educating Members of Congress about the importance of passing AgJOBS and the labor needs of the winegrape community across the U.S.

Individual members may be interested in joining Agriculture for a Democratic Workplace: www.coalitionforagriculture.org The site provides sample letters, frequent updates and information on the status of the legislation.