



Courtesy: U.S. House Education and Labor Committee Republicans  
Rep. John Kline (R-MN), Senior Republican Member

## A Year's Worth of Reasons Not to Enact EFCA

A compilation of daily alerts from the first session of the 111<sup>th</sup> Congress  
January 6, 2009 – December 18, 2009

## Introduction

The Employee Free Choice Act. Seldom has there been more incongruously named legislation. It extols “free choice” but takes away the fundamental elements of private voting and meaningful negotiating that are vital to workplace democracy. The legislation tilts the playing field in favor of a powerful political interest, and in the process, denies employee free choice far more than it creates it.

For the past year, the U.S. House Education and Labor Committee Republicans have tracked EFCA and the broader issues it raises on the pages of the nation’s newspapers and in sources that range from academic journals to public polling to current events. That effort was translated to become **Secret Ballot Watch**, a daily email publication designed to expose the dangers of EFCA to workers and our economy.

The name **Secret Ballot Watch** derives from the most infamous provision in EFCA, known as “card check.” Under the card check system envisioned by EFCA’s special interest supporters, workers could be forced to join a union through a public sign-up process that exposes their vote for all to see. Gone is the privacy of the ballot box; instead, workers could face public pressure, intimidation, or even coercion to sign or not sign “the card.”

Although card check is the best known feature of EFCA, **Secret Ballot Watch** has focused on other elements of the act as well. For instance, its binding arbitration provisions empower federal bureaucrats to commandeer contract negotiations if an employer and newly formed union cannot reach agreement within a brief bargaining window.

Binding arbitration encourages bad-faith negotiation, giving incentive for either side to make unrealistic demands because an arbitrator may ultimately step in to make the final ruling and split the difference. Worse than that, it disenfranchises workers *yet again*. Although workers today are often able to vote on whether to accept a contract, that would not be the case under EFCA. After being forced to join a union without a secret ballot vote, this type of arbitration could impose a contract (including wages, hours, benefits, and work rules) for two years without any approval or acceptance by the workers.

From the first moments of the first session of the 111<sup>th</sup> Congress on January 6, 2009, **Secret Ballot Watch** has monitored and shined a light on EFCA and its harmful consequences. Now that the first session has come to a close, this compilation represents **A Year’s Worth of Reasons Not to Enact EFCA**.

In the last year, this publication has examined public opinion, international law, and the hypocrisy of EFCA supporters who defend workers’ right to a secret ballot in Mexico, but not here at home. It has highlighted support for secret ballots in states from coast to coast, and drawn lessons from Canada and its experiences with an EFCA-like law that increased unemployment and reduced productivity. Captured herein are the acknowledgments of EFCA’s supporters that the legislation is designed as payback for political and financial support. Yet these daily alerts demonstrated opposition to EFCA and support for the secret ballot among staunch liberals and iconic labor supporters, proving just how far outside the mainstream the legislation falls. And to illustrate just how desperate EFCA supporters have become, this publication exposed a pro-EFCA lobbying strategy that included advocacy by Hollywood actors from a fictional Washington, D.C. and a multi-million dollar advertising campaign to persuade the public to embrace a law that takes away their rights.

Clever names notwithstanding, **Secret Ballot Watch: A Year’s Worth of Reasons Not to Enact EFCA** debunks the myth that this legislation provides employees with free choice and exposes the bill as little more than an anti-worker, anti-job, special interest giveaway.

January 6, 2009

## Countdown to Card Check: When Will Democrats Try to Take Away the Secret Ballot?

Moments ago, the 111<sup>th</sup> Congress was officially gaveled into session and workers' right to a secret ballot was officially put in jeopardy. Congressional Democrats have made clear that they intend to move forward on the controversial "card check" scheme, which would replace federally-monitored secret ballot unionizing elections with a public sign-up process that opens workers to intimidation and coercion.

The timeline for the unpopular plan – cynically referred to as the *Employee Free Choice Act* by its supporters – remains unclear, but one thing is certain: Powerful union leaders consider card check to be political payback for their support in the last election, and they won't wait long to call in the favors they believe they are due. Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees (AFSCME), recently told editors and reporters at [The Washington Times](#) that "unions paid their dues by supporting Democrats and President-elect Barack Obama in this year's election. He said they expect that effort to be rewarded with action.

"The payback would be *Employee Free Choice Act* – that would be a vehicle to strengthen and build the American labor movement and the middle class," he said."

But the truth about card check's impact on workers is far less rosy than the picture union bosses paint. Consider the following testimony delivered to the U.S. House Education and Labor Committee during the 110<sup>th</sup> Congress:

"I began my career with UNITE with a strong belief in worker's rights and democracy in the workplace," said Jen Jason, a former organizer for UNITE-HERE, a union that represents nearly a million workers and retirees in the textile, lodging, foodservice, and manufacturing industries. "During the course of my employment with the union, I began to understand the reality behind the rhetoric. I took in the ways that organizers were manipulating workers just to get a majority on 'the cards' and the various strategies that they employed. I began to appreciate that promises made by organizers at a worker's house had little to do with how the union actually functions as a 'service' organization."

Tactics detailed by Jason included:

- A "blitz," in which union organizers go directly to the homes of workers; the workers' personal information and home addresses used during the blitz are obtained from license plates and other sources that were used to create a master list. According to Jason, "The workers usually have no idea that there is a union campaign underway. Organizers are taught to play upon this element of surprise to get 'into the door.'"
- Rarely showing workers an actual union contract, which often does not reflect what a worker would want to see. Jason noted, "We were trained to avoid topics such as dues increases, strike histories, etc. and to constantly move the worker back to what the organizer identified as his or her 'issues' during the first part of the housecall."
- Manipulating unit size, in which organizers would change the size of the group of workers they were going to organize after the drive was finished. According to Jason, "During the blitz, workers in every department would be 'housecalled,' but if need be, certain groups of workers would be removed from the final unit, regardless of their level of union support. In doing so, the union reduced the number of cards needed to reach a majority."

Card check remains unpopular with the American public, with nearly [80 percent](#) of the American people opposing the bill when it was brought to a vote in the U.S. House of Representatives in 2007. Perhaps that's why Democrats are [plotting a spin campaign](#) to mislead workers and families and hide the truth about this undemocratic measure. It's hardly a promising start to the 111<sup>th</sup> Congress.

January 7, 2009

## **In Case You Missed It ... Card Check "a fundamental violation of the secret ballot principle"**

An illuminating editorial appearing in today's edition of *Investor's Business Daily* pulls back the curtain on the misnamed *Employee Free Choice Act*, exposing the legislation as a payback to organized labor that would disenfranchise millions of American workers.

*Despite its noble-sounding name, the legislation won't expand freedom. The bill could be more accurately called the card check act, for it has nothing to do with free choice.*

*Quite the contrary, it seeks to reverse unions' waning influence by eliminating the secret ballots that workers historically used to organize in a federally supervised election.*

*Instead, under card check, a union is certified when a majority of workers signs the cards that are now used to merely gauge employee interest in voting on union participation. These cards aren't secret, so it's a fundamental violation of the secret ballot principle.*

*It's not hard to imagine the intimidation workers would be subject to when they're offered cards to sign. And it's not as if nonunion workers are clamoring to join a union but are afraid of management reprisals if they do. By more than a 3-to-1 margin, polls show, workers say don't want to be part of organized labor.*

The full editorial can be viewed online [here](#).

Card check is notoriously unpopular with the American public, and [for good reason](#). It eliminates secret ballot unionizing elections, exposes workers to intimidation and coercion, and threatens jobs through a binding arbitration system that would exclude both workers and management from key employment decisions. It's no wonder supporters of this undemocratic power grab are trying to mask the bill's true intentions.

January 8, 2009

## **Card Check Flashback**

It's been nearly two years since Democrats in Congress first voted to take the secret ballot from workers. On March 1, 2007, Democrats approved the deceptively named *Employee Free Choice Act*, a bill that would actually [prevent](#) workers from freely and privately choosing whether or not to join a union through a secret ballot election.

As we approach the anniversary of this undemocratic moment in history, it may be illuminating to revisit what editorial boards around the nation had to say about the anti-worker "card check" bill when it was first being brought before the House. Consider the following, from the *San Francisco Examiner*:

*There is no "free choice" in this travesty, clearly a payoff to union leaders who contributed so handsomely to the Democrats' November election victory.*

Editorial, "[Democrats: Keep secret ballot sacred](#)," *San Francisco Examiner*, 02.16.07

As true today as it was 2 years ago. It's almost hard to believe that House Democrats are poised to impose this undemocratic and wildly unpopular scheme on the American people once again.

January 9, 2009

## In Case You Missed It ... Secret Ballot Hypocrisy

The following op-ed appears online today at [Townhall.com](http://Townhall.com). In it, Rep. Howard P. "Buck" McKeon (R-CA), the senior Republican on the U.S. House Education and Labor Committee, highlights the hypocrisy of Democratic leaders who support the secret ballot for themselves or for foreign workers, but who would abolish the secret ballot in American workplaces.

### Secret Ballot Hypocrisy

Howard McKeon  
Friday, January 09, 2009

When three of the top policymakers in Washington voice explicit support for a particular viewpoint, it merits notice.

When that viewpoint is unambiguous support of the sanctity of the secret ballot, it makes news. Particularly this year, when conventional wisdom holds that congressional Democrats are poised to eliminate the secret ballot in unionizing elections, a trio of influential voices advocating for secret ballots ought to make a real splash.

Consider, then, these powerful quotes.

"It's a secret ballot. Thank the Lord."

"[T]he increased use of the secret ballot in union recognition elections will help bring real democracy to the ... workplace."

"[W]e need to follow proper rules of procedure and hold a vote by secret ballot. It is important that the integrity ... be unquestioned and above reproach."

Thanking a higher power for privacy at the ballot box? That was New York Rep. Louise Slaughter, the Democratic Chair of the powerful U.S. House Committee on Rules. The panel she chairs has the authority to determine whether or not a bill or a particular amendment will receive a vote on the House floor.

Her quote was not speaking to the importance of secret ballots for working men and women, however; it was simply her appreciation for her own privacy in a hotly contested Democratic leadership election, in which congressional Democrats ousted their longest serving member from his post atop the Energy and Commerce Committee.

No wonder she valued her privacy.

And who extolled the virtues of secret ballot unionizing elections as bringing real democracy to the workplace? That was none other than my good friend and fellow Californian Rep. George Miller, the chairman of the Education and Labor Committee, which sets federal policy for American workplaces.

A word was omitted from Rep. Miller's quote as printed above; in fairness, the complete statement should be presented. It says that increased use of the secret ballot in union recognition elections will help bring real democracy to the *Mexican* workplace, and it comes from a letter written in 2001 by Rep. Miller and 15 fellow congressional Democrats to Mexican government officials in support of secret ballots to resolve unionizing drives in their workplaces.

The final quote too is missing words that explain its surprising origin. In unabridged form, it says that "it is important that the integrity of the [Congressional Hispanic Caucus] be unquestioned and above reproach." It comes from a letter in which four Democratic congressional representatives call for a secret ballot election of the leadership of a party caucus, and one of those signing the letter is Rep. Hilda Solis, the distinguished California congresswoman who today is being considered in the Senate for her nomination to be President-elect Barack Obama's Secretary of Labor.

While each of these three has offered compelling support for the use of secret ballots, they have also advocated for the misnamed *Employee Free Choice Act*, a bill that would abolish secret ballot elections for American workers deciding whether they wish to be represented by a particular labor union.

This measure is often referred to as the "card check" proposal, because it replaces the secret ballot with an open sign-up process in which workers are forced to publicly declare their support for a union by signing a card.

Put another way, card check may bring forced unionization through peer pressure, or worse, coercion and outright intimidation.

This anti-worker proposal is hugely unpopular with the public – nearly 80 percent of the American people opposed the bill when it was last brought to a vote in the House – but it's sacred to organized labor and their allies in the Democratic Congress.

The three top Democrats voicing support for secret ballots outside the American workplace are leaders in their party, and I respect each of them deeply. But their advocacy for basic democratic rights should not stop on the doorstep of America's workplaces.

I hope they take their own words to heart, and back away from the dangerous and undemocratic card check proposal. To do otherwise would betray the very principles of freedom and democracy that they so eloquently and vociferously defended.

January 12, 2009

## Card Check is Just the Beginning...

As opposition grows to the anti-worker card check proposal, much attention has been paid to the bill's elimination of the secret ballot for workers deciding whether to form a union. Unfortunately, an equally troubling provision stripping workers of their rights has largely escaped public scrutiny.

Quietly lurking within the Democrats' card check scheme – deceptively named the *Employee Free Choice Act*, despite the fact that it takes away employees' free choice of whether or not to join a union through a secret ballot election – is a proposal that would **prevent many workers from voting on their first contract**.

Known as binding arbitration, this portion of the card check plan would turn over contract negotiations to a panel of federal arbitrators if a business and a newly-formed union do not reach agreement within a relatively short period of time, just 120 days. Consider the following analysis of this dangerous proposal, which appeared in an *Investor's Business Daily* editorial last week:

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*Less well-known but just as harmful as the gross violation of privacy is a provision in the bill that authorizes government arbitrators to set the terms of the initial contract if the union and management can't agree on a deal. At that point, workers have lost all control over the conditions of their employment.*

Editorial, "[Union Revival Act](#)," *Investor's Business Daily*, 01.07.09

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By handing contract negotiations over to federal arbitrators, the anti-worker card check plan would allow federal bureaucrats with no knowledge of a particular industry or its workers' needs to set work rules and employment policies for a full two years. And all without giving workers the chance to vote.

How many more ways can Democrats think of to take away workers' right to vote?

January 13, 2009

## Card Check is Just the Beginning...Part II

As powerful union bosses continue to advocate for the misnamed *Employee Free Choice Act*, public opposition to this anti-worker proposal has centered on a key provision—known as card check—that would strip workers of the right to a secret ballot when voting on whether or not to join a particular union. While it's important to focus on protecting the secret ballot, the card check scheme includes other dangerous proposals that deserve public scrutiny as well.

Yesterday, *Secret Ballot Watch* exposed the [binding arbitration](#) requirements within the legislation as another anti-worker maneuver that would prevent many workers from voting on their first contract.

In addition to that troubling proposal, the card check plan would leverage harsh new penalties on employers for unfair practices during unionizing drives, **but it does nothing to strengthen protections for workers against intimidation, pressure, or coercion by union leaders and organizers.**

During a [hearing](#) on the unfair card check plan in the 110<sup>th</sup> Congress, Jen Jason, a former organizer for UNITE-HERE, described the tactics used by union organizers to get a majority of workers to sign cards.

"During the course of my employment with the union, I began to understand the reality behind the rhetoric. I took in the ways that organizers were manipulating workers just to get a majority on 'the cards' and the various strategies that they employed," said Jason. "I began to appreciate that promises made by organizers at a worker's house had little to do with how the union actually functions as a 'service' organization."

By eliminating the secret ballot, the anti-worker card check plan opens workers to unprecedented pressure from union organizers trying to get a majority of workers to sign authorization cards. Without strong penalties against improper tactics like harassment and intimidation on the part of union organizers, workers would be left vulnerable. Yet the card check plan is conspicuously silent on the matter.

January 14, 2009

## Secretary of Labor: "Our Workers Deserve Secret Ballots"

Joining a [growing chorus](#) of voices speaking out against the anti-worker card check scheme, U.S. Secretary of Labor Elaine Chao today penned an opinion piece in the *Wall Street Journal* arguing against the deceptively-named *Employee Free Choice Act*, which she noted would "deprive workers of the ability to vote privately in workplace unionization elections."

She goes on to explain—

*There is a push in Congress to enact card check despite the fact that the vast majority of workers -- including rank-and-file union members -- want to keep the private ballot system in workplace unionization elections and do not want it replaced by a signature card process that will subject them to the pressures of solicitation and potential intimidation by union activists. Ironically, to decertify a union, labor leaders insist on holding private-ballot elections to protect workers from employer intimidation.*

*Another destructive and undemocratic aspect of the card-check bill is a provision for government-dictated labor contracts in newly unionized workplaces. Under the bill, if an initial labor contract is not agreed to within a congressionally dictated timetable, the government could designate an "arbitration board" to write a labor contract that employers and workers would be forced to live under for two years. This is not just a problem for employers. Workers would not have any right to ratify or reject the contract.*

Chao, "[Our Workers Deserve Secret Ballots](#)," *Wall Street Journal*, 01.14.09

Secretary Chao articulates the concerns that have drawn widespread public opposition to the card check proposal, including the nearly [80 percent](#) of Americans who opposed the plan when it was last brought to a vote in the U.S. House of Representatives. With mounting public opposition to this undemocratic proposal, will Democrats relent? Or will they move forward with their plan to reward special interest allies by taking away workers' right to a secret ballot?

January 15, 2009

## Card Check Spending Spree

### *Special Interest Front Group Takes to the Airwaves in Defense of Anti-Worker Plan*

Labor-backed special interest groups spent millions in the last election cycle to elect candidates who would vote for their anti-worker card check scheme, a plan to strip workers of secret ballots in unionizing elections. Now, these same special interest groups are opening their wallets again, this time on a multi-million dollar campaign to try to convince the American public to support the undemocratic *Employee Free Choice Act*, a bill that actually *takes away workers' free choice* by eliminating the secret ballot.

Today, ads began airing in favor of the card check plan as part of a [\\$3 million advertising blitz](#) paid for by a group backed by organized labor. And earlier this month, it was [reported](#) that the SEIU has set aside at least \$10 million to spend on its legislative agenda, which includes the public sign-up card check plan.



Card check supporters appear to be getting desperate. First, they plot a [spin campaign](#) to try to mislead the American public about card check's true consequences. But with nearly [80 percent](#) of Americans opposing card check legislation when it was last voted on in the U.S. House, it's no wonder they're going on a [card check spending spree](#). The real question is, are Americans buying what they're selling?

January 16, 2009

## In Case You Missed It ... Coercion Has No Place in Votes to Form Unions

The following op-ed, penned by Rep. John Kline (R-MN) and published in the [Star Tribune](#), explains how the anti-worker card check plan would undermine workers' basic democratic rights. Kline is the senior Republican member of the Health, Employment, Labor, and Pensions Subcommittee and a leading voice in the fight to protect the secret ballot for workers.

**StarTribune.com** | MINNEAPOLIS - ST. PAUL, MINNESOTA

### Coercion has no place in votes to form unions

By John Kline

January 15, 2009

A recent article characterized the debate surrounding legislation that would make it easier to form unions in the workplace as a question of survival — a business's need to control operating costs vs. a union's fight to stave off dwindling membership. While the reporting and facts were straightforward and accurate, the piece missed what is perhaps the most significant element of the "card check" controversy: the consequences of this bill on democracy and workers' rights.

In November, America witnessed a historic presidential election in which the result of millions of secret-ballot votes determined the individual who will lead our nation for the next four years. Using the same secret-ballot process, Americans elected their representatives to Congress — some of whom have decided that one of their first acts of business should be to take away that very same right from millions of workers.

At issue is the erroneously named "Employee Free Choice Act," legislation that would eliminate employees' right to a secret-ballot election — which first was instituted in the United States to protect recently freed slaves during Reconstruction.

The proposed legislation would replace the secret ballot with a card-check system in which union bosses gather cards that workers have signed to express their desire to be represented by a union. Under current law, if a majority of workers sign authorization cards, employers can ask for a secret-ballot election in which employees can vote — anonymously and without the threat of coercion — for or against establishing a union. The EFCA, however, would eliminate this option for employers, instead forcing them to accept a union once a majority of workers have signed cards.

Currently, secret-ballot elections are conducted under the oversight of the National Labor Relations Board, an independent government agency that provides detailed procedures to ensure a fair election, free of fraud, in which employees may cast their vote confidentially without peer pressure or coercion from unions or employers.

Moving to a card-check system, meanwhile, would leave workers open to coercion, pressure and outright intimidation. Interestingly, while the card-check bill would levy civil penalties upon employers who coerce an employee, it remains silent on coercion from unions, already well-documented in card-check campaigns.

A witness before the House Education and Labor Committee in the last Congress cited the tactics used by union organizers. Jen Jason, a former organizer for UNITE-HERE, a union that represents nearly a million workers and retirees in the textile, lodging, food service and manufacturing industries, described a "blitz," a regular practice in which union organizers show up unannounced at the homes of workers, whose personal information and home addresses are obtained from license plates and other sources. During such visits, organizers are instructed not to show workers an actual union contract and to avoid such issues as dues increases and strike histories.

"I began my career with UNITE with a strong belief in workers' rights and democracy in the workplace," Jason said. "During the course of my employment with the union, I began to understand the reality behind the rhetoric. I took in the ways that organizers were manipulating workers just to get a majority on 'the cards' and the various strategies that they employed. I began to appreciate that promises made by organizers at a worker's house had little to do with how the union actually functions as a 'service' organization."

The question of card check is not about pitting unions, whose stated desire is to protect and serve workers, against businesses, who have a vested interest in retaining their employees. It is about how all parties can best protect workers' interests. As a new Congress begins to work with a new administration, it is a question we all must ask and work together to answer.

*John Kline, R-Minn., is a member of the U.S. House of Representatives and serves on the Health, Employment, Labor and Pensions subcommittee of the Education and Labor Committee.*

January 21, 2009

## **More Bad Press for Anti-Worker Card Check Bill**

Editorial pages around the country continue to display the widespread national opposition to the deceptively named *Employee Free Choice Act*, a bill that would abolish federally-supervised secret ballot unionizing elections and replace them with a public sign-up process that opens workers to intimidation and coercion.

Included among the most recent negative coverage is an op-ed that appeared over the weekend in the *Boston Globe*. Consider its analysis—

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In the name of strengthening unions, the bill would jettison two bedrock principles that workers and management should both defend.

First, the bill would actually make it harder for employees to choose freely whether to have a labor union negotiate their employment terms. For 60 years, with few exceptions, employees have made that choice by secret ballot. ...

A second feature of the bill is more disturbing than the loss of secret ballots. For decades, so long as a labor union and a business owner negotiate in good faith, the end result of their negotiations has been up to them. Under the bill, if an employer fails to sign a contract with a new union within 130 days, a panel of labor arbitrators would dictate contract terms binding for two years. ...

Saddling businesses with obligations imposed by labor arbitrators makes no more sense than taking secret ballots away from workers. Congress and Obama

should not sacrifice core principles of American labor relations to promote union expansion at all costs.

Bannon, "[Bill would allow unions to expand at all costs](#)," *Boston Globe*, 01.18.09

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With congressional Democrats remaining mum about when they plan to schedule a vote on this draconian rollback of worker rights, the steady drumbeat of opposition isn't expected to wane anytime soon.

January 22, 2009

## Protecting Workers, One State at a Time

Amid continued public outcry, inside-the-beltway Democrats have remained tightlipped about exactly when they plan to strip workers of secret ballot unionizing elections by advancing their anti-worker card check scheme. Luckily for American workers, state legislators from across the nation aren't willing to stand by while Democrats in Washington and their special interest allies plot to take away workers' basic rights. Instead, local movements are gaining traction to preemptively protect the secret ballot and ensure workers aren't subject to the pressure, intimidation, and coercion that could come with the public sign-up process that card check supporters would impose.

Today's *Spartanburg Herald-Journal* carries an editorial supporting the efforts of a group of South Carolina state legislators who are fighting to amend that state's constitution in order to ensure workers will always have the right to a secret ballot in the workplace. As the *Herald-Journal* notes—

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The lawmakers are concerned about the deceptively named Employee Free Choice Act, which would actually take away the right of workers to vote by secret ballot on whether to organize into a union.

The bill is a payback to big labor unions from Democrats in Congress. The unions worked for congressional Democrats and spent huge sums to help them win elections. Now a Democratically controlled Congress is expected to repay the favor by eliminating workers' rights.

Editorial, "[Protecting workers' rights](#)," *Spartanburg Herald-Journal*, 01.22.09

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The growth of a grassroots movement to protect workers' rights is a clear sign that the American people are rejecting the card check special interest payback, and they're willing to fight to keep the secret ballot. State and local leaders are listening: Will congressional Democrats?

January 23, 2009

## Card Check: "the union equivalent of a government bailout"

All across America, from rural communities and small towns to large cities and urban centers, an alarm is being sounded about Democrats' dangerous card check proposal. This anti-worker plan—trampling worker privacy by using a public sign-up process rather than a secret ballot election when workers decide whether to join a particular union—is triggering concern among American employers who worry that it will harm their workers, drive up their costs, and lead to further job losses. Workers at businesses of every size, from small, family-run businesses to community-based industries, would be vulnerable to the threat of intimidation, public pressure, or outright coercion under the card check scheme.

Consider some of the warnings being heard in communities across the nation, like this one, in Appleton, Wisconsin—

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*Milwaukee attorney Jon Levine spoke on Thursday at a forum to prime attendees on the impending legislation, which promises to be the most sweeping change in the national labor law in 75 years.*

*"I personally view this as the union equivalent of a government bailout," Levine said. "It is a remarkably short piece of legislation that packs a remarkably large punch."*

Bach, "[Employee Free Choice Act compared to a union 'bailout'](#)," *Appleton Post-Crescent*, 01.23.09

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Or this one, in Kansas City—

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*More than 100 area hotel executives heard local labor relations lawyer Tim Davis ... outline the measure's political prospects (very good) and its economic consequences (very bad) on business.*

*"This is a huge deal if it passes," Davis said. The "employee forced choice act," as he calls it, "will absolutely change the way the world works." The measure is being pushed by organized labor as a remedy to its declining U.S. membership rolls. As currently drafted, the measure's key and most controversial provision would eliminate secret balloting by workers and force a company to bargain with a union once it gained 50 percent plus one worker's signatures on "card check" forms.*

Alm, "[Pro-union act comes at inopportune time for lodging industry](#)," *Kansas City Star*, 01.20.09

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States are already [fighting to protect their workers](#) by ensuring the secret ballot is a guaranteed right. But with Democrats intent on enactment of this special interest payback, it's no wonder workers and employers are getting nervous.

January 26, 2009

## Card Check Lunacy

Another week, another round of negative editorial coverage of the Democrats' ill-considered card check scheme, a plan to strip workers of the right to secret ballot unionizing elections. Just today, the *Las Vegas Review-Journal* includes an editorial decrying the negative economic consequences of Democrats' anti-worker card check plan.

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*[I]t's reassuring to see Republicans ready to dig in and make a fight over this "card check" proposal.*

*President Obama has said repeatedly that fast action is needed to shore up a teetering economy. Frankly, much that has been proposed -- blocking asset transfers from failed firms to new entrepreneurs more likely to create productive, long-term jobs, instead seizing more private wealth to fund government make-work boondoggles -- is as unwise now as it was in 1933.*

*But in this economic climate, with each week producing a new empty parking lot with plywood on the windows, do the geniuses in Washington really mean to create a situation where business owners already struggling to stay afloat can without warning be handed their "last straw" -- a stack of cards adorned with the message, "You're now a union shop; here are our demands"?*

*It verges on lunacy.*

Editorial, "["Card check" slows nominee,](#)" *Las Vegas Review-Journal*, 01.26.09

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As regular readers know, the card check plan not only strips workers of their privacy by [replacing secret ballot elections with a public sign-up](#), it would also [prevent many workers from voting on their first contract](#) while [failing to provide workers with stronger protections against intimidation, public pressure, or coercion](#). Lunacy indeed.

January 27, 2009

## Top Democrat Announces Summer Plans to Eliminate Secret Ballot for Workers

From the moment the 111<sup>th</sup> Congress was gavelled into session, one of the most pressing questions in Washington has been when Democrats would vote to eliminate secret ballot unionizing elections. With top labor bosses demanding card check as [political payback](#) for the millions they gave Democrats in the last election, it was only a matter of time until the bill would surface on Democrats' legislative agenda. And sure enough, late last week the Senate's top Democrat announced plans to take up the public union sign-up legislation this summer.

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*Senate Majority Leader Harry Reid said the Senate will likely turn its attention this summer to the Employee Free Choice Act — the union organizing bill being watched in Las Vegas and across the nation. ...*

*The union organizing bill, sometimes called card check, is an "important piece of legislation," he said. "We're going to get to that," Reid said. "We're hoping to get to it sometime this summer."*

Mascaro, "[Reid: Vote on card check bill, a labor priority, likely in summer](#)," *Las Vegas Sun*, 01.27.09

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Editorial pages around the country have wasted no time in making clear exactly where the American people stand on this anti-worker measure. Day after day, editorialists, op-ed contributors, and community members have weighed in against this undemocratic plan, warning about everything from its negative economic consequences to its fundamentally unfair elimination of worker rights.

An opinion piece appearing today in Florida's *Lakeland Ledger* is just the latest in a string of articles denouncing the card check plan, dubbed the *Employee Free Choice Act* by special interest supporters despite the fact that it takes away workers' right to freely choose whether to join a particular union through a federally-supervised secret ballot election.

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*This legislation's ironic name is an attempt to hide the fact that it would remove employee choice and foster a variety of confrontational practices that would harm both workers and business owners.*

*The centerpiece of EFCA is the weakening of workers' ability to vote by private ballot on whether or not a union should be formed, by allowing unions to replace private-ballot elections with a public card check system.*

Wheeler, "[Employee Free Choice Act Harmful](#)," *Lakeland Ledger*, 01.27.09

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No matter how loud the public outcry against the card check scheme, congressional Democrats and their special interest allies seem intent on taking away the secret ballot. Seems workers won't have much to look forward to this summer.

January 28, 2009

## **Card Check Flashback: Former Senator and Democratic Presidential Candidate George McGovern Opposes Undemocratic Card Check Plan**

With Democrats still [plotting](#) and [planning](#) for a vote later this year on their anti-worker card check plan, it's useful to remember how widespread the opposition really is. Leaders from across the political spectrum have lined up against this undemocratic plan because it is so fundamentally unfair to workers. For instance, last summer, George McGovern—the former Senator and Democratic presidential candidate—penned an op-ed in the *Wall Street Journal* decrying card check and its assault on worker rights. Among his words—

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*The legislation is called the Employee Free Choice Act, and I am sad to say it runs counter to ideals that were once at the core of the labor movement. Instead of providing a voice for the unheard, EFCA risks silencing those who would speak.*

*The key provision of EFCA is a change in the mechanism by which unions are formed and recognized. Instead of a private election with a secret ballot overseen by an impartial federal board, union organizers would simply need to gather signatures from more than 50% of the employees in a workplace or bargaining unit, a system known as "card-check." There are many documented cases where workers have been pressured, harassed, tricked and intimidated into signing cards that have led to mandatory payment of dues.*

*Under EFCA, workers could lose the freedom to express their will in private, the right to make a decision without anyone peering over their shoulder, free from fear of reprisal.*

McGovern, "My Party Should Respect Secret Union Ballots," *Wall Street Journal*, 08.08.08

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With so many voices speaking out against this anti-worker plan, Democrats might want to reconsider their allegiance to it.

January 29, 2009

## **Card Check Supporters Scramble to Recalibrate Flawed Message**

Facts are inconvenient things, at least for special interest groups trying to convince a wary public to support the rollback of basic democratic principles. That's what supporters of the anti-worker card check scheme are discovering this week as their rationale for the legislation crumbles before their eyes.

For years, supporters of card check—a plan to abolish secret ballot unionizing elections and replace them with a public sign-up process that exposes workers' votes for all to see—have argued that public votes are necessary because workers are unable to choose to form unions under the current system of federally-supervised secret ballot elections.

It has always been a little far-fetched to claim that workers would be better off with a public vote than a private one, but proponents of this special interest power grab have faithfully made the case anyway. As evidence, they have cited declining union membership as "proof" that workers' desire to unionize was somehow being infringed upon.

It must have come as quite a shock, then, when the Bureau of Labor Statistics reported yesterday that unionization rates are up for the second year in a row.

Supporters of the secret ballot know that unionization rates will fluctuate over time. But no matter how workers are voting in a particular year, their right to vote privately, free from intimidation, must be protected.

In contrast, card check proponents find themselves in quite a pickle. First, they said declining unionization rates were proof of the need for the deceptively-titled *Employee Free Choice Act*. Now, they're arguing that rising unionization rates make their case?

Not surprisingly, their claims are being received with a healthy dose of skepticism.

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*[Gary] Chaison [a labor specialist at Clark University in Worcester, Mass.] cautioned that Wednesday's data could fuel arguments against the card check bill.*

*"It will be difficult for unions to claim that they can't organize enough to offset declining employment because they've managed to do it over the last two years," Chaison said.*

Hananel, "[Union membership rises for second straight year](#)," *Associated Press*, 01.28.09

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No wonder special interest groups are scrambling to explain why workers should give up their democratic rights. The case for card check just got a whole lot harder to make.

January 30, 2009

## Card Check Popularity at Rock Bottom—Even Among Union Members

The hits just keep on coming for the anti-worker card check plan. It seems that denying the right to a secret ballot just isn't popular with American workers or families. There are hard-hitting editorials, like [this one](#) in today's *Washington Times*.

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*[E]ven the smallest businesses could face the costs associated with union strikes and binding arbitration. And it goes a step further, giving the employer only 120 days to respond to his employees' requests for collective bargaining or face a forced arbitration to be overseen by a federal judge.*

Editorial, "[Discard 'undemocratic' card check](#)," *Washington Times*, 01.30.09

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Then there are the op-eds, a flood of American voices from all across the country, like [this one](#) in the San Angelo *Standard-Times*.

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*Imagine walking into your private voting booth on Election Day. Now imagine the curtain is open and people are watching you vote. Now visualize these spectators telling you how to vote.*



*Does this offend you? If it does, you're probably against the attempt by organized labor to radically alter the workplace by seeking union recognition outside of the long protected secret-ballot election.*

Newton, "[Employee Free Choice Act damaging to entrepreneurs](#)," *Standard-Times*, 01.29.09

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And don't forget straight news, with articles exposing the growing concern among local businesses, family-owned companies, and workers' rights advocates, like [this one](#), in the *Post Star*.

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*Community business leaders are sounding the alarm about a proposed law that would make it easier to create a labor union, legislation they say is not widely understood but is potentially crippling to companies in the area.*

Kerr, "[Law would benefit unions](#)," *Post Star*, 01.29.09

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But perhaps the most interesting development this week, covered in [this](#) *Washington Examiner* editorial, was the release of [new polling data](#) that shows a whopping 74 percent of members of union households oppose the card check provision.

It's been a rough week for card check supporters – the few who actually exist.

February 2, 2009

## Every Day is Like Groundhog Day for Card Check Supporters

Each year on February 2<sup>nd</sup>, we watch and wait to see whether the famed Punxsutawney Phil will emerge from his burrow and see his shadow (signifying six more weeks of winter) or not (meaning spring will come early). For the record, it seems now would be a bad time to pack up those snow shovels; Phil [saw his shadow](#) this morning.

But weather forecasting isn't the only thing Groundhog Day is known for. Movie fans will also recall the [1993 film](#) in which a weatherman played by Bill Murray finds himself reliving the same day over, and over, and over again.

It is *this* Groundhog Day that seems to be playing out for supporters of the anti-worker card check plan. Day after day, they find themselves reading one negative editorial after another decrying their plan to deny workers the right to a secret ballot. Their [unpopular](#) plan—inexplicably dubbed the *Employee Free Choice Act*, despite the fact that it offers workers anything but—would replace secret ballot unionizing elections with a public sign-up process that would make workers' votes public for all to see.

Every day must feel a lot like the last for supporters of this undemocratic plan, with editorials stacking up each day in opposition to the card check scheme. Take the editorial in today's *Grand Rapids Press*:

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*"Under the Employee Free Choice Act, a majority of employees simply need to sign a card expressing a willingness to join the union. Workers would likely make this crucial decision in the presence of union organizers, who would undoubtedly exercise considerable influence over them. Fellow workers would probably know who voted and how. So would bosses. Unions could still call a secret election, but the company's right to demand one, something that is typically done now, would be taken away.*

*"In addition to undermining secret ballots, the act would force companies to enter binding arbitration for a new union's first contract and toughen penalties for companies that violate labor laws.*

*"The act strikes at the heart of a basic tenet of democratic elections -- the guarantee that people can cast their ballots without fear of retribution or coercion."*

Editorial, "[Retain secret ballots for union organizing elections](#)," *Grand Rapids Press*, 02.02.09

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Of course, there's an easy way for card check supporters to wake up from this unending circle of bad press and public opposition: they could stop trying to take away the secret ballot.

February 3, 2009

## **The Onslaught Begins: Special Interest Groups to Flood the Capitol in Bid to Kill Secret Ballot**

Less than a month into the 111<sup>th</sup> Congress and it appears the [countdown to card check](#) may be over. Various news outlets are reporting that special interest groups will overtake the U.S. Capitol tomorrow in an effort to persuade Members of Congress to support legislation that would deny workers' right to a secret ballot. Of course, these are the same groups plotting a [spin campaign](#) and waging a [multi-million dollar effort](#) to convince the American people that they should give up their right to vote privately in union elections, free from intimidation or public pressure, and instead support a public sign-up process known as card check.

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*Labor leaders are kicking off their campaign for card-check legislation Wednesday in advance of the bill's introduction in the House, which could come in the next few weeks, sources said Monday.*

*Democrats haven't decided the date for reintroducing the bill, a Democratic aide said, but said it would be in "days, weeks." A labor union official said the legislation, which would make it easier to form a union by eliminating a company's ability to demand a secret-ballot election to prove support for organizing -- would likely be introduced before the end of the month. ...*

*Wednesday's Capitol Hill event is the kickoff to similar campaigns from the unions, who have been hiring staff and spending money to mobilize grassroots supporters in the states.*

Hunt, "[With Card-Check Bill On Way, Unions Ramp Up Efforts](#)," *Congress Daily*, 02.03.09

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Is it possible that Democrats could introduce the anti-worker card check legislation as early as tomorrow? And could this be the lead up to a vote in the House on a plan that [74% of Americans oppose](#)?

February 4, 2009

## What about the 105 Million Workers Card Check Would Disenfranchise?

Special interest groups have been making a fuss today about a petition being delivered to Congress in favor of the ironically-named *Employee Free Choice Act*, a bill that would actually *take away* an employee's free choice about whether to join a union by stripping away the right to a secret ballot.

But what has been lost amid discussion of a million or so signatures corralled by the special interest groups backing this plan is the fate of the estimated **105 million Americans** who stand to lose their rights under this legislation.

An [analysis](#) from the Heritage Foundation last year found that the card check scheme "would disenfranchise 105 million American workers, which encompasses more than two-thirds, or 68.8 percent, of the American workforce." That's 105 million workers who are currently *not* members of unions, but who *are* covered by the provisions of the National Labor Relations Act, which the card check plan would modify to abandon the current system of federally-supervised secret ballot elections.

An opinion piece in today's *Washington Examiner* looks at the numbers another way:

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*"Consider the larger picture. One million would represent only about one-sixteenth of the unions' current total membership. Should Congress overhaul an entire labor legal system and remove workplace rights, when only one out of every 16 union members can be bothered to send in propaganda that labor officials have made their highest priority?"*

Jacobson, "[About today's million-union member march for Employee 'Free' Choice Act](#)," *Washington Examiner*, 02.04.09

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With 105 million Americans in the crosshairs, we're left to wonder: will Democrats actually pull the trigger on the undemocratic card check scheme?

February 5, 2009

## Just the Facts: Card Check Effectively Eliminates the Secret Ballot

It has been widely reported and editorialized that the anti-worker card check plan would deny workers the right to a secret ballot election when deciding whether to join a union.

Unfortunately for the special interest groups promoting this undemocratic scheme, elimination of the secret ballot doesn't play so well with the American people, to the tune of [74% opposition](#) among union households and, likewise, among all voters.

In an effort to turn around their deteriorating fortunes, card check advocates have begun claiming that their plan preserves workers' right to a secret ballot after all. There's just one problem: it isn't true.

Below is a letter circulated today by Reps. Howard P. "Buck" McKeon (R-CA), John Kline (R-MN), and Tom Price, M.D. (R-GA)—the top Republicans on the Education and Labor Committee; Health, Employment, Labor, and Pensions Subcommittee; and Workforce Protections Subcommittee, respectively. The letter was sent to all Members of the U.S. House of Representatives in an effort to debunk this dangerous myth.

### **Don't Be Misled: Card Check = No Secret Ballot**

Dear Colleague:

There has been a great deal of confusion, and even deliberate misinformation, circulating about the consequences of the so-called *Employee Free Choice Act*, a bill that would give workers anything *but* a free choice about whether to join a union.

To help clear up the facts, we decided to go directly to the source. Included below is an excerpt taken directly from the bill text of EFCA (more accurately described as "card check") as introduced in the 110<sup>th</sup> Congress.

(6) Notwithstanding any other provision of this section, whenever a petition shall have been filed by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a majority of employees in a unit appropriate for the purposes of collective bargaining wish to be represented by an individual or labor organization for such purposes, the Board shall investigate the petition. If the Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the Board shall not direct an election but shall certify the individual or labor organization as the representative described in subsection (a).

The last sentence is key: **... the Board shall not direct an election but shall certify the individual or labor organization as the representative...**

It couldn't be any clearer.

Workers *should* have a free choice about whether to join a particular union. And the only way to guarantee that right is to ensure that the secret ballot remains the standard. Forcing workers to publicly declare their support—or lack thereof—for a particular union opens them up to pressure from *all sides*.

Don't be deceived. The only way to provide employee free choice is to protect the secret ballot. When it is introduced and brought to a vote in the House, we urge you to stand with us in support of workers and reject this undemocratic plan.

Sincerely,

/s/

Howard P. "Buck" McKeon

/s/

John Kline

/s/

Tom Price, M.D.

February 6, 2009

## **“Workers could find themselves represented by a union without ever having a chance to vote on it...”**

Dogged by [massive unpopularity](#) and a [losing message](#), supporters of the anti-worker card check plan are going to great lengths to revive their ill-conceived plan to deny workers the right to a secret ballot. Luckily for American workers, editorial pages around the country aren't buying into the rhetoric.

While supporters of the card check plan struggle to convince the American people that they aren't eliminating the secret ballot after all, the facts speak for themselves. Consider the following, from an editorial in today's *Charleston Daily Mail*—

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*The act is also known as the "card check" bill. It would allow unions to organize workplaces by pressuring workers to sign cards.*

*Should congressmen and senators pass the bill, workers could find themselves represented by a union without ever having a chance to vote on it.*

...

*Workers need to be able to decide privately - without fear of retribution - whether they want to belong to a union.*

Editorial, "[Do W.Va. workers want to keep secret ballots?](#)," *Charleston Daily Mail*, 02.06.09

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No matter how they try to [spin it](#), card check advocates simply can't justify their plan to scrap the secret ballot in favor of a public sign-up process that opens workers to the threat of pressure, intimidation, or coercion.

February 9, 2009

## **Editorial Boards Continue to Weigh in on Behalf of Workers' Rights**

Despite the fact that [momentum seems to be waning](#) for the anti-worker card check plan, editorial boards all around the country continue to speak up on behalf of worker rights, and specifically the right to a secret ballot. Last month, *Secret Ballot Watch* highlighted the fact that special interest groups are [having a hard time justifying](#) their plan to deny workers the right to a secret ballot. For years, they have argued that a card check is necessary because union membership is dropping. Never mind the fact that overall unionization has ticked upward over the last two years.

Now, *The Signal* in California's Santa Clarita Valley has offered compelling evidence of exactly why the card check scheme isn't needed. Describing a unionization effort in 1999 at a local hospital, *The Signal's* editorial page pointed out that—

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*"... Anybody could try to influence them prior to the election, but when they cast their vote, the decision was theirs alone. Nobody was looking over their shoulders when they marked their ballots, and nobody could judge them after the fact.*

*"It was secret and sacrosanct, just like your vote on Nov. 4. You can say you voted one way or the other, but you're the only one who really knows.*

*"'Card check' would strip workers of that basic right. It would allow a union official to enter a workplace and persuade employees to sign a card authorizing the union to represent them. ..."*

Editorial, "['Card check' would stifle recovery](#)," *The Signal*, 02.09.09

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The fundamental issue at stake is worker rights. The right to vote on whether to join a union. The right to vote on a first contract, rather than having it dictated by a board of federal bureaucrats. And the right to be protected equally from intimidation, pressure, or coercion on *either* side of a unionization drive. No matter how they try to spin it, card check supporters just can't rationalize taking away these rights from [105 million Americans](#).

February 10, 2009

## **Legal Scholar Details Arguments Against Anti-Worker Card Check Plan**

The card check method for requiring workers to publicly declare support for forming a union has already proven unpopular with [the American people](#) and with [opinion leaders](#) around the country. Now a top legal scholar has weighed in, publishing a detailed analysis that debunks the false claims made by card check supporters and makes a compelling case that enactment of the misnamed *Employee Free Choice Act* would harm individual businesses and their workers, and the U.S. economy as a whole.

Richard A. Epstein, a legal scholar with The University of Chicago Law School, The Hoover Institution at Stanford University, and New York University Law School, has written [The Case Against the Employee Free Choice Act](#), a paper soon to be published by the Hoover Press. He outlines some of the arguments against card check in an opinion piece published today on Forbes.com. Among his findings—

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*"EFCA's first mistake is to adopt a card-check system that allows a union to sidestep at will any secret ballot election supervised by the National Labor Relations Board. Today, that election takes place only after a highly regulated political campaign in which both the employer and dissident workers have their say about the proposed union. ..."*

*"The harm from the deeply unpopular card check is compounded by an untested and convoluted process of compulsory interest arbitration that kicks in only 10 days after the union is certified. In those negotiations, the union has the huge advantage of surprise.*

*"If the parties fail to reach an agreement after 90 days of private negotiation, followed by 30 days with a mediator, the Federal Mediation and Conciliation Service in the Department of Labor will, under rules yet to be determined, issue a decree that binds both sides for two years, politely described as a 'first contract' period. Contract has nothing to do with it. Worker ratification is not required for the decree to be binding, and the employer cannot challenge the decree's terms in any court. ..."*

Epstein, "[Obama's Welcome Silence On The Employee Free Choice Act](#)," *Forbes.com*, 02.10.09

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With some 74 percent of voters opposed to card check and the plan itself drawing legal and economic criticism, it's a wonder anyone is still fighting to strip workers of the right to a secret ballot.

February 11, 2009

## **In Case You Missed It: House Republican Leader Defends Workers' Rights, Rejects Card Check Ploy**

Adding his voice to a growing chorus of opinion leaders, legal experts, and hardworking Americans, the Republican Leader of the U.S. House of Representatives has penned a compelling defense of secret ballot voting rights for American workers. The [op-ed](#) from Rep. John Boehner (R-OH), slated for publication in the March 2009 issue of *U.S. News & World Report*, exposes the misnamed *Employee Free Choice Act* as little more than a special interest payback designed to expand union power at the expense of worker freedom.

### **Boehner: Card Check Is About Union Lobbying Interests, Not Workers' Rights**

**Card check is about union special interests, not workers' rights, says John Boehner**

Posted February 9, 2009

*Rep. John Boehner of Ohio, in his ninth congressional term, is the Republican leader of the House.*

American workers are stressed out. Too many are wondering from one day to the next whether their jobs will be there a year from now, or even a month from now. Costs of healthcare and a college education are spiraling. Values of 401(k)'s are falling. And middle-class families must cope with rising costs of everything from food to energy. During times like these, our nation's leaders have the responsibility to advance policies that help ease burdens on workers and their families. But one proposal on a legislative "fast track" in Washington will only compound problems for millions of Americans in the workplace. This proposal won't impact their paychecks or benefits but rather a fundamental right every American takes for granted: the right to a secret-ballot election.

The cleverly titled Employee Free Choice Act has long been the top priority for organized labor, one of the Democratic Party's chief special-interest allies and campaign contributors. After years of declining membership and influence, Big Labor sees this as the last, best hope for stabilizing its rolls and remaining a lobbying force in Washington, our state capitals, and our city halls.

Republicans support Americans' rights to unionize freely, and that is why we oppose this antiworker legislation. Contrary to its title, the Employee Free Choice Act actually would strip workers of free choice in union organizing elections, federally supervised by the National Labor Relations Board for decades. Instead, it would leave them open to coercion and intimidation—from either union officials or company management—to sign or not sign a card expressing their desire to join a union. It's commonly called a "card check." In other words, rather than allowing an employee to make this critical choice in secrecy, the act would end workers' right to privacy, making "votes" completely and utterly public, for all coworkers, union organizers, and employers to see.

With the Democratic Party now in power on both ends of Pennsylvania Avenue, its Big Labor allies are pushing hard for speedy votes in Congress on this decidedly undemocratic bill. And if Congress clears the legislation, it will be received warmly at the White House. Before an organized-labor audience during the campaign, President Obama promised that "I'll make it the law of the land" after his election. The irony should not be lost on anyone, of course, that President Obama resides in the White House because of a secret-ballot election—just as all 535 members of the United States Congress hold their offices thanks to the secret ballot.

The irony doesn't stop there. Some of the legislation's most ardent supporters have spoken passionately in favor of secret-ballot elections—but only when it serves their interests. Take, for example, a 2001 letter sent to Mexican officials by Rep. George Miller of California, sponsor of the Employee Free Choice Act. Before a union election in Mexico, Miller and other congressional Democrats wrote, "We understand that the secret ballot is allowed for, but not required, by Mexican labor law. However, we feel that the secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose."

Or consider a 2001 NLRB brief filed by the AFL-CIO. In it, the labor organization defended the use of a secret ballot in union decertification elections—in which employees choose whether to opt out of a union—stating that a secret ballot "provides the surest means of avoiding decisions which are the result of group pressures and not individual decisions."

Or how about the words of Rep. Louise Slaughter of New York, when she refused to identify whom she would support in an internal Democratic contest last year to determine the chairmanship of the powerful Energy and Commerce Committee? She noted, "It's a secret ballot, thank the Lord."

Such doublespeak underscores what is really at play here. This legislation is not about workers' rights. It's about meeting the demands of special-interest allies who helped Democrats take control of Washington. As middle-class Americans face growing challenges at work and at home, we need both parties working together on their behalf—not one party working to complicate their lives even further by ending the fundamental right to privacy in the workplace.

February 12, 2009

## **In Case You Missed It: McKeon Op-Ed Debunks Myth that Card Check Exempts Small Businesses**

One of the most persistent myths about the anti-worker card check plan is the notion that small businesses would be exempt from its damaging consequences. In an opinion piece published today in *The Washington Times*, Rep. Howard P. "Buck" McKeon puts the myth to rest once and for all.

<http://www.washingtontimes.com/news/2009/feb/12/what-small-business-exemption/>



## The Washington Times

### McKEON: What small-business exemption?

By now, the dire consequences of Big Labor's card check scheme are well known. Workers will lose their right to be heard, both on the question of whether to unionize and on the details of their first contract. Businesses will be unable to communicate with their own employees about what's best for their shared future.

Less well known are the dire consequences in store for the biggest job producers of the American economy: small businesses.

There is a persistent myth that card check will not harm smaller firms. "The legislation doesn't apply to small businesses, so the corner grocery probably won't face an organizing drive," Matthew Cooper confidently claims in Portfolio magazine. "[Binding arbitration] would not apply to small businesses, which have no collective bargaining rights under the NLRA," reports Congress Now, a trade publication. Unfortunately these eminent journalists are wrong.

The myth of a small-business exemption is just that, a myth. There simply is no exemption for small business in either current law or the proposed legislation. Like many myths, it contains a small truth. Card check is economically damaging. So many in the small-business community contend that no rational person would want to undermine the nation's largest source of innovation and growth. Actually, some union organizers would be willing to do exactly that if it means that private-sector union membership, which has been declining for decades, can rebound.

Some entrepreneurs and observers wrongly believe that firms with fewer than 100 employees are already or soon will be exempt. While it's true that the National Labor Relations Act relies on administrative guidelines for deciding whether a business falls under its requirements, there is no single cutoff point based on the number of workers a business employs. Under current law, card check could indeed be applied to the corner grocery store-and probably will.

The only thing close to a small-business exemption is a patchwork of standards relating to the dollar volume earned by business (not profit). In practice, this extends the law's requirements to establishments doing as little as \$50,000 per year in gross receipts, earning far less in profits, if they're in the black at all. These parameters were established in 1959 and have never been adjusted for inflation. So that mom-and-pop grocery on the corner? You bet it would be a target. The local deli with a few high-school students washing dishes and working the cash register after school? They're a target too.

Small businesses are an obvious target for union organizing, with just a handful of individuals needed to sign the infamous "cards."

Consider a family-run business with seven employees. Four of these workers are caught off-guard, in the parking lot after work or with a knock on the door at home during dinner. They are pressured to sign cards on the spot, expressing interest in the possibility of joining a union.

No one speaks to the other three workers. No one notifies the family that owns the business and provides the jobs and economic benefit to the community. Days later, the National Labor Relations Board notifies the employer that its workers are now unionized. Communication with the workers could now be considered an inappropriate labor practice. Workers are no longer empowered to speak for themselves, but the family trying to eke out a modest life for itself and

its people now finds itself at a bargaining table with savvy union leaders who could just as likely be looking out for their own interests as for those of the workers they "represent."

Will the business have to create a human-resources department? Hire costly attorneys and labor negotiation experts? Labor contracts are notoriously complex to understand and implement. Just look at the 22-pound, 2,200-page contracts automakers are faced with in Detroit.

And who will set the terms of that first contract? Still reeling from the speed at which a union effectively took control of their family enterprise, the small-business owner has just 90 days before the contract goes to a federal mediator. Another 30 days without agreement on complex new work rules and a federal arbitrator steps in. Suddenly, years of work and knowledge about how to run the business are cast aside in favor of a federal bureaucrat empowered to tell that family how much to pay its workers, what type of work they can do, how much vacation they are entitled to and all the other nuances of their day-to-day operations.

Seem far-fetched? It's not. In 2007, the National Labor Relations Board asserted jurisdiction over a gas station and sandwich stand with just nine to 13 workers.

Small businesses are the largest source of new jobs in this country. With nearly 600,000 workers being hit with pink slips last month, crippling the small-business community with card check might just be the worst thing we could possibly do for job creation and retention.

But that is exactly what the Democrat-led Congress is poised to do.

*Rep. Howard P. "Buck" McKeon, a Republican from California, is the ranking minority member on the House Education and Labor Committee.*

February 13, 2009

## **Big-Spending Special Interests Try to Gag Opposition to Unpopular Card Check Scheme**

Card check supporters must be getting desperate. Facing overwhelming [public opposition](#) and a [flawed message](#), they have decided the best way to kill the secret ballot is simply to muzzle those who defend it. An editorial in today's *Wall Street Journal* exposes this troubling new tactic:

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*"...Anna Burger, chair of the Change to Win federation, wrote that financial services firms and their trade group should "immediately cease all lobbying and advocacy" against "card check" legislation that would end the secret ballot in union elections. ...*

*"The government has in the past restricted the use of federal funds to directly lobby Congress. But Ms. Burger wants to extend this to any organization that somehow takes money from Uncle Sam. In the case of the banks, capital injections have gone to the balance sheet with a goal of aiding financial stability and increasing lending. The point wasn't to micromanage how banks spend every dollar.*

*"But if Big Labor wants to limit speech, why stop at the bankers? The unions, including those that belong to Change to Win, get plenty of government money for their affiliates to run job training and other programs. For that matter, many employees of companies that have received bailout cash --*

*General Motors or Chrysler, say -- use some of their wages to pay union dues. The unions then use those dues to become major political players at election time -- to the tune of \$450 million in the last election cycle, and that's the amount they admit to spending. If banks can't lobby against card check, the United Auto Workers ought to be banned from politics too. ..."*

Editorial, "[Shut Up, They Said](#)," *Wall Street Journal*, 02.13.09

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The card check plan is an assault on workers' rights, so perhaps it should come as no surprise that its supporters are pushing for it with an assault on free speech. But no matter how much they spend, or how much they try, they won't be able to bully the American people into supporting their undemocratic plan.

February 17, 2009

## **From Coast to Coast and Everywhere in Between: Card Check Opposition Continues**

Nearly two months into the 111<sup>th</sup> Congress, the special interest groups and congressional Democrats behind the anti-worker card check plan aren't having much luck [convincing](#) the American people to support their undemocratic scheme. Editorials and opinion articles continue to appear all across the country decrying the proposal to deny workers the right to a secret ballot in workplace organizing elections.

Card check has proven immensely unpopular because it effectively does away with secret ballots and the protections they afford to workers. Under the card check plan, as soon as a simple majority of workers have been publicly convinced to sign cards, the union will be certified. Workers do not have the choice to seek an election at that point in the process, a fact that special interests have refused to acknowledge.

It's no surprise that editorial pages from big cities to small, rural communities have chimed in to oppose this special interest power grab. From [Boston, Massachusetts](#) to the [Santa Clarita Valley in California](#), card check opposition can be found from coast to coast and everywhere in between. Take the opinion piece that appears today in the Sioux Falls, South Dakota *Argus Leader*:

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*"The Employee Free Choice Act will take away the secret ballot and empower union organizers to approach employees in the workplace or even in their homes, pressuring them to sign a card or forcing them to openly refuse to sign in the presence of union leaders or fellow workers.*

*"Private ballots protect the independence of the voter and his or her ability to freely make choices immune from this type of pressure. Truly free choice demands secret ballots."*

Owen, "[Perilous Legislation](#)," *Argus Leader*, 02.17.09

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The voice of the American people can be heard loud and clear, from [editorial pages](#) overflowing with card check opposition to the recent national poll that found [74 percent](#) of voters are opposed to the plan. The sooner special interests and their allies in Congress drop plans to enact this undemocratic plan, the better.

February 18, 2009

## Support Dwindles for Anti-Worker Card Check Plan

It has been nearly two months since the 111<sup>th</sup> Congress was gaveled into session, and yet congressional Democrats still have not formally introduced their misnamed *Employee Free Choice Act*, a bill that would actually *deny* workers a free choice by denying their right to a secret ballot. *Arkansas News Bureau* columnist David J. Sanders speculates on the holdup:

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*Last year the bill had 230 original co-sponsors in the House, including a few Republican backers who hailed from states dominated by unions. Supporters picked up three additional co-sponsors before being passed.*

*The bill had 46 co-sponsors in the Senate.*

*Even though the bill has not been introduced yet, according to reports there are only 202 current co-sponsors in the House and 38 in the Senate. The numbers show that Democrats who supported card check in the past could very well be experiencing some angst this time around.*

Sanders, "[Blue dog Democrats oppose card check](#)," *Arkansas News*, 02.18.09

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The delay is curious, especially since special interest groups have been calling for quick passage of the legislation for months, even going so far as to call it "[payback](#)" for their political support and financial contributions in the last election.

Card check supporters moved much more quickly in the 110<sup>th</sup> Congress, despite the fact—or perhaps because of it—that a Presidential veto was assured. Card check legislation was [formally introduced](#) on February 5, 2007 with 230 original cosponsors. The bill picked up an additional three cosponsors as it made its way through the legislative process.

By this point in 2007, the bill had already been debated in committee and was set for a vote in the full U.S. House of Representatives. Now, for whatever reason, supporters cannot even muster the support they're seeking to introduce the bill, much less bring it to a vote. Might the [74 percent](#) of voters who oppose this plan have something to do with this seeming change of heart?

February 19, 2009

## Sacrificing the Secret Ballot Over a Turf War?

The anti-worker card check plan has always been understood to be political payback to certain special interest groups. Union leaders have [publicly admitted](#) as much. But a revealing new interview of a top labor boss by *The Politico* exposes a previously hidden agenda for those who would take away workers' right to a secret ballot: it's all about consolidating power in the ongoing union turf battle.

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*"Passing EFCA would defuse a lot," [SEIU President Andy] Stern said. 'A post-Employee Free Choice Act world actually creates the real opportunities for unions to do what they want to do' — that is, organize within their own industries, rather than cross the industrial lines that lead to tension.*

*"Stern said that, for instance, SEIU might move away from organizing some public workers, a drive that has expanded his union at the cost of tension with the traditional public workers' union. That involvement with public sector power-brokers included impeached former Illinois Gov. Rod Blagojevich, who received lavish support from the local SEIU.*

*"In a post-Employee Free Choice Act world, we would go where no one else wants to go, which is the south and Southwest,' he said, saying SEIU could 'stay away from places where other unions will probably want to.'"*

Smith, "[Stern in the middle](#)," *The Politico*, 02.18.09

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Could this possibly be true? Are workers really being asked to forsake their right to a secret ballot—the right to be free from intimidation, coercion, or retribution based on how they cast their vote—in order to ease conflict among union leaders hungry for power? And are congressional Democrats really considering such a radical, anti-worker plan?

**February 20, 2009**

## **Card Check Bait and Switch?**

Most of the debate surrounding the woefully misnamed *Employee Free Choice Act* has focused on the bill's "card check" provision to do away with secret ballot union organizing elections. And it's no wonder. Denying workers the right to a secret ballot is fundamentally undemocratic, exposing workers to public pressure and possible retribution based on whether or not they "sign the card."

As troubling as this provision is, the bill does not stop there. Lurking in the legislation, unbeknownst to many Americans, is an equally troubling plan to deny workers the right to vote on their first contract. Known as binding arbitration, this element of the legislation would put federal arbitrators in charge of work rules and business practices for a full two years if employers and union representatives are unable to reach agreement within 120 days. In practice, this means that management and workers alike would be shut out of negotiations and prevented from having a voice in these critical decisions.

*The Washington Examiner* explores the underreported issue of binding arbitration in an editorial special report appearing in today's paper.

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*"With attention focused on the secret ballot issue, however, Stefan Gleason of the National Right to Work Committee worries that a possible compromise enable Democrats to also 'ram through' arbitration measures that would have dire economic consequences. ...*

*"Some unions officials are hinting that they would drop Card Check, for the time being, in exchange for passing the arbitration changes, Gleason said. He is concerned that the prospects for arbitration might be improved with some 'misdirection' of secret ballot proponents."*

Mooney, "[Critics fear Card Check is bait for compulsory arbitration](#)," *Washington Examiner*, 02.20.09

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Whether or not the "card check" component of the legislation is a ruse, workers' rights are still in jeopardy. Binding arbitration is just another way to take away workers' right to vote.

As *The Washington Examiner* revealed, there's much more at stake than secret ballots. From the [special interest payback](#) to efforts at the state level to [protect workers' rights](#) to card check supporters' inexplicable support for secret ballots, but evidently only in [Mexican workplaces](#) ... but more on that later.

February 23, 2009

## Secret Ballots South of the Border

In the ongoing battle over whether workers should have access to the privacy and protections of secret ballots in union organizing elections, few things come as a surprise anymore. But one thing that never ceases to amaze is the discrepancy between workers' rights, and efforts to protect those rights, in Mexico and right here at home.

Longtime observers of the troubling card check scheme already know that Democratic congressional leaders are on record supporting secret ballots for workers in Mexico. Consider what they wrote in a 2001 [letter](#) to Mexican officials (*emphasis added*):

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*As members of Congress of the United States who are deeply concerned with international labor standards and the role of labor rights in international trade agreements, **we are writing to encourage you to use the secret ballot in all union recognition elections.***

*We understand that the secret ballot is allowed for, but not required, by Mexican labor law. However, **we feel that the secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose.***

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Now, it seems that the Mexican courts have joined in the effort to protect workers' fundamental right to organize freely and without intimidation, coercion, or retribution. Consider the following analysis, which appeared in *The Washington Times* earlier this month:

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*"... Mexico's highest court, the Supreme Court of Justice of the Nation, last year unanimously ruled in favor of secret votes for workers considering which union could represent them in collective bargaining agreements. While Mexico's labor law differs from that in the U.S., any step to safeguard workers' freedom*

*and privacy is a great advance in an economy long bedeviled by measures that destroyed jobs while strengthening unions.*

*"Mexico's highest court affirmed a lower court ruling which cited as justification for their decision the United Nation's Universal Human Rights Declaration and Convention number 87 of the International Labor Organization. The declaration and convention established that secret ballots permit employees to exercise democratic principles while open voting allows for undue pressure and coercion. The National Association of Democratic Lawyers, a group of labor lawyers, academics and labor organizations in Mexico, called the secret ballot "an essential element for respecting workers' rights and for the democratization of unions and the country itself." Democratization and the secret ballot have always been the hallmark of worker freedom and protecting the rights of workers to organize. ..."*

Vernuccio, "[When Mexicans have more rights than U.S.](#)," *The Washington Times*, 02.13.09

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To recap: Democratic congressional leaders, Mexico's highest court, and the United Nations Universal Human Rights Declaration have all come down on the side of secret ballots in workplace organizing elections. At least for those elections that take place in Mexican workplaces. Don't American workers deserve the same?

February 24, 2009

## **Editorial Onslaught Continues: Opinion Leaders Reject Undemocratic Card Check Plan**

Scarcely a day goes by without a major string of editorials, op-eds, and letters to the editor filling the opinion pages of newspapers large and small in opposition to the misnamed *Employee Free Choice Act*, a bill that would give workers anything but a free choice in deciding whether to form a union. Over the weekend, the *Orlando Sentinel* carried one such editorial that made a particularly compelling case for why the card check plan must be defeated.

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*"The legislation, better known as the card-check bill, would allow unions to represent workplaces without winning approval from employees in secret-ballot elections. Former Democratic presidential nominee George McGovern, a pro-labor liberal, has accurately described the bill as 'disturbing and undemocratic.'*

...

*"Under the card-check bill, a union can claim certification with the signatures of a simple majority of workers, without a secret-ballot election. The union doesn't even have to inform management that an organizing drive is under way. It can approach employees away from the workplace, even at home, with cards to sign. It can spend months working beneath the radar toward its goal. ..."*

*"Workers deserve to make the choice on union membership through a free and fair process. This bill would ensure neither."*

Editorial, "[Union elections without secret ballots are bad for workers and management](#)," *Orlando Sentinel*, 02.21.09

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It is clear that card check has been rejected by opinion leaders and the American people. Tomorrow, Republicans will offer a counterproposal that will ensure once and for all the workers will never have their right to a secret ballot taken away. Stay tuned.

February 25, 2009

## Republicans Introduce Legislation to Protect Workers' Right to a Secret Ballot

Earlier today, top Republicans in the House and Senate [introduced](#) the *Secret Ballot Protection Act*, legislation that would create a firewall against the undemocratic "card check" scheme that congressional Democrats are expected to soon unveil. The *Secret Ballot Protection Act* would ensure that workers are *always* given the privacy and protections of a secret ballot in workplace organizing elections. That stands in stark contrast with the legislation forthcoming from congressional Democrats, which would do away with secret ballots in favor of a public sign-up process known as a "card check."

Reps. John Kline (R-MN) and Tom Price (R-GA) – the top Republicans on the Health, Employment, Labor, and Pensions Subcommittee and the Workforce Protections Subcommittee, respectively – were joined by Education and Labor Committee Senior Republican Howard P. "Buck" McKeon (R-CA) to introduce the legislation in the House. Senator Jim DeMint (R-SC) is the legislation's lead sponsor in the Senate. To mark the introduction of the legislation, Members hosted a press conference earlier this afternoon. Excerpts of that video can be viewed by clicking the link below or by visiting the Education and Labor Committee Republican [YouTube channel](#).



Click [HERE](#) or on the image above to view the video

February 26, 2009

## Small Businesses Being Hit from All Sides

Earlier today, the Obama Administration released a budget blueprint for FY 2010 that taxes, borrows, and spends its way into an unprecedented era of bigger, more intrusive government. Small businesses – along with the rest of the American economy – will be forced to



pay the price for this government spending spree, making it more difficult to create jobs and help our economy bounce back.

And this morning, we were reminded that small businesses face another threat to their productivity and viability: the anti-worker card check legislation, which would open small businesses and their workers to aggressive organizing tactics and costly new federal binding arbitration requirements. A Fortune Small Business article appearing on CNNMoney.com describes the threat to small businesses:

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*"During the past 20 years, Bob Cook's half-dozen employees have twice considered forming a union. Cook, who owns Cook Paper Recycling in Kansas City, Mo., says union organizers invited his workers to a tavern both times. Over free beers, the employees enthusiastically signed union cards, but when it came time for the secret ballot - a second step that employers can insist on - they voted the idea down.*

*"The secret ballot is essential," says Cook. "It removes fear of intimidation."*

*"That second step may disappear this year, leaving business owners more vulnerable to unionization and the higher labor costs that go with it. ...*

Kimes, "[Labor battle looms in Congress](#)," *Fortune Small Business*, 02.26.09

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Small businesses are critical to job creation and economic recovery, and lawmakers ought to pursue policies that help them thrive, not stifle their growth. That means a budget that doesn't raise taxes, and defeat of the anti-worker, anti-growth card check plan.

**February 27, 2009**

## **"Whatever happens, access to the secret ballot should be retained..."**

The card check union organizing method – in which workers are asked to publicly declare support for a union by signing a card, rather than privately voting through a secret ballot – has drawn widespread opposition because of its undemocratic nature. Editorial pages across the country have come out against the public sign-up process ... and now, they're questioning why special interest groups are pursuing legislation at all. Consider this editorial appearing today in Lehigh Valley, PA's *Express-Times*:

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*"Congress is expected to revisit the Employee Free Choice Act soon -- a controversial bill that would make it easier for employees to unionize. The drawback is that the secret-ballot option on union affiliation would be pushed aside in favor of a card-check process, which could be overseen and witnessed by union officials. ...*

*"A key question is how much change is needed in labor law, considering that most efforts at union organizing -- about two-thirds -- have been successful in*

*recent years, according to the National Labor Relations Board. Whatever happens, access to the secret ballot should be retained in this process."*

Editorial, "[Employee Free Choice Act isn't the answer](#)," *Express-Times*, 02.27.09

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As another week comes to a close with card check opposition as strong as ever, it's worth wondering why Democrats would ever pursue such an unpopular, undemocratic plan.

March 2, 2009

## **Editorial Boards Urge Democrats to Back Off Undemocratic Card Check Plan**

Apparently, even a snowstorm blanketing the eastern seaboard cannot quell editorial opposition to the misnamed *Employee Free Choice Act*, a bill that would strip workers of the freedom to vote privately, through a secret ballot, on whether to join a union. Over the weekend, editorial pages from one coast to the other added their voices to the growing chorus of opposition to the special interest card check plan, in which workers would be forced to vote via a public card signing process, making their vote known to both union leaders and management.

Starting on the West Coast, the *Pasadena Star-News* urged Congress and the Administration to back away from the controversial card check plan.

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*"This is not a fight that the bipartisan-minded president should invite at this time. That's one reason why it would be beneficial for Obama and Solis to hold off on card check. Besides, we're not convinced the need for easier union access is on the front burner, not in today's difficult economic climate and when jobs are disappearing at alarming rates."*

Editorial, "[Hold off on card check](#)," *Pasadena Star-News*, 02.28.09

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Heading east to Virginia, Lynchburg's *News & Advance* tried to pin down key Democrats in Congress about where they stand on workers' right to a secret ballot:

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*"Do you support the right of an American worker to decide, in secret and in private, whether he wants to be represented by a labor union on the job? Yes or no? And no dodging the question."*

Editorial, "[Congress' Chain Needs Yanking When It Comes to Card Check](#)," *News & Advance*,  
03.01.09

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And in Southern Florida, the *Sun-Sentinel* echoed widespread concerns about how card check would impact workers:

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*"The deceptively-named "Employee Free Choice Act" would allow a union to claim certification if a simple majority of workers signs the card — thus dispensing with the secret vote.*

*"Doing so would open the door for a lot of coercion and intimidation, in the workplace, in homes. Theoretically, a union could gain certification without every employee, or management, knowing about it."*

Editorial, "[It's no secret: Democracy thrives with secret ballot elections](#)," *Sun-Sentinel*, 03.01.09

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Editorial boards are showing no signs of letting up in their efforts to urge, scold, shame, and even implore congressional Democrats to drop their support for this anti-worker plan.

March 3, 2009

## **Though Card Check Introduction May Be Imminent, Democrats Appear to Be Having Second Thoughts**

Nearly two months after Democrats convened the 111<sup>th</sup> Congress and began outlining their policy goals for the coming session, their decision not to introduce the misnamed *Employee Free Choice Act* is conspicuous, to say the least. The legislation is better known as card check, because it forces workers to vote publicly, by signing or refusing to sign their name to an authorization card, on whether to join a union. And it's a top priority for special interest groups that spent, by some estimates, hundreds of millions of dollars to elect card check supporters in the last election.

Yet despite the [millions](#) being spent by supporters of the undemocratic scheme, some Democrats appear to be backing away from the plan. The *Huffington Post* reported yesterday on speculation that congressional Democrats may be wavering in their support for this [highly unpopular](#) legislation:

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*"Officials tasked with helping push the Employee Free Choice Act through Congress are growing concerned about the possible defection of Senate Democrats in a debate that is bound to be heated and close. ...*

*"Democratic leadership has said they want a vote on the matter in late spring or early summer. ...*

*"And yet, not everyone is convinced that the bill will come to a vote by early summer, especially if internal whip counts show that Democrats don't have the votes for cloture. Right after the election, union officials were adamant that EFCA be considered within the president's first year in office. Now, however, there seems to be a loosening of the deadline."*

Stein, "[Worry Grows Over Dem Defections On EFCA](#)," *Huffington Post*, 03.02.09

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This follows a report last week from *The Hill* speculating about when and where the bill would first be brought to a vote, particularly given misgivings among some House Democrats:

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*"Blue Dog Democrats in the House have shown tepid support so far for the legislation, which is the subject of an all-out lobbying war between business and labor. Many have faced tough questions about the legislation from constituents, who have been blitzed with a business advertising campaign. ...*

*"The bill is not moving forward as quickly this year as it did in the last Congress.*

*"In 2007, Miller introduced the House bill on Feb. 5 with 230 original co-sponsors. House legislation has yet to be introduced this year."*

Bogardus, "[Blue Dogs seek Senate cover on card-check](#)," *The Hill*, 02.24.09

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And just today, the *Las Vegas Sun* reported on Nevada Democrats who have supported card check in the past but are not yet been willing to commit to the legislation in the 111<sup>th</sup> Congress:

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*"Democratic Rep. Shelley Berkley would seem to be a reliable vote for labor's top issue in Congress — a bill that would make it easier for workers to organize under the card check system used at most of the unionized casinos on the Strip.*

*"Berkley has seen card check as it is applied in Las Vegas and she signed on in 2007 as an original co-sponsor of the bill that passed in the House. But as the debate over the Employee Free Choice Act heats up as labor's top priority, Berkley has yet to offer her support. ...*

*"Opponents of the bill, however, say Democrats are not in full agreement this time because the bill actually has a chance of passing, which means their votes could make a difference."*

Mascaro, "[Past friends of card check still weighing bill](#)," *Las Vegas Sun*, 03.03.09

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This is bad news for card check supporters, particularly with [rumors](#) springing up around the web about a card check bill introduction as early as Monday, March 9<sup>th</sup>. But it's great news for workers, who should always be [guaranteed the right to a secret ballot](#).

**March 4, 2009**

## **What the People are Saying About Card Check**

Opposition to the anti-worker card check plan among [editorial boards](#) and [opinion leaders](#) is well documented. And it's no surprise. After all, the card check legislation—deceptively dubbed the *Employee Free Choice Act*, despite the fact that it *takes away* employees' free choice through a secret ballot—is fundamentally undemocratic, something the American people don't take lightly.

However, it's not just editorial writers and op-ed contributors weighing in against the plan to scrap the secret ballot. Individual citizens are lending their voices as well, arguing that Congress and special interest groups have no right to take away workers' ability to choose freely, and privately, whether they wish to join a particular union. A sampling of letters to the editor shows just how strongly the American people oppose the card check plan.

From Alabama...

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*"The 'Employee Free Choice Act' before the U.S. Congress is an oxymoron. The unions want to do away with secret ballots in elections to form a union at a place of employment. ...*

*"This proposed elimination of the secret ballot to organize a union is nothing more than an obvious payoff from the Democrats for union support in elections. I recommend people call or write their congressmen and senators to oppose this outrageous act."*

McDaniel, Letter to the Editor, "Bill mere payoff for union support," *Montgomery Advertiser*, 03.04.09

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To Ohio...

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*"Under Card Check, union organizers would be free to 'persuade' workers to publicly sign a card stating that they support the union. Union organizers could ask workers to sign a card just about anywhere - in the parking lot after work, at a restaurant, even at home. Once more than 50% sign cards, workers would be stuck with a union - no more debate and no secret ballot election.*

*"Because unions would know who has signed a card, workers would be exposed to unrelenting pressure and coercion. Exposing workers to this harassment may seem unfair, but the goal of this legislation isn't fairness - it's getting workers to sign cards and begin paying union dues. ...*

*"We need our elected officials to protect democracy in our workplaces, not bow to the \$450 million unions 'invested' in 2008."*

Bockrath, Letter to the Editor, "Elected officials need to protect the work force," *Putnam County Sentinel*, 03.04.09

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To Arkansas...

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*"Recently, there has been some talk about the Employee Free Choice Act, or card-check. Unlike its name indicates, this piece of legislation actually takes away an employee's right to a secret ballot when voting on a union's establishment. Votes are instead recorded publicly, which makes intimidation both inside and outside of the workplace much more likely.*

*"This legislation would take contract negotiations out of the hands of workers and employers by giving government arbitrators the power to negotiate and set employment contracts. ...*

*"To keep true democracy intact in the workplace, our elected officials in Washington should oppose EFCA."*

Reed, Letter to the Editor, "'Free Choice' Act isn't," *Arkansas Democrat-Gazette*, 03.03.09

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And Pennsylvania...

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*"Now imagine that you don't want to belong to a union for whatever reason, and you don't sign the card as the 'organizers' want. Next thing you know, there are 200 union activists outside your home practicing their constitutional right. Do you still think the Democrats in Congress should cave in to the union bosses and take away your right to a secret ballot?"*

Mutch, Letter to the Editor, "Secret ballot protects against protests," *Morning Call*, 03.02.09

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...the American people have resoundingly rejected the card check plan to take away the secret ballot. The only ones who remain unconvinced seem to be some congressional Democrats and the special interest groups financing the scheme.

March 5, 2009

## **New Report Says Card Check Will Put Americans Out of Work**

***Economist: If card check increases unionization by 1.5 million this year, as its advocates predict, the economy will shed an additional 600,000 jobs in 2010***

The claims by card check supporters that their plan would strengthen the economy have always been dubious. After all, the best way to strengthen the economy in the current downturn is to create jobs – and the card check plan does *nothing* to spur job growth.

But now, it has become clear that the card check plan – which takes away workers' right to vote by secret ballot on whether to join a union – would actually have the opposite effect, destroying existing jobs and hampering the creation of new ones at a time when our economy needs them the most. This is the finding of a new report from Dr. Anne Layne-Farrar, an economist with the non-partisan firm LECG Consulting. According to Layne-Farrar—

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*"[T]he unintended consequences of passing EFCA are likely to be significant. Increased unemployment and reduced labor supply are very high prices to pay during any time, but especially during a recession."*

Layne-Farrar, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," March 2009

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Layne-Farrar's analysis uses recent economic experience in Canada to predict the impact of card check legislation on the American economy. Canada has seen similar shifts in union certification and arbitration policies as those proposed in the card check plan that may soon be moving through Congress, allowing for a compelling comparison to the potential consequences for the U.S. economy if this undemocratic plan were to become law.

The Education and Labor Committee's top Republican, Rep. Howard P. "Buck" McKeon (R-CA), commented on the findings—

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*"With millions of Americans out of work and many more worried about losing their jobs, the very last thing our economy needs is a job killer like the card check plan. We need to focus on a positive agenda of job creation, health care access, and secure retirements. It's time for Democrats to abandon this damaging legislation before it has a chance to make the economy even worse."*

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With hard evidence on the table showing that card check would destroy American jobs, will Democrats and their special interest allies finally stop pursuing this anti-worker plan?

March 6, 2009

## **Canada to U.S.: Take Our Word For It, Card Check is a Bad Idea**

A majority of Americans – [74 percent](#), to be precise – think the card check process for publicly disclosing workers' votes on whether to join a union is a bad idea. Now, our neighbors to the north are weighing in as well. A columnist for the *Calgary Herald* today spelled out in great detail the anti-worker consequences if a card check scheme is imposed on the American workforce. It's a subject Canadians know well, having experienced the consequences of card check organizing in their own workplaces in recent years.

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*"Once approved, this [card check] bill will deny workers the right to a secret ballot vote when deciding if they want to unionize their workplace. Unionization will instead be determined by a distinctly non-democratic process called card check, where a workplace is automatically unionized if 50 per cent plus one workers sign cards supporting certification.*

*"Card signing frees unions from having to win people over with dreary concepts like facts, free choice and democracy. Signatures are very public, and are often obtained after coercive and intimidating encounters with union organizers.*

*"In some cases, misinformation is provided and workers are led to believe that everyone else has signed and they will be stigmatized as the lone holdout if they fail to get on board. In other cases, organizers approach employees who are most likely to sign and leave those who would reject unionization in the*

dark. They may not even know a union drive exists until a Notice of Certification is posted. ...

*"John Mortimer is president of the Canadian LabourWatch Association. He says the American bill is essentially 'a knock-off of the worst of Canadian labour law' and that 'much of Canada has been subject to similar laws proposed by this Bill for decades.' He cites research showing that unionization increases dramatically with card checks (by an estimated 25 to 40 per cent compared to secret-ballot votes) and results in a negative impact on employee productivity, a 28 to 50 per cent reduction in research and development spending, and a 15 per cent reduction in profits."*

Martinuk, "[Obama's labour law will bring harassment](#)," *Calgary Herald*, 03.06.09

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This Canadian cautionary tale comes just a day after a [new study](#) was released – based in large measure on the Canadian card check experience – showing that America is likely to see a 1 percentage point rise in the unemployment rate for every 3 percentage points gained in union membership through card checks and mandatory arbitration. That translates to 600,000 American jobs lost in the first year after the card check plan is enacted if union bosses are accurate in their predictions that 1.5 million existing jobs will be unionized because of the legislation. Rather than putting hundreds of thousands or even millions of American jobs in jeopardy, it seems like we might want to take the Canadians' word for it and discard the card check once and for all.

March 9, 2009

## **Democrats Prepare to Introduce Card Check as Top Obama Economic Guru Comes Out Against Measure**

*Billionaire Investor and Obama Supporter Warren Buffett Says Card Check Would Be a Mistake*

Congressional Democrats are [reportedly](#) preparing to introduce their misnamed *Employee Free Choice Act* tomorrow, setting in motion a legislative gambit that would effectively eliminate secret ballots in the workplace. This anti-worker plan has already drawn the ire of [editorial](#) writers, [economists](#), and [the American people](#). Now, on what looks to be the eve of the bill's formal introduction in Congress, one of President Barack Obama's top economic backers has weighed in to oppose the measure as well. Warren Buffett, a prominent investor and supporter of the President's economic policies, spoke out this morning on CNBC's Squawk Box against the anti-worker plan:



*"...I think the secret ballot's pretty important in the country ... I'm against card check to make a perfectly flat statement..."*



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With opposition lining up from [across the political spectrum](#), Democrats and the special interest groups clamoring for this undemocratic legislation seem to be facing an uphill battle as they prepare to formally introduce a bill that would take away workers' rights and put hundreds of thousands of American jobs at risk.

March 10, 2009

## **Moments After Hearing Worker's Story of Union Intimidation, Democrats Formally Introduce Card Check Scheme to Do Away With Secret Ballots**

Earlier today, Democrats formally introduced the misnamed *Employee Free Choice Act*, a bill that would replace federally-supervised secret ballot elections with a public sign-up process that opens workers up to public pressure, intimidation, coercion, and retribution. Introduction of the legislation was carefully timed to follow a hearing in the U.S. Senate designed to make the case for this undemocratic scheme. What card check supporters may not have anticipated was that today's hearing was a showcase for exactly why card check should not become law.

The U.S. Senate Committee on Health, Education, Labor, and Pensions heard testimony from a worker who saw firsthand what he called the pressure, badgering, and intimidation that comes from a card check public sign-up process. Larry Getts, an Employee of Dana Corporation in Fort Wayne, Indiana, described his experience:

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*"Union organizers waited for us in the break room, sat with us at lunch whether we wanted them to or not, and walked us to our cars at the end of the day.*

*"The entire time they were constantly badgering us to sign the cards. ...*

*"I refused to sign the card every time they asked, and I know many others shared my sentiment.*

*"But none of that mattered to the UAW, because the pressure did not let up.*

*"In fact, one day, an official approached me again claiming fifty percent of the plant had signed -- so now I was going to have to sign the card to "get my information in the system."*

*"I signed the card then because I thought I had to.*

*"I didn't learn until later that even then, I should not have been forced to sign the card. ...*

*"I hope you'll vote to defeat the misnamed Employee Free Choice Act."*

Larry Getts Testimony before the U.S. Senate Committee on Health, Education, Labor, and Pensions, 03.10.09

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Even after hearing this disturbing account, card check supporters apparently have not been deterred. The legislation has now formally been introduced, never mind the fact that a worker who had experienced the intimidation of the card check scheme was only moments earlier pleading that the bill be defeated. If Democrats aren't listening to workers, who *are* they listening to?

March 11, 2009

## Card Check Support Dwindles

The misnamed *Employee Free Choice Act* may have been formally introduced in Congress yesterday, but introduction should not be confused with momentum. In fact, the bill's formal unveiling has been somewhat of a dud, drawing fewer congressional supporters than it did two years ago, when it was last considered.

In 2007, EFCOA boasted 233 cosponsors in the House and 46 in the Senate. This year, the figures are 222 and 39, respectively; a notable decline considering that supporters have virtually [guaranteed passage](#) of the controversial legislation that stalled two years ago. In the House, 32 Members who cosponsored the legislation in 2007 have opted not to sign their names to the bill this year; in the Senate, 11 have withheld their names.

But perhaps even more telling are recent comments from congressional Democrats questioning why we would move this job-killing, anti-worker ploy at a time when the U.S. economy continues to shed jobs and American families are struggling just to get by.

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*"Another senator on the fence is Arkansas Democrat Blanche Lincoln. In an interview Monday, the Democratic lawmaker said, 'I have 90,000 Arkansans who need a job, that's my No. 1 priority.'*

*"She referred to the legislation as 'divisive.' Such controversy is not needed in today's climate.*

*"Ms. Lincoln's Arkansas colleague, and fellow Democrat, U.S. Sen. Mark Pryor has also changed his mind as has Louisiana Democratic U.S. Sen. Mary Landrieu. All of these senators represent states that have electorates opposed to unions and could have tough re-election campaigns. ...*

*"U.S. Rep. Marion Berry, D-Ark., is one the Blue Dogs, conservative Democrats, who oppose it. Mr. Berry recently had said that he thought the bill was a piece of junk and that he only voted for it in the past because he knew then-President George W. Bush would veto it."*

Tremoglie, "[Moderates Lining Up Against 'Card Check'](#)," *The Bulletin*, 03.11.09

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House Republicans have been saying all along that card check is bad news for both workers and our economy. It seems that more than a few [Democrats](#) are starting to agree.

March 12, 2009

## Hypocrisy Alert: Hoffa's Secret Ballot Double Standard

*Teamsters President Belittles Secret Ballot Rights for Workers; Fails to Mention that Secret Ballots are the Standard in Selecting Union's Own Leaders*

A press release issued this week by the International Brotherhood of Teamsters took many people by surprise with its overt attack on the principle of the secret ballot. After all, supporters of the undemocratic card check plan – which replaces secret ballot voting with a public sign-up process that opens workers to intimidation and coercion – have been working overtime trying to convince the American people that their plan actually *preserves* the secret ballot. But the unions' true feelings about secret ballots were revealed in a harshly worded press statement from Teamsters General President James P. Hoffa—

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*"Since when is the secret ballot a basic tenet of democracy?" Hoffa said. "Town meetings in New England are as democratic as they come, and they don't use the secret ballot. Elections in the Soviet Union were by secret ballot, but those weren't democratic."*

["Hoffa Commends Sponsors of Employee Free Choice Act,"](#) 03.10.09

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This dose of honesty is welcome. If union bosses really don't see any value in allowing workers to vote by secret ballot, they ought to say so, and let the issue be debated on its merits.

But one would be wrong to assume that the Teamsters' view on secret ballots was resolved with Hoffa's dismissal of them via press release. In fact, a close look at the Teamsters' own [Constitution](#) offers a very different take on the role of the secret ballot.

Consider the following, found beginning on page 21 (emphasis on secret ballots added throughout)—

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### **Election of Delegates and Alternates**

Section 5(a)(1). Delegates to any International Convention in which any International Union officers are nominated or elected **shall be chosen by secret ballot vote of the membership** ...

Section 5(a)(3). Local Unions in Trusteeship may send delegates to the Convention **only if a secret ballot election is conducted** in accordance with Article XXII.

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Or this, on pages 30-33—

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### **Election of Officers**

Section 2(a). At the International Convention, delegates shall nominate candidates for International Union Vice President by motion made in open

Convention by a delegate and seconded by another delegate. ... To qualify for the ballot as a candidate for Vice President, a candidate who has been nominated from the floor of the Convention must, thereafter, receive at least five (5%) percent of the votes cast by the delegates ... **Such voting shall be conducted by secret ballot.**

(b). Candidates for the three (3) Trustee positions shall be nominated by motion made in open Convention by a delegate and seconded by another delegate. ... To qualify for the ballot as a candidate for Trustee, a candidate who has been nominated from the floor of the Convention must, thereafter, receive at least five (5%) percent of the votes cast by the delegates to the Convention. **Such voting shall be conducted by secret ballot.**

(c). After the nomination of International Vice Presidents and Trustees, delegates shall nominate candidates for General President and General Secretary-Treasurer. Nominations shall be made in open Convention by a delegate and seconded by another delegate. ... To qualify for the ballot as a candidate for General President or General Secretary-Treasurer, a candidate who has been nominated from the floor of the Convention must, thereafter, receive at least five (5%) percent of the votes cast by the delegates to the Convention. **Such voting shall be conducted by secret ballot.**

Section 3(a). No less than four (4) months and no more than six (6) months after the Convention, candidates nominated for the ballot for the offices of General President, General Secretary-Treasurer, Vice Presidents, and International Trustees shall be elected by direct rank-and-file voting by members in good standing. **All voting shall be by secret ballot.**

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Surely, President Hoffa believes his own union is run democratically. And with its heavy reliance on secret ballots, it's easy to see why. **He himself was reelected as General President just over two years ago by rank-and-file members voting, as stipulated in their constitution, by secret ballot.** Perhaps he might want to reconsider his hostility toward the practice when it comes to the question of whether workers wish to join in the first place.

March 13, 2009

## McKeon Op-Ed in The Washington Examiner: Canada has Card Check Lessons for U.S.

The following [op-ed](#) by Rep. Howard P. "Buck" McKeon (R-CA), the top Republican on the U.S. House Education and Labor Committee, appears in today's edition of *The Washington Examiner*.



**Canada has Card Check lessons for U.S.**

**By Rep. Howard McKeon, OpEd Contributor**

- | 3/13/09 5:17 AM

This may come as a surprise, but when it comes to American labor law, we have a lot to learn from our neighbors to the north. It turns out that the pitched battle now underway in the halls of Congress over whether workers ought to organize by secret ballot has been played out, repeatedly, over the last several decades in Canada.

Here in the U.S., Democratic members of Congress backed by powerful union leaders have proposed legislation with the misleading moniker of the "Employee Free Choice Act" (EFCA), or "Card Check." It's hard to conjure a more disingenuously titled bill.

Rather than ensuring employees' free choice by guaranteeing their right to vote by secret ballot, EFCA replaces federally-supervised elections with a majority sign-up process that requires workers to publicly disclose whether they wish to join a particular union.

The potential for intimidation, coercion, and the threat of retribution is self-evident.

The unionization-by-public-card-signing process Democrats propose is not a new idea. Such card checks have been used sparingly in this country, with sometimes disturbing results. Just this week, the U.S. Senate heard testimony from a worker who reported bullying and intense public pressure to sign the card against his wishes.

Stories like these are troubling, but ultimately, this country's experience with card checks is limited. If we wish to see a true picture of the consequences of widespread card check unionizing, we need only look to Canada.

For the last three decades, Canadian provinces have shifted between card check union certification and secret ballot voting. Because Canadian labor law is largely determined at a provincial level, even today there are some provinces that rely on the public sign-up process and others that permit workers to vote by secret ballot.

The Canadian experience allows for comparisons within provinces that have shifted from secret ballots to card checks, as well as among provinces that even today rely on one procedure versus the other.

Early this month, Dr. Anne Layne-Farrar, an economist with the non-partisan firm LECG Consulting, released a report projecting how the American economy would fare under a card check regime, based on similar experiences in Canada. The results were stunning.

Dr. Layne-Farrar estimates that the U.S. economy would likely see a one percentage point rise in the unemployment rate for every three percentage points gained in union membership through card checks and mandatory arbitration.

If labor bosses are correct in predicting that EFCA would result in 1.5 million existing jobs becoming unionized in the law's first year, it would translate to 600,000 fewer American jobs the following year.

Not surprisingly, Canadians are taking notice of the card check ploy making its way through Congress and they're warning us against it. John Mortimer, president of the Canadian LabourWatch Association, has called EFCA "a knock-off of the worst of Canadian labour law." He cites research showing reductions in productivity, research and development spending, and profits as a consequence of card check organizing.

Susan Martinuk, a columnist with the *Calgary Herald*, wrote last week about how workers have been victimized by card checks. "Seven female employees (who represented the entire non-management staff at a bank in Lively, Ontario) decided to challenge union practices after they were forcibly unionized by card signing. They launched complaints to the federal labor board,

citing intimidation, coercion, misinformation and invasion of privacy—all in the name of card signing. In one case, a woman alone in a remote home received a surprise nighttime visit from union organizers who refused to leave until she signed the card—even after her repeated requests they do so.”

Canadians have experienced higher unemployment, stagnant job creation, and lower productivity as a result of card check. And what did workers get in the bargain? Intimidation and coercion. Talk about a lose-lose proposition. On this, I’m willing to take the Canadians’ word for it.

March 16, 2009

## Want to Help Small Businesses? Reject the Job-Killing Card Check Plan

Recognizing that small businesses are critical to the American economy, the White House today hosted a conference on small businesses in which the Obama Administration outlined new plans purportedly aimed at helping small businesses weather the economic storm. What the Administration failed to mention, however, is that one of the greatest threats to small businesses today is the one-two punch of higher taxes and the job-killing card check ploy that could soon be making its way through Congress.

The card check plan has been panned by [editorial boards](#) and [individual citizens](#) who see it as a threat to an already struggling economy. Small businesses are seen as particularly vulnerable to the coercive tactics that would be possible under a card check system. Consider an editorial that appears in today’s *Augusta Chronicle*, entitled simply, “The job destroyer”:

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*“How bad an idea is the ‘card check’ bill Democrats have introduced to force workers to vote yea or nay on unions right in front of their peers?”*

*“It’s such a bad idea that, with the mere threat of the legislation, Citigroup downgraded the stock of Wal-Mart, the world’s leading retailer.*

*“The bill would be even more damaging to small business. And it would put a knife in the back of an economy already staggering from a housing and banking crisis.”*

Editorial, [“The job destroyer,”](#) *Augusta Chronicle*, 03.16.09

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An editorial in Michigan’s *Jackson Citizen Patriot* agrees that the bill will be bad news for business:

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*“The Employee Free Choice Act is a mistake and one that must not become law. It will drive up the cost of business and, ultimately, American-made products. ...*

*“In fact, businesses would see higher costs thanks to the bill. One provision forces federal arbitration if employers and newly formed unions cannot reach a*

*contract. Companies then would be locked into two-year labor deals whether they could afford them or not."*

Editorial, "[Pro-union bill very bad for businesses](#)," *Jackson Citizen Patriot*, 03.15.09

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*The Oklahoman* weighed in this morning as well, echoing what economists have been [saying](#) for weeks about the impact on small businesses:

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*"The business impacts are obvious. 'Small businesses ... will find themselves besieged with insistent demands for unionization, for which they are ill-equipped to cope,' writes law professor Richard Epstein. Card check will have the 'worst possible consequences for the workplace and through it for the overall economy.'*

*"Lawyer and consultant Anne Layne-Farrar has studied the EFCA and believes for every 3 percentage points in union membership gained there will be a 1 percent increase in unemployment and a job creation decrease of about 1.5 million jobs.*

*"That's serious business. Beyond the un-American notion of replacing the secret ballot with a system that fosters coercion — from garden-variety peer pressure to we-know-where-you-live tactics — card check will be bad for U.S. businesses, bad for a struggling economy."*

Editorial, "[The Obama Plan: 'Card check' proposal bad for business, U.S. economy](#)," *Oklahoman*, 03.16.09

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A conference on small businesses is not going to blunt the very real anti-small businesses consequences of the card check plan. If Democrats are serious about helping small businesses, they can begin by rejecting the card check scheme once and for all.

**March 17, 2009**

## **To Protect Workers We Must Guarantee Secret Ballots, Not Take Them Away**

Now that card check legislation has been formally introduced in Congress, the arguments on both sides are coming into focus. One of the most puzzling claims that card check supporters repeat over and over is that workers are somehow being victimized today by secret ballot elections, because employers pressure them to vote no on joining a union.

This claim has never made much sense. If workers are being pressured from either side — unions *or* management — the secret ballot seems to be the only effective tool to ensure workers are able to freely vote their conscience without fear of retribution. A columnist in today's *Kansas City Star* explains—

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*"If freedom means anything, it means being able to decide for yourself.*

*"Yes, workers are bombarded by propaganda from both sides. Both sides will try to intimidate and coerce workers into voting the 'right' way.*

*"As long as the ballot is secret, a worker can tell each side what it wants to hear, and then just vote as he or she pleases."*

Marsh, "[Employee Free Choice Act drops secret ballot in union certification](#)," *Kansas City Star*, 03.17.09

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If card check supporters truly believe that workers are already subject to undue pressure, why would they support a system that would place even *more* scrutiny on individual workers' choices about whether or not to join a particular union? Replacing federally-supervised secret ballot elections with a public sign-up process that makes workers' choices known would only exacerbate any public pressure, intimidation, and coercion that workers might face.

Republicans have proposed an alternative that truly places workers' interests first. The [Secret Ballot Protect Act](#) would ensure that all workplace organizing elections take place by secret ballot. The bill guarantees that no one – not unions, not management – can force workers to vote publicly. If unfair pressure on workers is the problem, secret ballots are the solution.

**March 18, 2009**

## **Poll Watch: 61% of Americans Say the Secret Ballot Is a Fair Way To Vote For a Union**

One of the major arguments against the anti-worker card check scheme – the legislation introduced in Congress that would replace federally-supervised secret ballot elections with a public sign-up process that makes workers' choices known to all – is that the American people overwhelmingly reject it as undemocratic.

New [polling data](#) released yesterday by Rasmussen Reports confirm the public's views on secret ballots. Among the findings:

- Sixty-one percent (61%) of Americans say it is fair to require a vote by secret ballot if workers want to form a union.
- The survey found that just 18% say it is not fair to require a secret ballot.

Rasmussen described the card check plan this way: "A proposal has been made to ease the process of starting a union. It would allow unions to be formed without a secret ballot if a majority of workers signed a card saying they want a union." The results:

- Fully 52% believe this approach is not fair, while 32% of adults say it is.

Even more telling, Rasmussen polled on the binding arbitration provisions within the card check legislation, a little-known plan that would put government bureaucrats in charge of workers' contracts and companies' business operations if unions and management are unable to quickly reach a first contract. Rasmussen described the proposal like this: "Another proposal says that if a company and its employees union cannot reach an agreement on a contract within 90 days, the government can mandate an agreement defining pay and benefits for those workers." The findings are startling:



- Some 53% are opposed to giving the government this power, while just 22% are in favor.

**A majority of Americans oppose both the card check public sign-up process and the binding arbitration provisions of this misguided legislation.** The American people have spoken – the question is whether the special interest groups backing this legislation will listen.

March 19, 2009

## **ICYMI: Reps. Kline and Price Defend Workers' Right to a Secret Ballot in The Washington Times**

The following [op-ed](#) by Reps. John Kline (R-MN) and Tom Price (R-GA) appears today in *The Washington Times*. Kline and Price are the top Republicans on the Health, Employment, Labor, and Pensions Subcommittee and Workforce Protections Subcommittee, respectively.

### **The Washington Times**

## **KLINE/PRICE: The right to say 'no'**

**John Kline and Tom Price**

### **COMMENTARY:**

There are sacred principles that epitomize American democracy. Freedom of speech. Due process. The right to vote by secret ballot. These fundamental rights have always been defended and protected regardless of political persuasion because these principles that define our democracy transcend America's partisan differences. Or do they?

Democrats in Congress seem to believe the right to a private vote only deserves protection if the outcomes of secret ballot elections do not interfere with their political agenda, particularly their goal of growing the influence and reach of labor unions in the American workplace.

For decades, the power of organized labor has been waning. Membership is at historic lows as American workers have increasingly used the secret ballot to vote against unionization. Yet these personal decisions by American workers have not sat well with Big Labor and their political allies in Congress. So it would appear desperate times call for desperate measures.

Congressional Democrats and organized labor groups are in the midst of a coordinated assault on the secret ballot, seeking to advance legislation that would eliminate this most basic right for workers faced with the decision of whether to unionize their workplace. Their fraudulently misnamed Employee Free Choice Act would replace federally supervised secret ballot organizing elections with a process known as a "card check."

Today, most union organizing elections are conducted by secret ballot. Yet Democrats and their special interest allies are working to make them the exception rather than the rule - allowing coercion and intimidation to become the law of the land.

Under the card check system, union organizers are required only to get the signature of a simple majority of workers to unionize a workplace. The secret ballot would be all but completely eliminated under the scheme. Forcing employees to make their unionization choice known publicly would inevitably open the door to coercion, intimidation and bullying.

During congressional testimony on the issue, one former union organizer described aggressive, often misleading, tactics employed in such a process. Workers were rarely shown an

actual union contract, denied information about strikes and other controversial union practices, and pressured to sign the cards quickly without the opportunity to deliberate. If workers later changed their minds, organizers often refused to return the card or allow the worker to withdraw support.

If enacted, it would not be difficult to imagine committed union organizers urgently trying to influence workers on the job, during breaks, or even at home, all to get another signature.

Clearly contradictory to the processes that define American democracy, such a proposal is wildly unpopular with the general public. A recent McLaughlin and Associates poll found only 15 percent of Americans would support such a bill. Yet organized labor has made significant investments in seeing the legislation enacted, and congressional Democrats appear ready to swiftly and quietly deliver.

We cannot allow this happen. We have a responsibility to protect individual liberty and the privacy Americans have known for centuries. Enter the Secret Ballot Protection Act.

Along with more than 100 fellow Republicans, we recently introduced the Secret Ballot Protection Act to preserve forever the fundamental right of workers to keep private their decision about joining a union. In the spirit of American democracy, the bill would ensure a private up or down secret ballot vote for every workplace considering unionization. The legitimacy of the vote would be unimpeachable, and the workers would be protected from any consequences that could result from a public vote.

More than 100 million American workers stand to be affected by the Democrats' plan to eliminate the secret ballot if it becomes law. We seek to provide these and all American workers with the peace of mind that comes from knowing such an important and personal decision will be made without someone looking over their shoulder.

This debate reminds us that American ideals require constant defense and vigilance. Even as cherished a principle as the secret ballot can come under fire from special interests.

If unions and employers are sincere in their missions of protecting and serving workers, the real question should be how all sides can work together to defend workers' interests - and protect the rights of millions of Americans whose privacy and freedom are at stake. The Secret Ballot Protection Act is the first step in the right direction.

*John Kline, Minnesota Republican, and Tom Price, Georgia Republican, are both members of the U.S. House of Representatives' Committee on Education and Labor.*

**March 20, 2009**

## **On Workers' Rights, There is No Compromise**

Supporters of the undemocratic card check plan seem to have come to the conclusion that their plan is so toxic, and so unpopular with the American public, that it will never become law. How else to explain the recent increase in speculation about a possible "compromise" on card check?

There's just one problem. At its core, card check is nothing more than a special interest power grab that would be achieved by undermining workers' rights. It's bad for workers, bad for the economy, and just plain bad for democracy. With a premise like this, what exactly would a compromise look like?

Slightly less bad for workers? Not quite as damaging to the economy? Only a little bit undemocratic?

Republicans aren't interested. On card check, there is simply no room for compromise.

March 23, 2009

## On Workers' Rights, There is No Compromise ... Part II

Last week, we responded to growing speculation that a move is afoot to compromise on the anti-worker card check bill. Speaking of card check, we said, "It's bad for workers, bad for the economy, and just plain bad for democracy. ... On card check, there is simply no room for compromise."

Still, word of a compromise has continued to spread, with MSNBC's First Read reporting this morning—

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*"Some businesses must be worried about the possibility that the Employee Free Choice Act will pass, because Costco, Starbucks and Whole Foods [announced an alternative](#). Labor unions and labor-backing congressmen rejected it."*

Murray, "[Congress: A Make-Or-Break Week](#)," *MSNBC.com*, 03.23.09

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The simple truth is that with card check as a starting point, compromise just isn't possible. Those advocating a compromise are merely distracting from the reality that card check is bad policy that does not deserve to become law – in any form whatsoever.

March 24, 2009

## Spotlight on Small Businesses: How Card Check Would Harm the Economy

Opposition continues to mount against the undemocratic card check scheme, with small businesses speaking up this week about how the controversial legislation is bad for their workers and bad for the economy.

The Senate Republican Policy Committee and Senate Republican Conference joined together yesterday to host a hearing on small businesses and how they would be impacted by the so-called *Employee Free Choice Act*. The legislation, more widely known as card check, would replace federally-supervised secret ballot organizing elections with a notoriously unreliable public sign-up process.

The bill also threatens American businesses, small and otherwise, with unprecedented federal interference through a new binding arbitration scheme that would put government bureaucrats in charge of how they operate. These new rules would be imposed for two years – with no opportunity for either businesses or workers to object – if unions and management cannot reach agreement within 120 days.

In response to these heavy-handed, anti-growth proposals, small business leaders have spoken out in opposition to card check or anything like it. Here's just a sampling of the testimony delivered yesterday:

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*"It is no coincidence that the world's most innovative companies are based in the United States. From semiconductors to computers, from games to Internet services, our entrepreneurial culture has made us the world's economic leader," said Kathy Gornik, President of THIEL Audio Products Company. "Unfortunately, a bill you are considering, S.560, the ironically named "Employee Free Choice Act" – would irreparably break our innovation culture, harm existing businesses and make it infinitely harder for anyone to start a new enterprise."*

*"Workers should—as the title of this bill suggests—be free to choose whether to unionize or not. Unfortunately, the terms of the bill are the antithesis of what its title advertises," said Eugene Scalia, a partner with Gibson, Dunn & Crutcher LLP and former Solicitor with the U.S. Department of Labor.*

*"If we as a nation are interested in economic recovery, job creation, and developing the new technologies and industries of the future – the Employee Free Choice Act is a bad starting point," said Augustine Martinez, President & CEO of the United States Hispanic Chamber of Commerce.*

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Although the voices of small business leaders and labor experts are compelling, nothing can compare to the words of a worker who has seen – and been subjected to – the pressure and coercion that are linked to card check.

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*"Currently, workers like me are confronted with union intimidation on a daily basis and I believe this would only be heightened under a card check system. Even in secret ballot elections co-workers bully and coerce others into joining the union. The elimination of the secret ballot under the Employee Free Choice Act would only serve to make the threats of union organizers that much more effective and intimidating. ... The secret ballot is not only our fundamental right, but the only safe and fair way that can allow a worker to decide whether or not to join a union," said Frank Cannon, an employee with C.J. Coakley Co., Inc.*

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Support for card check seems to be evaporating at every turn, and with compelling stories like these, it's no wonder.

March 25, 2009

## Bureaucrats & Contracts: Why Waning Support for Card Check is Good News for Workers

With yesterday's news that Pennsylvania Senator Arlen Specter will join Senate Republicans—and perhaps a handful of Senate Democrats as well—in opposing the anti-worker card check plan, it seems that workplace democracy is on safer ground, at least for now. Of course, efforts to tilt the playing field in favor of special interests are sure to continue, so it's a safe bet that this controversial scheme, or something like it, will be resurrected soon.

The plan's use of a card check process for organizing unions has drawn much of the opposition. Rather than protecting workers' freedom to vote by secret ballot, without fear of intimidation, coercion, or retribution, the card check plan would force workers to publicly sign cards if they wish to organize, making both union organizers and management well aware of their vote.

As bad as the card check scheme is, it's far from the only reason the legislation deserves defeat. As legal scholar Richard Epstein wrote yesterday, in *The Washington Times*:

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*"So now it appears that unions may be prepared to scrap the card check - if they can salvage the more insidious portion of the EFCA, its compulsory arbitration provision.*

*"Here is what the key provision says: Once mediation has failed, the Federal Mediation and Conciliation Service 'shall refer the dispute to an arbitration board established in accordance with such regulations as may be prescribed by the Service.' The arbitration decision then binds the parties for two years.*

*"For the layman, here is what it means: An outpost of the Labor Department, the mediation service, will set the terms of all new labor contracts in the United States. It will do so under provisions that are undefined under the act. The FMCS will have sole authority to pick the arbitration panel, which will have the power to draft, on its own initiative, detailed contract provisions, tables and appendices that can run to more than 1,000 pages. The arbitrators' decision will be final: The EFCA allows neither employers nor unions to appeal arbitrators' decisions to a neutral judicial body. ...*

*"As government arbitrators dither in deciding on terms for that initial two-year decree, the global competition will hobble the firm's economic prospects, leading to massive losses and job layoffs."*

Epstein, "[Mandatory Labor Arbitration](#)," *The Washington Times*, 03.24.09

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Workers across the country can breathe a momentary sigh of relief thanks to Republicans in the U.S. Senate standing firmly against this misguided legislation. But no one concerned about workers' rights and the U.S. economy should rest too comfortably. The battle for workers' rights is sure to continue.

March 26, 2009

## Editorial Pages Cheer as Card Check Plan Falters

For months now, editorial pages all around the country have been sounding off against the stunningly misnamed *Employee Free Choice Act*, a bill that would give workers anything *but* a free choice when deciding whether to join a union. Public opinion remains squarely against the measure, better known as card check, and in recent days its legislative prospects have grown increasingly dim. Recognizing that the card check bill is bad for the economy, bad for workers, and just plain undemocratic, editorial pages have dialed up their condemnation of the bill and trumpeted the fact that lawmakers are coming out in opposition to the plan. An editorial in today's *Contra Costa Times* echoes these sentiments:

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*"It is disheartening that legislation to eliminate one of the fundamental rights of American workers, a secure secret ballot vote, has gained so much strength.*

*"Unfortunately, union leaders and their massive political donations have helped elect many members of Congress who are ready to tilt the law to give union organizers an unfair, undemocratic advantage. ...*

*"Removing this protection for workers is an affront to democratic principles and fairness.*

*"With [Sen. Arlen] Specter opposed to eliminating union organizing elections, it is highly likely that there will be at least 41 votes in the U.S. Senate against card-check legislation.*

*"That is the critical number to block the measure with the threat of a filibuster and prevent a highly unfair bill from becoming law."*

Editorial, "Blow to union card-check bill preserves workers' free choice," *Contra Costa Times*, 03.26.09

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Of course, as we warned yesterday, efforts to tilt the playing field in favor of special interests are sure to continue, so it's a safe bet that this controversial scheme, or something like it, will continue to be a threat. And Republicans will continue to fight on behalf of workers, small business owners, and the American economy.

March 27, 2009

## Card Check Supporters are Getting Desperate

There continues to be a great deal of confusion and outright misinformation about what the card check proposal would mean for secret ballots in workplace organizing elections. Opponents of the anti-worker plan, including us, have pointed to the plain language of the legislation, which states:

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*(6) ... If the Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations ... **the Board shall not direct an election** but shall certify the individual or labor organization as the representative described in subsection (a).*

Text of the Employee Free Choice Act of 2009, [H.R. 1409](#)

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However, aware that the American public overwhelmingly opposes the idea of taking away workers' right to vote by secret ballot, supporters of this undemocratic proposal have [seized](#) on an editorial that recently appeared in the *Wall Street Journal* explaining the proposal and the shocking lengths its supporters will go to in trying to get it enacted. Card check supporters completely distorted the *Journal's* meaning – and this morning, the *Journal* fought back:

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*"Our editorial last week, 'Unionize or Die,' has suddenly been twisted to mean that we think the Employee Free Choice Act doesn't trash the secret ballot in union organizing elections. We wrote: 'The bill doesn't remove the secret-ballot option from the National Labor Relations Act but in practice makes it a dead letter.' California Democrat George Miller and his comrades at the Service Employees International Union have taken to quoting only the first half of that sentence and claiming we've had a change of heart. ...*

*"These guys must really be desperate. As we've written many times, 'card check' effectively ends secret-ballot elections because it would allow labor organizers to automatically organize a work site if more than 50% of workers sign an authorization card. Thus our words: 'dead letter.'*

*"Currently, an employer can insist on a secret-ballot election if 30% of employees sign union cards. But under this proposal, if more than 50% of the authorization cards are signed, there is no election because union recognition is instant. In theory, the bill would allow for an employee to request a secret-ballot vote if cards have been signed by between 31% and 50% of workers. But only the organizers know how many cards have been signed, and they have no incentive to tell the company or employees. Why would unions risk a secret ballot when they can publicly pressure employees into signing an authorization card?"*

Editorial, "[George Miller Loves Us](#)," *Wall Street Journal*, 03.27.09

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Of course, there's one easy way to end the confusion about secret ballots in workplace organizing elections once and for all. Republicans have introduced legislation, the *Secret Ballot Protection Act*, that would guarantee that all future organizing elections would be conducted by secret ballot. It's the only piece of legislation that doesn't leave workers' access to secret ballots vulnerable to the whims of labor bosses or corporate management. If card check supporters are serious about not denying workers the right to a secret ballot, they should endorse the *Secret Ballot Protection Act*. Short of that, the confusion and misinformation is sure to continue.

March 30, 2009

## Card Check's Achilles' Heel

The undemocratic card check scheme has been the subject of relentless criticism for months now, with detractors highlighting everything from its transparent political implications to its shocking assault on workers' rights.

Although the bill has been dubbed the *Employee Free Choice Act* by its supporters, it's hard to imagine a more misleading name. In fact, the bill would actually *limit* free choice by subjecting workers to the pressure, intimidation, and possible retribution that come from public exposure of their choice of whether or not to join a particular union.

Adding a new headache for supporters of this anti-worker plan, in today's *Wall Street Journal*, attorneys David Rivkin and Lee Casey explain how card check could actually run afoul of the Constitution. Rivkin and Casey, who served in the Justice Department under Presidents Ronald Reagan and George H.W. Bush, explore card check's contradiction with the First Amendment:

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*"Although card check's advocates and critics have spilled much ink arguing about the bill's fundamental fairness to labor and management, so far the debate has not focused on the other compelling interest at stake: the constitutionally protected right of employees to keep their opinions on controversial issues like unionization to themselves. This is card check's Achilles' heel.*

*"The Supreme Court has interpreted the First Amendment's guarantee of freedom of speech, along with the Fifth and 14th Amendment due process clauses, to protect a variety of expressive and associational rights. The right to speak and associate anonymously is among those rights. Indeed, anonymous speech has a long and honored tradition in American politics. Much of the political agitation leading up to the American Revolution was necessarily anonymous in order to avoid British sedition charges. And three of the Constitution's Framers -- James Madison, Alexander Hamilton and John Jay -- wrote the Federalist Papers supporting its ratification under the anonymous pen name 'Publius.'*

*"The Supreme Court has consistently recognized the importance of this type of political discourse. The reason is obvious: Public speech on contentious issues often inflames passions, prompting intimidation and retaliation. Outing speakers who prefer anonymity chills speech, and has the potential to suppress it entirely. ...*

*"There can be little doubt that the act of voting on important issues is a form of symbolic speech, residing at the very core of the interests protected by the Constitution. The secret ballot has not only been adopted in federal and state elections, it is recognized as a fundamental human right in a number of international instruments. This includes the U.N. Covenant on Civil and Political Rights, to which the United States is a party, that requires secret ballot voting as 'guaranteeing the free expression of the will of the electors.' ...*

*"Sanctioning -- and thereby promoting -- demands that employees publicly disclose how they feel about unionization clearly violates their First Amendment*



*entitlement to vote and practice their speech privately. Significantly, unlike other cases in which such restrictions have been upheld, union organizers cannot articulate even a semblance of an offsetting First Amendment value."*

Rivkin and Casey, "[Why Card Check Is Unconstitutional](#)," *The Wall Street Journal*, 03.30.09

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It seems we can add "unconstitutional" to the list of words like "[unpopular](#)" and "[undemocratic](#)" that describe card check.

March 31, 2009

## Would President Bartlet Support Card Check?

A better question would be: Who cares? Bartlet was one of the main characters in *The West Wing*, a fictional TV show about the White House which went off the air in 2006. You might as well ask the doctors on *E.R.* for their thoughts on health care reform.

But that's not going to stop backers of the grossly misnamed *Employee Free Choice Act (EFCA)* from pretending that the make-believe Bartlet Administration could have sway in a very real debate about workers' rights.

Three actors from the show – Martin Sheen (who played Bartlet), Bradley Whitford (Deputy Chief of Staff Josh Lyman) and Richard Schiff (Communications Director Toby Ziegler) – will be on Capitol Hill today to unveil a new ad campaign aimed at passing the bill, which is before Congress.

The campaign is called "Faces of the Employee Free Choice Act." It features billboards and 50-foot-tall building banners that have close-up portraits of union members explaining why card check is important to them.

It's as "in your face" as a political ad campaign gets – and, ironically, it shows why the act should fail.

Consider: Presumably, the workers featured in the campaign wanted to be a part of it. They made a choice to be in the public eye in a big way: Their portraits take up nearly all 50 feet of the banners. The actors also presumably chose to be a part of the campaign launch because such public exposure is not just a job requirement – it's a career goal.

But what if you don't want EVERYONE to know where you stand on an issue? What about your privacy, which helps protect your right to free thought without intimidation?

If the ad campaign succeeds and the "free choice" act passes, privacy won't exist. Under the act, if your co-workers – be they actors or airline pilots – want to form a union through "card check," you would have to publicly declare by signature.

If you don't want to sign, then your face might as well be on the side of a building, too, over the words: "I DIDN'T SIGN THE CARD." You become just as exposed as the people in the ad campaign – whether you like it or not.

That's why the *Employee Free Choice Act* is such a ridiculous idea. "Choice" for workers in this proposal is about as real as a law signed by President Bartlet.

April 1, 2009

## Unfortunately for Workers, Card Check is No April Fools' Joke

On this day of pranks and practical jokes, it would be easy to wonder if the anti-worker card check bill was nothing but an elaborate hoax. After all, a bill that has been universally rejected by [opinion leaders](#) and [the American people](#) themselves can hardly be taken seriously.

Unfortunately for American workers, the plan is all too real. Under card check, secret ballots in workplace organizing elections would be replaced with a union-controlled sign-up process that makes workers' votes completely and utterly public. Forcing workers to declare their preference by signing or not signing a card opens workers to intimidation, coercion, and possible retribution from either unions or management.

On top of that, workers and businesses stand to lose their right to bargain under this surreal scheme. If a newly-formed union and business cannot reach agreement within 90 days, a federal arbitrator steps in. Another 30 days after that, and workers and management are shut out of the process entirely while a federal bureaucrat makes the rules for the first two years.

Luckily for workers, Republicans know this bill is no laughing matter. That's why Republicans continue to speak out against this bill, and any other special interest power grab that would deny workers the right to a secret ballot.

Rep. Joe Wilson (R-SC) wrote in yesterday's *Aiken Standard* about how card check would hurt workers and the economy:

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*"In these tough economic times, Americans have enough to worry about without fearing intimidation in the workplace. They also should not be subject to an instance where either party can merely walk away from a contract negotiation table because the government plans to step in and make decisions for them. Card check does nothing for worker's rights, and it would be a job-killer for our country."*

Wilson, "[Proposed card check law threatens jobs and reform](#)," *Aiken Standard*, 03.31.09

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And Republican Leader John Boehner (R-OH) yesterday made the case in an op-ed published by *Politico* for why Republicans oppose this bill and will not entertain any so-called compromise that would have the same harmful consequences for workers:

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*"Republicans support Americans' right to unionize freely, and that is why we oppose this anti-worker legislation. Stripping workers of free choice in union organizing elections, this bill would leave workers open to coercion and intimidation — from either union officials or company management. In other words, rather than allowing an employee to make this critical choice in secrecy, the act would end workers' right to privacy, making votes public for all coworkers, union organizers and employers to see — and that is simply not the way Americans conduct elections. Never have, never should."*

*"Some say Specter's decision has opened the door to a potential compromise. Let me be clear: There will be no compromise on eliminating the rights of workers to vote by secret ballot in union organizing elections. Republicans will oppose any effort to deprive American workers of the basic right to vote in a secret ballot election without fear of intimidation or recrimination. There will be no compromise on the issue of mandatory binding arbitration in contract negotiations. Republicans will oppose any effort to allow government to unilaterally impose contracts and set wages, benefits and work rules."*

Boehner, "[GOP won't compromise secret ballots](#)," *Politico*, 03.31.09

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If Democrats and their special interest allies think Republicans or the American people are going to back down in their fight against this undemocratic legislation, the joke is on them.

**April 2, 2009**

## **A Few Photo-Ops Won't Undo the Damage of Card Check on the American Economy**

Word of card check's devastating consequences for the American economy has spread like wildfire, and small business owners all over the country are taking notice. After all, the card check scheme would effectively eliminate secret ballots in workplace organizing elections, putting workers at risk of intimidation and public pressure while potentially jeopardizing [hundreds of thousands of American jobs](#).

With small businesses likely to face serious harm if the card check ploy were to become law, it's no wonder congressional Democrats are scrambling to appear friendly to their local business communities. *The Hill* reports that Democrats are undertaking a coordinated effort to appear more business-friendly, reaching out specifically to small businesses over the upcoming district work period:

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*"Democrats have filled their recess schedules with events aimed at small businesses, partly in hopes of making new friends out of longtime enemies. ...*

*"So this cycle, at the urging of Rep. Chris Van Hollen (D-Md.), about 20 freshman Democrats are holding roundtables, town halls or press events with local small businesses and Chambers of Commerce during the Easter recess, hoping to highlight their support for legislation the business community can support."*

Wilson, "[Democrats fill recess calendar with business-friendly events](#)," *The Hill*, 04.01.09

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Unfortunately for American workers and small business owners, the devastating consequences of card check can't be undone by a few photo-ops and some glad-handing. If Democrats are serious about supporting small business, they should back away from the anti-worker, anti-job card check plan once and for all.

April 3, 2009

## As Congress Adjourns for Two Weeks, Special Interests Dial Up the Card Check Rhetoric

For anyone who mistakenly thought the anti-worker card check bill was no longer a threat, an exclusive story online at *Politico* should serve as a jarring wakeup call. Reporter Mike Allen reveals that labor officials plan to use the upcoming two week Congressional district work period to undertake "the biggest grassroots mobilization of America's workers since the final week of the presidential election."

Of course, the reference to the groups' political muscle is no coincidence. In fact, the card check legislation has long been viewed as political payback for organized labor's political support and large financial contributions, a fact [admitted](#) earlier this year by a top labor boss.

According to *Politico*, the big spending on this special interest power grab has only just begun:

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*"... more than 300 events are planned nationwide, including ones with environmental groups, the faith community and the civil rights community.*

*"'Anyone who thinks the battle over the Employee Free Choice Act is over is wrong with a capital W,' the labor official said. 'We are more determined than [sic] ever and the expenditures on ads and massive field operations show that we are putting 100 percent of our efforts behind this bill.'"*

Allen, "[Exclusive: Unions renew battle over union law](#)," *Politico*, 04.03.09

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The lesson? Workers beware. Your right to a secret ballot is still in jeopardy.

April 6, 2009

## Michigan Editorial Slams Anti-Worker Card Check Plan

Though Congress is not in session, the threat of pending legislation to deny workers the right to a secret ballot in union organizing elections is still very real. That's why editorial pages around the country continue to pile on in opposition to this anti-worker, anti-growth plan.

On Sunday, an editorial in the *Grand Rapids Press* spelled out the dangers of the so-called *Employee Free Choice Act* – a bill that gives workers anything *but* a free choice when it comes to forming a union – and the Michigan paper made it perfectly clear why lawmakers should be opposed:

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*"The list of opponents should include anybody who values ballot box sanctity and worker privacy. Depriving employees of the right to make the significant decision about joining a union in the same way they decide who will be mayor or president of the United States would be a dramatic step backward for worker*

*rights. Where the case for a union is strong, organizers should be able to confidently sell certification, regardless of how ballots are cast. ...*

*"If the union case is so strong, it should be made fairly and in a manner that protects worker privacy. With this legislation, the union label is obvious and conspicuous. The Employee Free Choice Act is the wrong choice for the country and its lawmakers."*

Editorial, "[Ballot privacy for workers](#)," *Grand Rapids Press*, 04.05.09

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Card check legislation poses three specific risks to workers and the American economy: it effectively eliminates the secret ballot in workplace elections; it allows the government to dictate contract terms; and it fails to increase protections against intimidation and public pressure by union organizers. As long as any of these three elements are on the table, the legislation will be viewed as a threat to workplace democracy that must be defeated.

April 7, 2009

## **Coalition of Minority Business Groups Latest to Voice Opposition to Anti-Worker Card Check Plan**

Members of Congress home for the two week district work period may have escaped the Washington echo chamber, but they can't escape the nationwide echo of opposition to the anti-worker card check plan. Just yesterday, a coalition of minority business groups became the latest to raise their voices in opposition to the so-called *Employee Free Choice Act*, a bill that actually *takes away* workers' ability to freely choose whether to form a union through a secret ballot vote.

According to the group's press release, "the National Black Chamber of Commerce, the National Association of Black Hotel Owners Operators and Developers and the Asian American Hotel Owners Association have united to educate the minority community and members of Congress about the negative impacts of this bill."

Fox News picked up the story—

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*"The Employee Free Choice Act, or 'card check' legislation, will decimate minority-owned small businesses, minority business leaders argued Monday*

*"Speaking at the National Press Club, the group said the bill, which will eliminate secret ballots for workers voting on organizing union shops, will cause job losses and is 'un-American.' ...*

*"Harry Alford of the National Black Chamber of Commerce said the business leaders are not going to rest despite claims that the bill does not have the support it needs to pass on Capitol Hill.*

*"Two past supporters of a similar bill -- Sens. Dianne Feinstein, D-Calif., and Arlen Specter, R-Pa. -- both said last week they would not vote for the legislation in its current form, cutting out critical backing needed for passage.*

*"We're not going to go to sleep on it. They've got big bucks,' he said of the bill's backers, which includes many of the nation's largest unions. 'We will not compromise disaster. This is war ... We're going to fight this.'"*

["Minority Business Owners Give Card Check Another Kick in the Head,"](#) Fox News, 04.06.09

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Republicans have been saying all along that the more the public learns about this legislation, the more toxic it will become. If this latest effort is any indication, the public is about to learn a lot more about this undemocratic, special interest power grab. And they're not going to like what they hear.

**April 8, 2009**

## **Card Check vs. Job Creation**

With Members of Congress at home in their congressional districts this week, small business owners, local manufacturers, and other job-creating enterprises have a tremendous opportunity to explain directly to their elected officials exactly why they oppose the anti-worker card check bill. And, according to the *Rocky Mount Telegram*, that's exactly what happened earlier this week in North Carolina.

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*"The owner of an Edgecombe County boat manufacturer told a congressman on Monday that his company, which plans to triple its local work force over the next three years, might not prosper if federal lawmakers pass a controversial labor bill that's building momentum in Washington, D.C.*

*"U.S. Rep. G.K. Butterfield, D-1st District, asked to tour the World Cat manufacturing facility after learning the Tarboro-based company was investing \$2.65 million to buy a competing firm and expand local operations by 120 jobs.*

*"World Cat President Andrew Brown used the visit as an opportunity to share his concerns about the Employee Free Choice Act, which was introduced last month in the U.S. Senate.*

*"Brown said he was troubled by the most controversial aspect of the bill, the so-called 'card check' provision, which would make it easier for workers to form unions.*

*"The measure, Brown told Butterfield, could drive a wedge between management and employees.*

*"We have a good relationship with our employees, and I think our employees like working here,' Brown said. 'We have a good partnership, and that has been important, especially with the economy the way it is. I don't think workers always get what they sign up for with unions in a lot of cases.' ...*

*"Political posturing aside, Butterfield said he was impressed by the boat manufacturer that last month announced its intentions to purchase Glacier Bay Catamarans of Seattle, which makes twin-hull cruising boats. ...*

*"We have a tremendous unemployment rate in Edgecombe County, and they're doing something about it," Butterfield said. 'They're hiring and intending to hire more people in this facility. Our economy is not doing so well right now, as everyone knows. And, if we're going to turn this economy around, we have got to get people working.'"*

Hixenbaugh, "[Owner, lawmaker debate labor bill](#)," *Rocky Mount Telegram*, 04.07.09

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The U.S. economy shed 663,000 jobs last month, bringing the total number of jobs lost since the recession began to some 5.1 million. Perhaps it's time for Democrats in Congress to start listening to the people who actually want to create jobs, rather than saddling them with a costly new burden that will stifle job creation while stomping on workers' rights.

**April 9, 2009**

## **Big Money Behind Card Check**

Although congressional support for card check legislation – the plan to replace federally-supervised secret ballot elections with a public sign-up process for forming a union – has been dwindling, the well-financed groups behind the plan remain undaunted.

According to the *Politico's* Ben Smith, "A labor coalition is launching, a spokesman says, a seven-figure ad buy aimed at putting the Employee Free Choice Act -- flagging amid Senate skepticism -- back into the spotlight."

*The Hill* has more:

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*"A new ad from organized labor targets Wall Street in calling on Congress to move the controversial card-check bill.*

*"American Rights at Work (ARAW), a labor advocacy group affiliated with several unions, plans a nationwide buy for the ad to play on cable television across the country. It will begin during the two-week congressional recess now under way. ...*

*"The new ad suggests the fierce battle over the labor bill is not ending despite setbacks for organized labor. Sens. Arlen Specter (R-Pa.) and Blanche Lincoln (D-Ark.) in recent weeks have both said they will not support the bill, formally known as the Employee Free Choice Act (EFCA), unless it is changed. It is unlikely supporters can win the 60 votes necessary to move the bill through procedural hurdles in the Senate without their votes."*

Bogardus, "[Labor targets Wall Street on 'card-check'](#)," *The Hill*, 04.08.09

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Union bosses have been explicit in calling for passage of card check legislation as "payback" for their financial and political support in the last election.

Late last year, Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees, [told](#) editors and reporters at *The Washington Times* that, "unions paid

their dues by supporting Democrats and President-elect Barack Obama in this year's election. He said they expect that effort to be rewarded with action. 'The payback would be Employee Free Choice Act - that would be a vehicle to strengthen and build the American labor movement and the middle class.'

Between the ongoing political pressure and a new seven-figure advertising blitz hitting the airwaves, it seems the fight to protect workers' right to a secret ballot won't be over anytime soon.

April 10, 2009

## Card Check: Putting Evidence Over Rhetoric

**Researcher: "evidence clearly shows that laws such as card check harm investment, curtail job creation and increase unemployment"**

It's not just editorial boards and opinion leaders speaking out against the anti-worker card check ploy. Academics, researchers, and economists have weighed in as well, and their findings are clear: Card check is bad news for the American economy.

In today's *San Francisco Chronicle*, the Pacific Research Institute's Jason Clemens summarizes empirical evidence about card check's potential consequences for workers and the American economy, and refutes common misconceptions that are used to justify the need for this misguided legislation:

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*"The bill would also dramatically alter the balance between the right of workers to organize collectively and their right to reject such a choice. It also generally shifts the balance of power away from workers and employers, and to unions. This has larger ramifications than just a single company or union. Professors Timothy Besley and Robin Burgess, both at the London School of Economics, concluded in a 2004 paper that moving the balance of power toward unions resulted in less employment and investment, and lower productivity.*

*"These findings were recently confirmed in an economic analysis of the Employee Free Choice Act that appeared on the Social Science Research Network. The study concluded that the private-sector unemployment rate would increase between 1.5 to 3.5 percentage points, representing an additional 2.3 million to 5.4 million unemployed workers. ...*

*"Research summarized by University of Chicago law professor Richard Epstein suggests that union arguments for the Employee Free Choice Act are not supported by evidence. Unions often rationalize the proposed legislation to counter inappropriate pressure and, perhaps, even the firing of employees. Unions also decry lengthy election periods for voting on union representation.*

*"An examination of the NLRB data indicates that over a three-year period the likelihood of an improper firing by an employer during a union drive was 2.7 percent. This is a far cry from the 25 percent figure cited by unions.*

*"Similarly, NLRB data shows a fairly successful ability to hold union votes in a reasonable amount of time. For example, in 2007, 93.9 percent of all elections were completed within 56 days of filing. The notion that employers drag out elections for years is simply not supported by the NLRB data. ...*



*"The ongoing debate about the Employee Free Choice Act and labor reform should include more evidence and less rhetoric. The empirical evidence clearly shows that laws such as card check harm investment, curtail job creation and increase unemployment. These are not remedies for what ails the U.S. economy, and indeed would make things much worse."*

Clemens, "[Consider the evidence, not rhetoric, on proposed 'card check' legislation](#)," *San Francisco Chronicle*, 04.10.09

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The message is clear. When rhetoric is set aside, the facts simply don't support enactment of this legislation that would deny workers the right to a secret ballot and empower government bureaucrats to impose contracts.

**April 13, 2009**

## **More Bad Press for Card Check**

The special interest groups behind the anti-worker card check plan [haven't given up](#), despite the legislation's plummeting popularity among policymakers and opinion leaders alike. Luckily for workers, the fight to protect the secret ballot continues just as diligently.

Over the weekend, the Fredericksburg, VA *Free Lance-Star* carried an op-ed that clearly spells out the dangers of this special interest power grab:

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*A major payback to labor for its massive campaign spending and get-out-the-vote muscle, this bill would deny the right of workers to a secret ballot when deciding whether to unionize.*

*The Employee Free Choice Act is anything but--it is a complete violation of workers' rights, and a betrayal of the principles labor unions have fought for over the decades. ...*

*The most disturbing part of labor's efforts on behalf of card check isn't the bad policy so much as it is the disregard for the rights of the American worker. By striking an employee's right to a private ballot, labor is working to deny individuals one of the most fundamental rights in our country. What is more American than a free and fair election?*

*One of the little annoyances of Congress is its tendency to propose controversial legislation with titles that have absolutely nothing to do with the content of the bill. Add the Employee Free Choice Act to the list. This bill is a contradiction in every sense of the word.*

Connelly, "[Forced labor: Call it the Employee Twist-Your-Arm Act](#)," *Free Lance-Star*, 04.12.09

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Newspapers small and large, from coast to coast, continue to publish compelling commentaries on why the card check plan is bad for workers, bad for job creation, and just plain bad for democracy.

April 14, 2009

## Forced Government Contracts: The "Little-Noticed" Threat in Big Labor's Card Check Scheme

Much of the criticism surrounding the woefully misnamed *Employee Free Choice Act* has focused on the card check provision of the legislation. Under that proposal, workers would be denied a secret ballot in union organizing elections, and instead would be asked to publicly declare whether they wish to join a particular union by signing a card.

While the criticism of that provision is well-deserved, far less attention has been paid to an equally disturbing proposal that would once again strip workers and business owners of their rights. Under the plan, government bureaucrats would be empowered to impose work rules, pay scales, and benefit plans if a newly-formed union cannot reach agreement with management within just 120 days. Neither workers nor business owners would be able to modify or reject the plan, leaving both sides shackled to a government-imposed contract for two years.

These forced government contracts are a radical departure from longstanding labor law, and they're drawing strong opposition. Just yesterday, former Massachusetts governor Mitt Romney spelled out the dangers to workers and job-creating American businesses. *The Hill* has the story:

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*"Romney used a Monday conference call to attack a little-noticed provision in the bill that would require binding arbitration if a union and a business cannot come to a labor agreement within 120 days, which Romney called 'about as un-American a thing as I can imagine.'*

*"Legislation of this nature would be calamitous for the U.S. economy, short term and long term," Romney said Monday. 'This act represents an unprecedented attack on the individual rights of American workers and American citizens.*

*"You're basically saying the workers in a workplace and the management that is running the enterprise will not be able to set their own work rules," added Romney, who as governor vetoed a similar bill in his final year in office in Massachusetts. He called arbitration 'a grab of power by the federal government.'*

*"Most of the focus on the bill has been on the so-called 'card-check' provision, which would allow workers to form a union if more than half of a company's employees sign union cards. Labor groups hope the bill would reverse the decades-long decline in union membership, while businesses have argued the provision will hurt them in an era of economic hardship.*

*"But some business lobbyists say binding arbitration worries them more than card-check does, as arbitration would hand over decisions about everything from contracts to healthcare to a government arbitrator."*

Wilson, "[Romney slams binding arbitration](#)," *The Hill*, 04.13.09

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The card check bill's attack on workers' privacy is a serious concern. But the attack on workers' and employers' right to negotiate contracts must not be overlooked.

April 15, 2009

## Card Check Opposition from America's Heartland

As the two week congressional recess starts to wind down, it seems that the [special interest spending spree](#) in support of the anti-worker card check scheme has failed to sway public opinion as its backers had hoped. Despite a seven-figure ad buy, editorial pages from coast to coast and everywhere in between continue to denounce the card check ploy, which would deny workers the privacy and protection of secret ballot organizing elections in favor of a public sign-up process that leaves workers vulnerable to intimidation and coercion.

Nebraska's *Grand Island Independent* is one of the latest papers in America's heartland to come out against the so-called *Employee Free Choice Act* because it offers workers anything *but* a free choice when deciding whether to join a union. In an editorial published yesterday, the paper explained—

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*"The secret ballot option under the National Labor Relations Act has effectively protected the privacy of the worker's vote by shielding workers from coercion or intimidation exerted by either management or labor organizers. Voters in all public elections have been protected in this same way since the founding of the Republic.*

*"This is big labor's 4th attempt since 2003 to thwart the free and fair secret ballot election process that has been in place for 60 years.*

*"The proposed law allows a union to automatically organize a worksite if more than 50 percent of workers simply sign an authorization card, so pressure for employees to sign in public view would be enormous.*

*"The bill as it is written also imposes a contract through binding arbitration if labor and management reach a stalemate, thus involving Washington bureaucrats in basic decisions about jobs and business functions on a level never before experienced in this country. ...*

*"The biggest crisis confronting Congress at present is the state of the nation's economy. Heavily unionized industries such the auto industry and the airlines are in a fight for survival. The radical changes mandated by the EFCA would cripple the nation's chances for full economic recovery, force middle class families to give up part of their shrinking take-home-pay for union dues, and reduce the competitiveness of U.S. businesses in the global marketplace."*

Editorial, "[Employee Free Choice Act losing support in Congress](#)," *Grand Island Independent*,  
04.14.09

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As the *Independent* noted, the secret ballot protects workers from coercion or intimidation exerted by either management or labor organizers. Secret ballots are the only way to ensure workers *truly* enjoy free choice in the workplace. That's why Republicans have proposed the [Secret Ballot Protection Act](#), the only legislation that would guarantee that all future workplace

organizing elections would be conducted with the protection and privacy of a secret ballot. If employee free choice is the goal, protecting the secret ballot is the answer.

April 16, 2009

## **GOP Governors Stand Up for Workers' Rights, Denounce Card Check**

The chorus of opposition to the anti-worker card check plan continues to grow, with six Republican governors speaking out today against the legislation. *Politico* has the scoop:

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*Six Republican governors, including a couple big ones, are publicly coming out against the Employee Free Choice Act today. South Carolina's Mark Sanford, Mississippi's Haley Barbour, Georgia's Sonny Perdue, Idaho's Butch Otter, South Dakota's Mike Rounds and Texas's Rick Perry will release a statement calling the labor-backed bill "absolutely unacceptable.*

*"Card check would take our state and nation in the exact opposite direction we need to be moving to become more competitive in the 21st Century," Sanford says. "In today's economy, the last thing in the world Congress should be advancing is a measure to increase costs for the American consumer and business community."*

*Quoth Haley Barbour: "Card check is an insidious infringement on the right of American workers to cast a confidential ballot in deciding whether or not they want union representation. This is particularly unfair for small businesses, the real engine of the American economy that generates nearly 80 percent of net new jobs."*

*Rick Perry calls the measure "un-American."*

*Perdue: "Card check would abolish the most fundamental of American rights, the right to a secret ballot. It's the last thing our country and economy needs right now. If we do this, what's next? Naming the CEOs of major American companies?"*

*Otter: "The Act would eliminate the confidentiality of the secret ballot, exposing workers to potential intimidation and harassment, creating an outrageous abridgement of individual rights. And it would impose contract terms on employers beyond those even requested by local workers – essentially making the federal government a shill for union bosses far removed from the workplace. Such a fundamental restructuring of federal labor laws is intolerable."*

*Rounds: "It should be made very clear that this would apply to any business that has more than \$50,000 in revenues per year. Those businesses would have a clear threat of unionization. They would be subject to unionization without a private ballot and subject to mandatory binding arbitration involving a federal bureaucrat. This is absolutely unacceptable."*

*Perry: "The secret ballot is sacred in America. Card check is just plain unfair and un-American."*

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These comments from state executives are the latest sign that the American people won't sit back and allow politicians and special interest groups to take away their rights. Whether it's the right to a secret ballot, the right to vote on a first contract, or the right to be protected from intimidation and coercion on *both* sides of the organizing process, state and local leaders are [continuing](#) to stand up and fight to protect workers' rights.

April 17, 2009

## Support for Secret Ballots From Coast to Coast, and Around the Globe

The state-by-state effort to protect workers' fundamental right to a secret ballot is [well known](#). In states across the nation, state and local governments are proactively taking a stand against the so-called *Employee Free Choice Act*, a bill introduced in the United States Congress that would actually *take away* employees' ability to freely choose whether they wish to join a union through a federally-supervised secret ballot election.

Now, it seems the movement to protect the secret ballot has spread beyond the continental 48, reaching as far as Guam. The island's *Pacific Daily News* reports—

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*"A bill introduced in the Guam Legislature would preserve the current system of employees voting by secret ballot to form labor unions locally.*

*"Republican Sen. Ray Tenorio, who introduced Bill 98 yesterday, said it would protect the decision-making process of employees by not having it open to outside influence.*

*"If you're making that kind of decision, some people will want you to join and some don't want you to join," Tenorio said. 'Don't you want to have that decision without the pressure and intimidation of people trying to influence you?'"*

Murphy, "[Bill would require secret vote for unions](#)," *Pacific Daily News*, 04.18.09

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It's a fair question. Don't we want workers to be able to make the decision without the pressure and intimidation of people trying to influence them?

There's an obvious solution. The privacy and protection of a secret ballot. Sounds a lot like "employee free choice" to us.

April 20, 2009

## Ohio Columnist Takes Aim at Card Check

Editorial pages all across the country continue to lash out against the anti-worker card check plan, citing local examples of why the bill would be bad for workers and bad for the economy.

The bill would replace federally-supervised secret ballot elections with a public sign-up process that subjects workers to public scrutiny and pressure in the formation of a union. Equally troubling, the bill would empower federal bureaucrats to unilaterally impose contracts on workers and businesses, giving neither side a voice.

*Cincinnati Enquirer* columnist Peter Bronson highlighted the bill's flaws in a column that appeared last week.

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*"When union organizers started pestering them at home after work, Cintas workers in Pennsylvania went to court. Five years later, the Supreme Court has announced that the workers won \$5 million.*

*"The union invaded their privacy by illegally using license plates to track them down. It was part of Unite Here's attempt to unionize Cintas - and it's just a taste of what non-union workers will face if the Senate passes 'card check,' the Employee Free Choice Act. ...*

*"For now, signing a union card is just the first step. If enough cards are signed, an election is held with secret ballots. If the majority votes yes, the union wins.*

*"But card check allows no secret ballot. Signing a card is the first and last step. As soon as 51 percent can be pestered, intimidated or paid to sign cards, the union is certified."*

Bronson, "['Free Choice Act' removes workers' choices](#)," *Cincinnati Enquirer*, 04.16.09

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The debate over card check is not about workers' right to form a union. It's about their right to make that decision freely and privately, without fear of intimidation, coercion, or retribution from either unions or management. By taking away the secret ballot, card check gives workers anything *but* the free choice they deserve.

April 21, 2009

## **Minority Business Groups Say Card Check Will Hurt Workers, Stall Job Creation**

Small business owners all across the country continue to speak out against the misnamed Employee Free Choice Act, a bill that would actually *take away* employees' ability to freely and privately choose whether they wish to join a particular union. As part of that effort, key minority business groups came to Capitol Hill this morning to explain their opposition to the legislation and urge Members of Congress not to support a bill that would limit their ability to create jobs in this struggling economy.

The groups speaking out against the legislation today include the Asian American Hotel Owners Association, the National Association of Black Hotel Owners, Operators & Developers, the National Black Chamber of Commerce, The Latino Coalition, and the U.S. Hispanic Chamber of Commerce.

National Black Chamber of Commerce President and CEO Harry Alford penned an opinion piece in *Roll Call* yesterday explaining why minority-led businesses are opposed to the legislation.

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*"The Employee Free Choice Act would eliminate one of the most fundamental tenets of our democracy: the secret ballot. By eliminating the right to vote in private, workers would not only be deprived of the right to vote their conscience, but would also be more vulnerable to the intimidation and coercion tactics known to be used by union organizers. ...*

*"Less publicized but equally concerning to the African-American community is that EFCA would allow government arbitrators to dictate labor contracts if unions and employers cannot reach their own agreement within a 120-day period. Currently, only 2 percent of minority-owned businesses are unionized. The passage of EFCA will further reduce the rights of an overwhelming majority of African-American employers by introducing government arbitrators with final decision-making authority into the collective bargaining process.*

*"This critical issue is one reason why the National Association of Black Hotel Owners, Operators & Developers has joined NBCC in the fight against EFCA. This legislation would drive many hotels out of business, eliminate jobs and ultimately be the end of black hotel ownership. ...*

*"Every worker deserves the right to vote their conscience and vote in private. Most importantly, all employees deserve an equal opportunity to work, prosper and benefit from government contracts. All of these rights are threatened by the misnamed Employee Free Choice Act and by a misguided executive order on Project Labor Agreements.*

*"We believe that enacting EFCA and other pro-union legislation will have a very negative impact on the African-American business community, on African-American employment, and as a result, on our economy as a whole. At a time when we should be focused on greater opportunities and more jobs, voting for EFCA is the wrong choice for the African-American community."*

Alford, "[EFCA Will Hurt Black-Owned Business Growth](#)," *Roll Call*, 04.20.09

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In a statement issued today, Alford put it simply: "We are meeting with lawmakers today to make sure they understand that EFCA will hurt our workers and our ability to grow and create jobs."

**April 22, 2009**

## **More on Card Check's Forced Government Contracts**

The so-called Employee Free Choice Act – a misnomer if ever there was one – is widely known for its imposition of card check organizing, a process that eliminates the secret ballot for workers deciding whether to form a union. And it's no wonder. This attack on worker privacy has drawn the ire of Americans from all across the [political spectrum](#).

However, a somewhat lesser known provision has grown in prominence recently as political observers have become aware of a twin attack on workers' rights: the forced government contract.

The proposal has been called "[calamitous for the U.S. economy](#)," and for good reason. It empowers faceless government bureaucrats to set salaries, hours, working conditions, benefits, and other terms of employment for two years – and workers won't have anything to say about it.

Former House Speaker Newt Gingrich explains in today's *Politico*—

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*"Once a worksite is unionized through the elimination of the secret ballot, if the employer and union don't agree to terms in just over three months, a federally appointed arbitrator would impose wages, benefits, hours of work, and other terms and conditions of employment on both the employees and employer.*

*"And what about the rights of the worker? Workers, who didn't vote on the formation of the union to begin with and lost their right to participate in a secret-ballot election, would now have a contract thrust upon them without their vote or consent.*

*"And the employer? Within days of the union's formation, the small-business owner would need to find and hire a labor lawyer to attend to the contract negotiations, whether he or she can afford it or not. ...*

*"In the history of this country, government has never proved its capacity or capability to exceed the performance and productivity of those engaged in private enterprise. Why, then, should we trust government to know enough about the nuances and market forces at play in a particular industry to set wages and benefits for workers?"*

Gingrich, "[Arbitration the real threat in EFCA](#)," *Politico*, 04.22.09

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The card check proposal hits workers not once but twice when it comes to their fundamental right to vote. It could deny the secret ballot in choosing to join a union, and then deny any vote at all on a contract that dictates pay and benefits. This isn't about free choice – it's about no choice at all.

April 23, 2009

## **Big Spending Special Interests Continue Campaign to Deny Workers the Right to a Secret Ballot**

***But Who's Really Behind Card Check? ACORN Scrubs Website of Union Ties***

Although the card check legislation has been widely panned by editorial writers, small business owners, and opinion leaders from across the political spectrum, this chilly reception has not stopped the bill's advocates from carrying on their campaign to do away with the secret ballot in workplace organizing elections. So reported Capitol Hill newspaper *Roll Call* today in a piece that highlights the continued lobbying both for and against this legislation:



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*"Despite faltering support for a bill that would make it easier for unions to organize, backers of the Employee Free Choice Act are continuing to push key Senators to move forward on the legislation. ...*

*"Union organizers held more than 400 grass-roots events, sent more than 27,000 letters to Members of Congress and put in nearly 100,000 calls supporting EFCA. Additionally, the unions spent more than \$1 million on two TV ads over the recess, AFL-CIO spokeswoman Amaya Smith said."*

Palmer, "[No Letup in Card Check Lobbying](#)," *Roll Call*, 04.23.09

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It's worth asking who exactly is behind the multi-million dollar campaign to enact this controversial legislation. Although labor bosses are obvious – and open – supporters of the plan, other groups have lined up behind the bill as well. The Sierra Club and the Natural Resources Defense Council, [for example](#).

And then there's ACORN. Although the group has been publicly [cited](#) as a supporter of the legislation, its ties to organized labor may have been a little too close for comfort. The *Washington Examiner* has the story:

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*"Just a few days after The Washington Examiner reported on links between the Association of Community Organizers for Reform Now (ACORN) and organized labor it appears the self described group of non-partisan community activists has erased web site references to union affiliates that were cited in the article.*

*"Fortunately, Matthew Vadum, a senior analyst and editor with the Capital Research Center (CRC) who closely scrutinized ACORN and its many affiliates has a record of the web site.*

*"The Service Employees International Union (SEIU) and ACORN are essentially joined at the hip. SEIU Locals 100 and 880 were previously identified as allied organizations on ACORN's web site. But the reference was deleted shortly after The Examiner story ran. ...*

*"Top ACORN officers have also been supportive of the Employee Free Choice Act (EFCA), also known as the Card Check bill, Vadum points out. The bill was reintroduced earlier this year by Rep. George Miller (D-Calif.) and Sen. Tom Harkin (D-Iowa). Organized labor has contributed to members of congress, mostly Democrats, who have expressed support for Card Check."*

Mooney, "[ACORN Deletes References to Unions from Web Site](#)," *Washington Examiner*, 04.22.09

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With special interests publicly – and not so publicly – joining forces in support of card check, it's clear that the battle over workers' rights isn't going to be over anytime soon.

April 24, 2009

## The Dakotas vs. Card Check

### *Midwestern States Fight to Protect Workers from Federal Legislation that Would Take Away Secret Ballot, Impose Forced Government Contracts*

With inside-the-beltway politicians and special interests plotting to take away workers' right to a secret ballot, state and local leaders are fighting back. Indeed, in states across the country, grassroots movements are sprouting up to oppose or attempt to preempt the so-called Employee Free Choice Act, a bill more widely known as card check for its provision to replace federally-supervised secret ballot elections with a public sign-up process that opens workers up to intimidation and coercion.

For instance, organizers in South Dakota are spearheading a constitutional amendment to protect secret ballot elections.

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*"A petition drive has been started to pass a constitutional amendment that would require a secret ballot when South Dakota workers decide whether to form unions, a mandate that would run counter to a bill being considered by Congress.*

*"Organizers, including former U.S. Senate candidate Joel Dykstra of Canton, filed documents with the secretary of state's office Wednesday to start collecting petition signatures. If they collect 33,551 valid signatures by Nov. 2, the proposed amendment to the South Dakota Constitution would be put to a public vote in the 2010 general election. ...*

*"The bill in Congress would allow a majority of employees at a company to organize a union by signing cards, a change from current practice that allows employers to mandate secret ballot elections. It also would boost penalties for retaliation against workers seeking to organize and call for arbitration if management and the union cannot agree on a first contract. ...*

*"We're not anti-union. We just believe employees should have the right to select their representation by secret ballot," Dykstra said."*

*"[Proposal fights union organizing plan](#)," Sioux City Journal, 04.24.09*

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And in the state next door, North Dakota legislators are pursuing a proposal that would urge the state's congressional delegation to oppose the card check bill when it is considered in Washington.

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*"A bill being proposed in Congress gets some attention in the North Dakota House...*

*"Representatives vote today to urge North Dakota's delegation and the U.S. Congress to oppose the Employee Free Choice Act.*

*"The act would change the way unions are organized.*

*"(Rep. Jim Kasper) 'What this process does in the Employee Free Choice Act is to eliminate the 50 day period before an election is held and to eliminate the secret ballot final vote of the employees. It also eliminates the opportunity for the employer to be able to meet with employees, bargain with them to learn their concerns and issues, and attempt to resolve them before a union is put in place.'"*

["Employee Free Choice,"](#) KXNet.com, 04.23.09

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State legislators apparently understand what some in the U.S. Congress do not – workers need *real* free choice, not a forced choice imposed through public pressure (in the form of card check organizing) or government bureaucrats (through contracts on which workers have no say).

April 27, 2009

## Obama Administration Installs Card Check Advocate in Top Department of Labor Post

In what many view as a signal of its continued commitment to the [unpopular](#) card check plan, the Obama Administration has announced that a high-profile advocate of the controversial measure will serve as a senior adviser to U.S. Secretary of Labor Hilda Solis. The *Associated Press* reported on this development late last week:

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*"President Barack Obama has appointed a key union activist as senior adviser to Labor Secretary Hilda Solis, another sign of the influence that organized labor wields in the Obama administration.*

*"Mary Beth Maxwell spent the past five years as executive director of American Rights at Work, a nonprofit group pushing for passage of a bill to make it easier to form unions. ...*

*"Democratic leaders in Congress hope to bring some version of the Employee Free Choice Act to a vote this summer. Democrats are trying to rally enough votes to overcome an expected GOP filibuster.*

*"Former Democratic Rep. David Bonior, chairman of the board at American Rights and Work, suggested Maxwell's new post would bolster union efforts to pass the labor reform legislation, also known as 'card check.'*

*"Her knowledge and experience will aid the administration and the Labor Department in supporting this and other policies to benefit working families throughout the country,' Bonior said."*

Hananel, "[Union activist appointed to Labor Department,](#)" *Associated Press*, 04.24.09

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From executive orders that disadvantage non-union contractors to regulatory rollbacks on [union accountability and transparency](#), serious questions are being raised about how close the

Administration's ties are to this special interest constituency. Now, with the appointment of a "union activist" known for advocacy of a controversial plan to take away workers' right to a secret ballot, it's no wonder workers and small businesses are worried.

April 28, 2009

## States Continue Fighting Back Against Card Check

Two more states have taken steps to guarantee their citizens' right to a secret ballot, a growing signal that state and local leaders are concerned by pending federal legislation to do away with such protections in the workplace.

Legislatures in Florida and Missouri have advanced measures that would guarantee the right to a secret ballot, part of a broader movement across the country that attempts to preempt the so-called Employee Free Choice Act, a bill proposed in the U.S. Congress that would effectively do away with secret ballots in workplace organizing elections.

The Missouri House endorsed the proposal on Monday:

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*"The House has approved 83-74 a proposal that would require secret ballot in some elections, including those for unions.*

*"The resolution came about after debate about the federal Employee Free Choice Act, which would allow union organization through public petition rather than secret ballot.*

*"This resolution is not anti-union or pro-business; it's about the foundation of our democracy," said sponsor Rep. Mike Cunningham, R-Rogersville.*

*"Rep. Shane Schoeller, R-Willard, said secret ballots should be a constitutional right.*

*"What are they afraid of?" he asked. "Give every worker the chance to vote for this in the privacy of their own voting booth."*

Moring, "[Missouri House endorses anti-Employee Free Choice Act constitutional amendment](#)," *St. Louis Post-Dispatch*, 04.27.09

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Also on Monday, the Florida House approved a similar measure:

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*"The House voted along party lines Monday for a 2010 ballot proposal intended to block a potential pro-union change in federal labor law.*

*"Majority Republicans, echoing business interests, contended the proposed state constitutional amendment would prevent worker harassment and intimidation by union and management bosses alike by requiring secret ballot elections on whether to form a union.*

*"Democrats, reflecting labor union arguments, said such elections result in management harassment, intimidation and firings of pro-union employees.*

*"The measure sponsored by Majority Leader Adam Hasner, R-Delray Beach, is intended to nullify a bill known as the Employee Free Choice Act that's been introduced but not yet passed by Congress."*

Kaczor, "[Fla. House votes to block federal labor law change](#)," *Associated Press*, 04.27.09

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Both proposals could eventually be put to voters for final approval.

A vote by secret ballot.

**April 29, 2009**

## **Beware the Card Check "Compromise"**

After yesterday's news that Pennsylvania Senator Arlen Specter has switched political parties, talk of a compromise on the anti-worker card check plan has once again taken center stage.

Specter – a Senator who announced earlier this year that he opposed card check as a Republican, and repeated yesterday that he still opposes it as a Democrat – has been at the center of speculation about a possible compromise on the controversial legislation. The *Associated Press* reports—

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*"Vice President Joe Biden says he expects Pennsylvania Sen. Arlen Specter would have 'an open mind' on voting for a bill making it easier to form unions if a compromise emerges.*

*"Specter's party switch puts Democrats within reach of a 60-seat majority, which could overcome an expected GOP filibuster of the bill.*

*"The Pennsylvania senator disappointed labor leaders last month when he said he would not support the Employee Free Choice Act. But he left the door open to supporting other labor reforms.*

*"Biden says he remains hopeful that Congress will pass the bill. He says the White House is in 'constant discussion' about it with labor and business groups."*

Hananel, "[Biden hopes Specter backs card check compromise](#)," *Associated Press*, 04.29.09

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As we [said](#) earlier this year, at its core, card check is nothing more than a special interest power grab that would be achieved by undermining workers' rights. It's bad for workers, bad for the economy, and just plain bad for democracy. With a premise like this, what exactly would a compromise look like?

Slightly less bad for workers? Not quite as damaging to the economy? Only a little bit undemocratic?

It's worth [repeating](#): The simple truth is that with card check as a starting point, compromise just isn't possible. Those advocating a compromise are merely distracting from the reality that card check is bad policy that does not deserve to become law – in any form whatsoever.

April 30, 2009

## Economic Analysis: Card Check Carries a Heavy Cost

In the ongoing battle over the so-called Employee Free Choice Act – a bill better known as card check, because it replaces federally-supervised secret ballot elections with a public card signing process – supporters of this anti-worker plan have argued that the legislation is necessary to strengthen a flailing economy.

But a new analysis from Applied Economic Strategies (AES) found that many of the supposed economic benefits of card check are questionable, while the economic downsides are clear. The analysis argues—

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*"[A] policy decision like passing EFCA is not cost-free; someone has to pay for it. Economic research and state comparisons indicate that American workers, including union members, will pay for a large part of the cost with higher unemployment, slower job growth and fewer job opportunities, and slower wage growth – costs that many workers can not afford, especially in this recession. Research also shows that higher labor costs are passed on to consumers through higher prices, and businesses through lower profits – two additional costs that will hit the economy just as profits have collapsed by 21.5 percent over the past year and family budgets are under great stress."*

Wilson, "[EFCA: Who Pays For The Unintended Consequences Of Increasing Union Influence](#),"  
04.17.09

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This new analysis follows the release of a [report](#) earlier this year that projects a loss of 600,000 jobs in just the first year after a card check plan is enacted, a crushing blow to an American economy facing continued job losses and a deep recession.

The economics of EFCA are worth considering. But this latest analysis paints a far different picture than the rosy scenario put forward by the bill's special interest proponents. For workers who would face "higher unemployment, slower job growth and fewer job opportunities, and slower wage growth," card check seems not to be the economic quick fix they have been promised.

May 1, 2009

## The Politics of Card Check

In case there was any doubt left, high-ranking union officials behind the grossly misnamed Employee Free Choice Act have now made it perfectly clear: Card check is all about politics.

*The Wall Street Journal's* Brody Mullins reports—

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*"So you thought that Pennsylvania Sen. Arlen Specter's switch to the Democratic Party would be enough to win him the support of Big Labor for his 2010 re-election? Think again.*

*"Andy Stern, the head of the Service Employees International Union, says the nation's largest labor won't line up behind Specter for his campaign until he reverses course and backs a labor supported bill that would make it easier for workers to join unions. ...*

*"[T]he SEIU is delivering a stack of petitions today to Specter's office asking him to endorse the Employee Free Choice Act."*

Mullins, "[SEIU Pressures Specter on Union Bill](#)," *The Wall Street Journal*, 05.01.09

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Of course, the notion that big-spending special interests are demanding passage of card check as "payback" for their political support is hardly new.

Late last year, Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees, told editors and reporters at *The Washington Times* that "unions paid their dues by supporting Democrats and President-elect Barack Obama in this year's election. He said they expect that effort to be rewarded with action.

"The payback would be Employee Free Choice Act..."

It couldn't be clearer. Card check is political payback – and anyone who dares not to support the plan can expect political retribution.

Makes you wonder where "employee free choice" comes into play.

May 4, 2009

## **It's Not Just the Secret Ballot**

***Theoretical Card Check Compromise: "A centralized bureaucrat, not responsible to shareholders (or to union leaders), would determine wages, fringe benefits, and working conditions."***

With all the talk recently about a [compromise](#) on the anti-worker card check plan, pundits and political observers have been turning their attention to a less well-known provision of the plan, but one that many believe could be equally damaging: the forced government contracts. Over the weekend, Michael Barone speculated on what a card check compromise might look like for workers, small business owners, and American industry:

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*"The labor unions' drive for the full Card Check bill seems to have foundered. Specter enters a Democratic caucus where a half dozen or more senators have made it clear, publicly or privately, that they will not vote for Card Check. His statement gives cover to a Democratic leadership that wants to propitiate its labor union funders but does not want to put so many of its*

*members on the spot. A vote to effectively abolish the secret ballot is not easy to defend come election time.*

*"But the unions may have a fallback position: Forget about the secret ballot and try to pass a bill with mandatory federal arbitration. This might be easier to defend. Every American knows what the secret ballot is; few Americans know what mandatory arbitration means.*

*"Mandatory arbitration would be a major, massive change in American labor law. Currently, unions are free to strike, but employers are free to resist their demands as long as they want. The Card Check bill would require, after only 120 days of bargaining, a federal arbitrator to step in and impose a settlement. A centralized bureaucrat, not responsible to shareholders (or to union leaders), would determine wages, fringe benefits, and working conditions. There would evidently be no appeal.*

*"No one knows exactly what this would mean in practice. But the negative consequences are easy to imagine. Arbitrators might very well impose terms and conditions similar to those in existing union-negotiated contracts. Those might include not only wages that would reduce a business's profits, but also generous fringe benefits and thousands of pages of detailed work rules. Private employers might be forced into funding union pension plans with their massive long-term liabilities. Detailed work rules would mean adversarial negotiations between company foremen and union shop stewards over even the most minor changes in work procedures."*

Barone, "[Beware of mandatory arbitration in Card Check](#)," *The Washington Examiner*, 05.02.09

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The threat to workers' right to a secret ballot must not be taken lightly, but as talk of a so-called compromise continues, it has become clear that there's much more at stake than privacy in the formation of a union. Indeed, the rules that govern a worker's wages, hours, and duties could be stripped from management and workers or their union reps and put in the hands of federal bureaucrats – and there's nothing anyone could do about it. That's why the fight against this bill – any version of it – must continue.

May 5, 2009

## **Forced Government Contracts Could Harm Current Union Workers**

In the ongoing debate over card check's forced government contracts – the proposal to let government bureaucrats establish wages, benefits, job duties, and other work rules if unions and management cannot reach agreement within 120 days – a new wrinkle has emerged. It seems that special interest efforts to increase the number of union members at any cost could have a steep cost indeed for an unexpected group – current union workers.

An op-ed in today's *Washington Examiner* explains—

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*"Ironically, if Card Check-by-another-name were to pass, one group that stands to be hurt the most is union workers, especially construction workers, in*



*states like Pennsylvania where region-wide collective bargaining is relatively common.*

*"That is because whatever is ultimately enacted is sure to retain requirements that federally-appointed arbitrators set pay and work rules if employees and employers cannot complete a contract within 120 days. While the intent of that provision is to ensure that newly unionized businesses don't delay negotiations, the ramifications for union construction workers are severe.*

*"Having Washington-appointed officials set contract terms for companies would make it harder to maintain collective bargaining through area agreements. Those area agreements set wages, hours, and work rules for union workers for a variety of firms in a given region. The agreements also allow union members to work for different employers during their career because their health and pension benefits remain portable and reliable.*

*"Newly unionized employers forced into arbitration are likely to have wages and benefits different than those in the area agreement. If those are less than what is in the area agreement, the ability to seamlessly move from one employer to the next will be undermined. Union workers will instead be forced to choose between staying with a single company even when there is no work or reduced wages and disrupted benefits contributions. ...*

*"Backers of Card Check, or the inevitable 'compromise,' should be careful of what they ask for. The price for a quick boost to national union enrollment is simply too high for construction workers. After all, if new and existing unionized workers get caught in jurisdictional disputes, see new risks to their pension contributions or can't enjoy the benefits of area agreements, no good will come of making it easier to unionize."*

Sandherr, "[Card Check is bad for union workers, too](#)," *The Washington Examiner*, 05.05.09

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If both non-union workers and union workers stand to lose under card check, it's worth asking who the real beneficiaries would be.

May 6, 2009

## **If it ain't broke...**

### ***New Data Show Unions Winning Two-Thirds of Secret Ballot Elections – Yet They Continue Fighting to Eliminate Secret Ballot Because the System is Broken?***

Congressional Democrats and their [big-spending](#) special interest allies are having a hard time making the case for their anti-worker card check plan. Not only has it been widely rejected by the public – non-union and union members alike – but it has been panned by political leaders and opinion makers from across the [political spectrum](#).

Now, new data from the National Labor Relations Board confirms that the secret ballot election process is working, and in fact that unions are winning a greater share of these elections than they have in decades – clearly refuting union leaders' claims that the secret ballot must be cast aside because it prevents them from winning elections. The *Bureau of National Affairs* reports—

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*"Unions won 66.8 percent of representation elections conducted by the National Labor Relations Board in 2008 ...*

*"The number of resolved representation elections held in 2008 also increased from 2007 levels, the first increase since 1998 in the number of elections conducted by the board ...*

*"The union win rate increased to 66.8 percent in 2008, up from 60.4 percent the year before. According to statistics provided by the NLRB, this is the highest win rate since 1955 when unions won 67.6 percent of the elections in which they participated. Unions have won more than half of all representation elections in each of the past 12 years."*

Amber, "2008 Union Win Rate Rises to 66.8 Percent, As Number of NLRB Elections Also Increases,"  
*Bureau of National Affairs Daily Labor Report*, 05.05.09

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This follows the [release](#) of information by the NLRB late last year showing that in FY2008:

- 93% of all initial elections were conducted within 56 days of the filing of the petition; and
- Initial elections in union representation elections were conducted in a median of 39 days from the filing of the petition.

To recap: secret ballot elections are conducted an average of 39 days from the filing of the petition, and unions win 2/3 of such elections.

Does this sound like a system that's broken?

**May 7, 2009**

## **George McGovern on Forced Government Contracts**

With big-spending special interests now scrambling to find support for their widely rejected card check plan, a new focus has emerged on the legislation's scheme to allow federal arbitrators to dictate how American workplaces are run.

Section 3 of the legislation, dubbed "Facilitating Initial Collective Bargaining Agreements," outlines a radical proposal masked by its rather innocent sounding name. Rather than "facilitating," the plan would empower federal arbitrators to unilaterally impose wages, hours, benefits, job duties, and countless other facets of workplace operations.

Former Senator and Democratic Presidential candidate George McGovern spoke out early in the debate over the card check plan to denounce its elimination of secret ballots in workplace organizing elections. Today, he once again penned an op-ed in *The Wall Street Journal's* editorial pages in opposition to the legislation, this time taking on the forced government contracts:

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*"Last year, I wrote on these pages that I was opposed to this bill because it would eliminate secret ballots in union organizing elections. However, the bill has an additional feature that isn't often mentioned but that is just as troublesome -- compulsory arbitration.*

*"This feature would give the government the power to step into labor disputes where employers and labor leaders cannot reach an agreement and compel both sides to accept a contract. Compulsory arbitration is bound to trigger the law of unintended consequences. ...*

*"A federally appointed arbitrator cannot be expected to understand the nuances specific to each business dispute, the competitive market position of the business, or the plethora of other factors unique to each case. Yet fundamental decisions on wages and benefit costs, rules for promotions, or even rules for exiting an unprofitable line of business could fall to federal arbitrators under EFCA.*

*"Many labor contracts can run over 100 pages with their requirements of each party. Compulsory arbitration is, in one sense, government dictating to employees what they will win or lose in the deal, with no opportunity to approve the 'agreement.' Why should employees pay union dues to get such a contract?  
...*

*"When it comes to labor disputes, both parties should be guaranteed a real chance for compromise under the joint economic threat of contract breakdowns. George Meany, president of the AFL-CIO for nearly 30 years before retiring in 1979, had it right in condemning mandatory arbitration as 'an abrogation of freedom.'"*

McGovern, "[The 'Free Choice' Act Is Anything But](#)," *The Wall Street Journal*, 05.07.09

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The former Senator has put principle over politics in opposing a plan that may be good for special interests and political campaigns, but is obviously bad for American workers. The only remaining question is how many others in his party will join him.

May 8, 2009

## **Latest Jobs Report a Stark Reminder of Card Check's Looming Cost**

***Bailed Out Auto Industry Sending Jobs Overseas: Will Small Businesses Suffer the Same Fate?***

The U.S. Department of Labor this morning reported that the American economy shed 539,000 jobs in April, bringing the unemployment rate to 8.9 percent. Total job losses since the recession began in December 2007 stand at 5.7 million.

At the same time, *The Washington Post* is now reporting that beleaguered U.S. automaker General Motors plans to ship many of the company's planned new jobs overseas:

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*"The U.S. government is pouring billions into General Motors in hopes of reviving the domestic economy, but when the automaker completes its restructuring plan, many of the company's new jobs will be filled by workers overseas.*

*"According to an outline the company has been sharing privately with Washington legislators, the number of cars that GM sells in the United States and builds in Mexico, China and South Korea will roughly double. ...*

*"As a result, the long-simmering argument over U.S. manufacturers expanding production overseas -- normally arising between unions and private companies -- is about to engage the Obama administration."*

Whoriskey, "[Under Restructuring, GM To Build More Cars Overseas](#)," *The Washington Post*, 05.08.09

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There are plenty of reasons GM may be sending jobs overseas, but it's impossible to ignore their notoriously costly and complex labor contracts as a factor in that decision. And it's impossible not to wonder if small businesses would suffer a similar fate in an economy dictated by the rigid mandates of the card check plan.

A report released earlier this year calculated the economic cost of card check, examining how similar policies in Canada led to job losses and reduced productivity, among other negative consequences. An abstract of the report, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," explains—

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*"The precise effect on unemployment will depend on the degree to which EFCA increases union density, but for every 3 percentage points gained in union membership through card checks and mandatory arbitration, the following year's unemployment rate is predicted to increase by 1 percentage point and job creation is predicted to fall by around 1.5 million jobs. Thus, if EFCA passed today and resulted in an increase in unionization from the current rate of about 12% to 15%, then unionized workers would increase from 15.5 to 19.6 million while unemployment a year from now would rise by 1.5 million, to 10.4 million. If EFCA were to increase the percentage of private sector union membership by between 5 and 10 percentage points, as some have suggested, my analysis indicates that unemployment would increase by 2.3 to 5.4 million in the following year and the unemployment rate would increase by 1.5 to 3.5 percentage points in the following year."*

Layne-Farrar, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," March 2009

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The last thing American workers need is an economic policy that will destroy more jobs and drive the unemployment rate up even further. Whether it's the card check component of the bill – which does away with secret ballots – or the forced government contracts – which put federal bureaucrats squarely in charge of wages, benefits, and work rules – card check is bad news for an already struggling economy.

May 11, 2009

## Democrats Continue Speaking Out Against Card Check Legislation

The so-called Employee Free Choice Act has come under increasing fire in recent weeks, and those taking aim might not be who you expect.

Although card check is often painted in partisan terms, the reality is that an increasing number of Democrats are joining Republicans in speaking out against this anti-worker legislation. It turns out that there are members of both political parties who support basic workplace democracy, and that's why they're understandably wary of a bill that would take away the secret ballot and empower federal bureaucrats – not workers, union reps, or business owners – to set the terms of a contract.

Today's *Orlando Sentinel* carries an interesting analysis from business columnist Beth Kassab highlighting the stance of local Democrats who oppose the controversial legislation:

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*"There is a growing roster of Democrats coming out against the White House-backed card check legislation, and now Orlando has its own political A-listers following suit.*

*"Roger Chapin and Joe Kefauver recently formed an advocacy group called Floridians for Responsible Policy ([Floridiansforresponsiblepolicy.com](http://Floridiansforresponsiblepolicy.com)), which will take on the bill that pits business against labor as item No. 1 on its agenda.*

*"Chapin and Kefauver, both longtime Democrats who voted for Barack Obama for president and contributed to Democratic candidates, say the Employee Free Choice Act is bad for a lot of reasons, but first and foremost it represents an 'over-reaching' by their party. ...*

*"Kefauver, who runs the public affairs consulting company Edgewater Group, said supporting labor shouldn't be the only 'litmus test for being a good Democrat.'*

*'We're talking about what's good, what's fair for the worker,' he said. 'That piece of the issue is getting lost in all this.'"*

Kassab, "[Dems come out against card check](#)," *Orlando Sentinel*, 05.11.09

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This follows publication last week of a high-profile opinion piece in the *Wall Street Journal* in which former Senator and Democratic presidential candidate George McGovern rejects the bill's provision to impose forced government contracts, whereby business owners and workers lose the right to negotiate wages, benefits, and work rules if they cannot reach agreement within a short bargaining window of just 120 days:

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*"Many labor contracts can run over 100 pages with their requirements of each party. Compulsory arbitration is, in one sense, government dictating to*

*employees what they will win or lose in the deal, with no opportunity to approve the 'agreement.' Why should employees pay union dues to get such a contract?*

*"My perspective on the so-called Employee Free Choice Act is informed by life experience. After leaving the Senate in 1981, I spent some time running a hotel. It was an eye-opening introduction to something most business operators are all-too familiar with -- the difficulty of controlling costs and setting prices in a weak economy. Despite my trust in government, I would have been alarmed by an outsider taking control of basic management decisions that determine success or failure in a business where I had invested my life savings.*

*"When it comes to labor disputes, both parties should be guaranteed a real chance for compromise under the joint economic threat of contract breakdowns. George Meany, president of the AFL-CIO for nearly 30 years before retiring in 1979, had it right in condemning mandatory arbitration as 'an abrogation of freedom.'"*

McGovern, "[The 'Free Choice' Act Is Anything But](#)," *The Wall Street Journal*, 05.07.09

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Of course, Democratic Senator Ben Nelson may have put it most succinctly last week when he called the notion of a compromise on this divisive legislation "a fool's errand:"

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*"You take away the arbitration issue, and you still have the 'card check', so that doesn't work. You take away the 'card check' and you still have the arbitration problem. And if both go away, you're left with nothing. It's a fool's errand to do this. I just don't see an agreement happening," Nelson said."*

Turner, "['Card Check' deal is a 'fool's errand'](#)," *FoxNews.com*, 05.07.09

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Card check: bad for workers, bad for job creation, and just plain bad for democracy.

**May 12, 2009**

## **Vice President Repeats Support for Card Check as Political Payback**

Union leaders have never been shy about their expectation that card check legislation would be delivered by Democrats in Washington as [payback](#) for their political and financial support in the last election. But now, *The Hill* reports that even the White House is spelling out the quid pro quo:

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*"The Obama administration owes organized labor a lot for its victory in the presidential election, Vice President Biden said Tuesday, and will continue to push for the Employee Free Choice Act (EFCA) and other union-backed measures.*

*"Everybody looks back on the election now and says it was a piece of cake,' Biden said during a speech before a conference of the American Federation of State, County and Municipal Employees (AFSCME). 'But let me tell you: You made it cake.' ...*

*"Biden said there is 'no way' for the administration to work to restore the middle class without strengthening organized labor.*

*"That's why we need to pass the Employee Free Choice Act,' the vice president said."*

O'Brien, "[Biden to labor group: We owe you](#)," *The Hill*, 05.12.09

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There's "no way" to support the middle class without strengthening organized labor?

According to the [Bureau of Labor Statistics](#), in 2008, union members accounted for 12.4 percent of employed wage and salary workers. By extension, that means 87.6 percent of workers are *not* members of a union. Surely some of them consider themselves a part of the middle-class. Yet this Administration believes there is simply no way to help middle-class Americans without strengthening organized labor?

**May 13, 2009**

## **Brought to You By Secret Ballot**

The so-called Employee Free Choice Act replaces federally-supervised secret ballot elections with a public sign-up process for forming a union – and the bill's special interest backers would have you believe that this is no big deal.

But it is. The secret ballot is a practice that's almost as old as democracy itself. In fact, today it's used in both political and everyday life. To remind ourselves of just how important the secret ballot is, here's a list of jobs that are dependent on it:

- The President of the United States
- 435 members of the U.S. House of Representatives (including those who support card check)
- 100 members of the U.S. Senate (including those who support card check)
- The governors of the 50 states
- State and local legislators
- School board members in many cities and counties
- College class presidents
- High-school homecoming kings and queens
- [Union bosses](#)

If the secret ballot is good enough for your vote for the president on down to homecoming royalty, why not use one to form a union?

May 14, 2009

## Card Check & the Pension Predicament

With American families deeply [worried](#) about their lost savings and many defined benefit pension plans facing significant shortfalls, new [questions](#) are arising about how card check might be used to mask a union pension underfunding crisis.

An op-ed published by *The Huffington Post* explains—

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*"But the damaging effects [of card check] go well beyond the high-tech sector. It would have a devastating impact on workers from all industries by affecting retirement plans.*

*"A detailed analysis last year by the Hudson Institute, a nonpartisan think tank, found that union-negotiated retirement plans were not as sound as those provided by private companies to non-union employees. Nearly all of the major plans were behind on payments, and overall, the pension plans of union officers were better funded than those of rank-and-file workers.*

*"The Hudson study, written by a former chief economist at the Department of Labor, went on to find that 21 of the largest multi-employer union pension funds had only 67.7 percent of the reserves needed to meet their obligations, seven were in critical condition, and not one was fully funded. In this group of 21 are some the most vocal, deep-pocketed supporters of card check, including the SEIU and Unite Here.*

*"Perhaps that explains the urgency of imposing card check on U.S. workers. It would be a way for union officials to tap a new funding source to meet federal requirements that they fully fund pension funds by 2011. A fresh crop of unionized employers would subsidize past union pension plan mismanagement and, at the same time, fund the demand for defined benefits from the latest union members. ...*

*"Is the true union motivation behind card check to get a host of new employers into the pension pool with the cash to correct the problems of past union mismanagement? If so, the legislation, as it is written, allows union pension fund managers to carry on their current course without any additional government oversight or reasons for increased prudence.*

*"If this is the union strategy, politicians and the workers whose companies may be unionized don't deserve to be fooled. And these concerns alone reinforce why workers must retain their right to a private ballot to decide unionization - union organizers intimidating workers to sign cards or petitions are unlikely to disclose that they have teetering pension plans."*

Shapiro, "[Card Check Is Not The Solution for Pension Mismanagement](#)," *The Huffington Post*,  
05.13.09

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Is card check part of a ploy to get more of today's workers to foot the bill for risky pension promises made by unions?

We've [said it before](#), and we'll say it again: Rank-and-file union members' retirement security must be protected. It's worth asking what might be promised regarding pensions under a card check scheme, and what would actually be delivered.

May 15, 2009

## Card Check: Public Policy or Political Theater?

Faced with an [unpopular](#) product, supporters of the controversial Employee Free Choice Act are doing what any desperate marketer might: bringing in celebrity endorsements.

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*"...the AFL-CIO recruited the star power of 47 actors, musicians, Broadway performers, comedians, writers, and others to support a bill in Congress that would make it easier for unions to organize."*

Rhee, "[Unions call out 'star power'](#)," *Boston Globe*, 05.14.09

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Of course, backers of this undemocratic plan are going to need more than a slick marketing campaign to convince the American people to take away workers' right to form a union through a secret ballot election and to have a voice and a vote on their first contract.

There's also a danger that all this political theater might backfire. The Employee Free Choice Act has always been viewed as a whopper of a bill name. But Bob McWilliams, a columnist for Maryland's *The Capital*, sees the misnamed legislation as part of larger trend—

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*"These days, our laws and political hopefuls are packaged in much the same way as laundry detergent or lipstick. The Democrats are especially good at this game. According to them, it's not a 'war on terror,' it's an 'overseas contingency operation.' ..."*

*The goal isn't to communicate; the goal is to define issues in a way that best supports a political position. With Cover Girl cosmetics, we played the same game, but we had a bunch of lawyers who demanded our advertising claims be properly substantiated.*

*In today's government, you have a bunch of politicians who aren't held to a similar standard. ...*

*"The 'name' of a bill is also often titled in a way that fails to communicate its contents. Why give legislation a restrictive name such as Card Check, when you can call it the Employee Free Choice Act? How could anyone be against a bill called the Employee Free Choice Act?"*

McWilliams, "[Plain Speaking: Be wary of government marketing, it could be a bait and switch](#)," *The Capital*, 05.15.09

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Celebrity endorsements and marketing ploys? Sounds like card check's proponents are trying to sell the American people something that they're just not interested in.

May 18, 2009

## Former Union Organizer Says Secret Ballots Keep Organizing Honest

As if there wasn't reason enough already, *Milwaukee Journal Sentinel* columnist Patrick McIlheran has identified yet another reason why Congress ought to preserve secret ballots in workplace organizing drives: they keep things honest.

McIlheran's column shares the story of Rian Wathen, a former union organizer who now works to beat organizing campaigns after being fired by his union for whistle-blowing—

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*"Rian Wathen, who used to organize in Indiana for the United Food and Commercial Workers union, lets on something you could have guessed. It's that not all union organizers are equally honest.*

*"This matters because union organizers are selling something - as Wathen puts it, 'hopes, dreams and visions' that an employee's life will get better if only he signs a card. There's a move afoot to remove a safeguard on that sale - sort of like banning disclaimers, price tags and Consumer Reports. ...*

*"But what keeps the sale honest, he says, is that it's followed by an election. Once a union collects signatures from enough would-be members - usually, 60% to 70% - it asks the feds to call a union election. Workers decide by secret ballot after about six weeks of campaigning whether they want the union.*

*"A bill before Congress would overturn this - dictating instead that, once a union collects signatures from half a workplace's employees, the union is installed without an election. ...*

*"This makes problems, says Wathen, for honest union organizers. Their careers hinge on how well they make the sale. There are all kinds of ways to bring in signatures. Take, for instance, the union-sponsored pizza party. You show up for the pizza, you sign the sign-in sheet, you don't flip it over to read the disclaimer on the back reading, 'I hereby authorize the union to represent me for the purposes of collective bargaining.' It happens, says Wathen. It's legal.*

*"It is also dishonest. The check upon organizers who get signatures this way or by paying bounties or by hitting up drunks or by showing up at someone's house and applying pressure is that such signatures don't stick. 'In the end, those people won't vote for the union,' he said, while people recruited by honest organizers are more likely to. The election is the furnace by which the honesty of organizers is tested."*

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Republicans have gone one step further, noting that secret ballots protect workers from unscrupulous tactics on *both* sides of the organizing equation – unions or employers.

That's why Republicans have proposed the Secret Ballot Protection Act. It would guarantee the protection of a secret ballot in all future organizing elections, and ensure workers aren't forced to organize, or blocked from doing so, through dishonest tactics.

May 19, 2009

## Analysis: the So-Called Card Check Compromise

Speculation continues over the prospects of a compromise on the controversial legislation known as card check. And while supporters of the [unpopular](#) plan try to paint their alternatives as reasonable, today's *Washington Post* carries an op-ed from the Coalition for a Democratic Workplace's Brian Worth that demonstrates otherwise—

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*"Union leaders know that they do not have the votes necessary to overcome principled bipartisan opposition to this legislation in the Senate. That is why EFCA supporters have shifted their energy to passing 'compromise' legislation consistent with the original bill's 'principles.'*

*"Compromise in the form of mail-in ballots (which is essentially card check with a stamp, a.k.a. 'postcard check'), allowing union organizers unfettered access to employees in the workplace and mandating what amounts to quickie elections are proposals that purport to expedite the organizing process but, in reality, would sacrifice the rights of employees for the wants of professional union organizers, just as EFCA would.*

*"Unions already enjoy significant access to employees outside of the workplace: They can visit employees' homes and approach workers in parking lots and other public places. Giving professional organizers unprecedented workplace access would disrupt productivity and infringe on worker privacy.*

*"Speeding up the timing of union elections is spun as a reasonable solution to union claims of management delaying tactics and the amount of time it takes to hold elections. But the NLRB says the average time to complete a secret-ballot election was 38 days in 2008 (down from 50 days in 1980). Given that campaigns for the U.S. House and Senate are already heating up a full 18 months before Election Day 2010, five weeks is a reasonable amount of time to decide whether to unionize a workplace. One could argue that deciding whether to join a union, a decision that leads to automatic paycheck deductions for union dues and reliance on frequently underfunded union pensions, is at least as important as electing our political leaders."*

Worth, "[Labor's Card-Check Ruse](#)," *The Washington Post*, 05.19.09

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Republicans have opposed card check because it is bad for workers, bad for job creation, and just plain bad for democracy.

And Republicans will continue to oppose any alleged compromise that contains the same flawed policies or produces the same damaging consequences.

May 20, 2009

## Harkin's Card Check Ultimatum

Faced with continued opposition among Americans from across the political spectrum, a top Senate proponent of the controversial card check plan yesterday threw down the gauntlet: either a "compromise" plan goes through, or a vote will be forced on the original plan.

That's not all. A so-called compromise would be jammed through the Senate without full consideration by the committee of jurisdiction. And if a vote is forced on the original plan, Democrats who oppose the undemocratic measure are likely to face political retribution. *The Iowa Independent* has the story, based on a scoop that appeared yesterday in National Journal's [Congress Daily](#)—

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*"Iowa Sen. Tom Harkin told the National Journal Tuesday that if those who currently oppose the Employee Free Choice Act are not willing to work with him on a compromise, he will try to force a vote on the original bill.*

*"Republicans have said repeatedly they will filibuster the bill. Earlier this month, Harkin said he didn't believe he had the 60 votes needed to overcome a filibuster and that the most controversial portion, giving workers the right to unionize as soon as a majority of employees in a workplace signed cards saying they want a union, would likely be eliminated.*

*"Now, Harkin says that while he is still working to get 60 votes, he is willing to put the original bill on the floor of the Senate and let lawmakers vote their conscience. As Talking Points Memo writer Brian Beutler points out, doing so would put two of the bills most high profile opponents — Sens. Arlen Specter, D-Penn., and Blanche Lincoln, D-Ark. — on the hot seat.*

*Specter, who tacked to the right and came out against EFCA before becoming a Democrat, is facing pressure from the Democratic base and Rep. Joe Sestak (D-PA) to move left or face a primary challenge.*

*And at least one high level union official has suggested that if Lincoln doesn't come around and support an EFCA compromise, she may face a green party challenger, in addition to a Republican challenger, in the general election.*

*"Specter told the Associated Press last week that 'prospects are pretty good' for a compromise."*

Hancock, "[Harkin may force vote on card check](#)," *Iowa Independent*, 05.20.09

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Sounds like a classic strategy of 'heads I win, tails you lose.' Or, more to the point, compromise and the special interests still win, or don't compromise and both workers and the Senators who dare to oppose the plan will lose.

May 21, 2009

## Voices Against Card Check

Florida Senator Mel Martinez is the latest in a long line of lawmakers, opinion leaders, and American citizens to speak out against the anti-worker card check plan. Martinez penned an op-ed in today's *Politico* detailing his opposition to the controversial plan:

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*"Some ideas that come before Congress are better than others. But once in a while, even I am surprised by what is considered in the nation's capital. That is certainly true of the misnamed Employee Free Choice Act.*

*"This legislation would have the exact opposite effect of its title. EFCA aims to eliminate a worker's fundamental freedoms of speech and association. ...*

*"It effectively eliminates the secret ballot from workplace elections. ...*

*"What's worse, the EFCA also allows the government to force an employer (even a small business) to provide certain wages, benefits, workplace conditions, retirement and pension plans, even vacation time for its workers. ...*

*"EFCA would even allow private employers to be forced into failing union pension plans without their consent. ...*

*"This invasion of the rights of workers and private employers must be stopped."*

Martinez, "[Card check: A false solution](#)," *Politico*, 05.21.09

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Republicans remain firm in their opposition to card check – or anything like it – that would deny workers their rights and cripple American employers struggling to create jobs and spur economic recovery.

May 22, 2009

## Tilting the Playing Field, With or Without Card Check

Thanks to the controversial card check plan, there is plenty of concern these days about workers' privacy rights and employers' ability to keep and create jobs in a struggling economy. But as the *Wall Street Journal* revealed last week, this unpopular legislation might not be the only looming threat:

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*"Arlen Specter's party switch has renewed the debate over the legislative prospects for 'card check,' which would effectively eliminate secret ballots in union organizing elections. But Big Labor might not even need card check if Craig Becker has his way.*

*"Mr. Becker is one of two recent National Labor Relations Board appointments by President Obama. ...*

*"Current law on organizing provides advantages and restrictions for both sides. Employers are required to provide union reps with a list of employees and their addresses. Union organizers can visit employees at home, but companies cannot. Organizers can also make promises to employees (such as obtaining raises), which employers cannot. Companies can argue their position at a work site up to 24 hours before an election, but they are barred from coercing employees. Both sides get a seat at the table during NLRB hearings about the scope of an election or complaints about how it was conducted.*

*"Mr. Becker has other ideas. In a 1993 Minnesota Law Review article, written when he was a UCLA professor, he explained that traditional notions of democracy should not apply in union elections. He wrote that employers should be barred from attending NLRB hearings about elections, and from challenging election results even amid evidence of union misconduct. ...*

*"More extraordinary, Mr. Becker advocated a new 'body of campaign rules' that would severely limit the ability of employers to argue against unionization. He argued that any meeting a company holds that involves a 'captive audience' ought to be grounds for overturning an election. ...*

*"Mr. Becker isn't clear about which of these rules can be implemented by NLRB fiat, and which would require an act of Congress, but his mindset is clear enough. He's willing to push NLRB discretion as far as possible to tilt today's labor rules in favor of easier unionization."*

Editorial, "[Andy Stern's Go-To Guy](#)," *Wall Street Journal*, 05.14.09

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Federal labor laws – especially rules for organizing a workplace – depend on a fair National Labor Relations Board. For instance, secret ballot elections are supervised by the NLRB, ensuring protections for workers who value their privacy.

Card check is an obvious attempt to circumvent these protections and side-step the secret ballot election. But according to this editorial, workers should be equally concerned about political influence changing the role of the NLRB from the inside.

**May 26, 2009**

## **Myth vs. Reality: Card Check & the Secret Ballot**

There are plenty of myths surrounding the so-called Employee Free Choice Act. But one of the most pervasive is the idea that the bill maintains workers' right to a secret ballot. There's just one problem: It's just not true.

Don't believe us? Read the bill itself:

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"If the [National Labor Relations] Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations designating the individual or labor organization specified in the petition as their

bargaining representative ... **the Board shall not direct an election but shall certify the individual or labor organization as the representative.**"

*(emphasis added)*

Text of H.R. 1409, the Employee Free Choice Act

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And we're not the only ones pointing this out. Just ask Charles I. Cohen.

Cohen is a former Clinton-appointed member of the National Labor Relations Board. He has noted that there is no guarantee to a secret ballot in the legislation – through a petition or otherwise. He has also described on the record how union ballots are *supposed* to work.

"The Board administers the election by bringing portable voting booths, ballots, and a ballot box to the workplace. The election process occurs outside the presence of any supervisors or managerial representatives of the employer. No campaigning of any kind may occur in the voting area," Cohen testified to a U.S. House Health, Employment, Labor, and Pensions Subcommittee hearing on Feb. 8, 2007.

If the labor union conducts a card-check campaign and chooses to submit 50 percent plus one authorization cards, Cohen added, workers would be barred from seeking a private ballot election. And that's the truth.

May 27, 2009

## Myth vs. Reality: Card Check is the Only Controversy

The concept of card check – where everyone knows whether you wish to join a particular union, whether you want them to or not – is not the only reason why Americans are against the Employee Free Choice Act.

There are plenty of bad ideas to go around in this proposal.

One equally troubling – and lesser known – aspect of the bill is that it can deny workers the right to vote on their first contract.

The forced government contracts would put federal arbitrators in charge of wages and benefits for two years if employers and union representatives can't agree on a contract within four months of a union's creation.

Even SEIU chief Andy Stern seems to back off his insistence on card check in a recent interview with the *Los Angeles Times* editorial board. But he repeats the myth that these forced government contracts – binding arbitration – are non-controversial.

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*"Jim Newton, L.A. Times: What's the status of the Employee Free Choice Act?"*

*"Andy Stern: I'd say ... that the business community has done a remarkable job; I wish they had done a remarkable job running the economy as they have spending their time running against people's opportunity to try to get ahead. I think the bill is being -- I always like to say, we need to appreciate that the Senate is like a car wash: You put a Ford Explorer in, you get a Ford Focus out*

*the other side. Whatever starts as a bill doesn't happen, so we are now in the process of seeing, you know, Sen. [Dianne] Feinstein suggested some ideas to think about.*

*"I think everybody now agrees that there needs to be binding arbitration; not everyone, I'd say there's an overwhelming majority that agrees there needs to be binding arbitration.*

**"Newton:** *A majority of the Senate?*

**"Stern:** *A majority of the Senate, yeah. An overwhelming majority appreciates the election procedures are not right, they're not balanced, they're not fair, and the penalties are not adequate, and the speed is not appropriate. And there's a discussion about are there ways to change what is affectionately called card check to make it more like a secret ballot and less like what people are concerned about, being coerced or intimidated by the union side to try to sign it.*

*"So I'd say there's an active discussion as opposed to for a while there was not much going on. I'd say the senator's comments are indicative that people are actually engaged in trying to find a way forward."*

Transcript, "[SEIU's Andy Stern on his relationship with Obama, Schwarzenegger and more](#)," *Los Angeles Times*, 05.20.09

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While his acknowledgement of the pitfalls of card check – workers being coerced or intimidated by the union side to sign cards – is refreshing, the notion that there is agreement about the need for forced government contracts is simply out of touch.

Under this arbitration model, Washington bureaucrats would be in charge of figuring out salaries and benefits like vacation days. They would also determine work rules that decide what employees can do and when they can do it.

And what if the bureaucrats know nothing about the particular business they are now in charge of? Too bad.

Picture a bureaucrat decreeing a boost in vacation time for accountants in April.

Or declaring fewer job duties for retail workers in December.

That's probably why former Senator George McGovern – once the Democratic party's standard bearer, and an ally of organized labor – [objects](#) to binding arbitration. It's bad for workers *and* American businesses. And it's plenty controversial.

**May 28, 2009**

## **Myth vs. Reality: Card Check & Small Businesses**

Enactment of the controversial card check scheme may be the highest priority of union bigwigs and many Washington Democrats wanting to provide [payback](#) for their political allies. But surely, the legislation is aimed at multi-national corporations and mammoth business interests with resources to engage in the complex negotiations and legal hurdles that come with card check organization ... or is it?



Another persistent myth about the card check plan is that it exempts small businesses.

"The legislation doesn't apply to small businesses, so the corner grocery probably won't face an organizing drive," writes one columnist. "[Binding arbitration] would not apply to small businesses, which have no collective bargaining rights under the NLRA," reports a legislative news outlet.

Wrong again.

There is nothing in the so-called Employee Free Choice Act that specifically exempts small businesses from the harsh effects of card check, which includes hiring costly attorneys – and possibly a human resource manager – to legally speak to the leaders of the new union.

The only thing close to a small-business exemption is a patchwork of standards relating to the "dollar volume" earned by business, not profit. In practice, this extends the law's requirements to establishments making as little as \$50,000 a year in gross receipts, earning far less in profits – if they are in the black at all.

These rules, by the way, were established in 1959 – when Eisenhower was president. They have never been adjusted for inflation.

So that mom-and-pop grocery store on the corner? You bet it would be a target. The local deli with a few high-schoolers washing dishes and working the register after school? They are a target, too.

Also, can you imagine these businesses being forced to hire a personnel director or corporate counsel? Neither can most small-business owners, and many would shut down because of the costs. That's one of the reasons why experts say [600,000](#) jobs would be lost in the first year alone if this legislation is enacted.

May 29, 2009

## Myth vs. Reality: Card Check & "Right-to-Work"

Your state may give you a "right-to-work," but can it protect you from the effects of card check?

The simple answer is NO. The Employee Free Choice Act, now being considered in Congress, can even apply to the 22 states that have "right-to-work" laws.

"Right-to-work" means these states forbid unions from requiring workers to join them or pay dues as a condition of employment. Currently, states that have right-to-work laws are:

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Alabama	Louisiana	South Dakota
Arizona	Mississippi	Tennessee
Arkansas	Nebraska	Texas
Florida	Nevada	Utah
Georgia	North Carolina	Virginia
Idaho	North Dakota	Wyoming
Iowa	Oklahoma	
Kansas	South Carolina	

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Although card check would not overturn these right-to-work laws, its effect on workers and businesses would be devastating, even in those states.

For example, union officials can act as the bargaining agent for ALL employees – union or not – even in right-to-work states.

That means a worker is stuck with a union contract negotiated by someone never selected as the worker's "rep." Workers also give up the right to deal directly with their employer, one of the benefits of right-to-work.

Businesses don't get a break, either. If they can't reach a contract after 120 days of talks with the union, the federal government steps in and essentially takes over the entire business.

Businesses won't have the ability to quickly adapt to the needs of an ever-changing economy – a clear disadvantage in this lengthy recession.

June 1, 2009

## Hoosiers Vote With their Feet, Skip Card Check Rallies

Fifteen.

That's how many people showed up for a rally last week in support of the Employee Free Choice Act in Fort Wayne, Ind.

Other Hoosier State rallies for the act, also known as "card check," didn't exactly pack 'em in, either. *The Fort Wayne Journal Gazette* [reports](#) that a mere 40 people attended a similar event in Indianapolis while just 30 arrived in South Bend.

To put it another way, that's 85 people coming out for a supposedly "pro-union" bill in a state with 349,000 union members, according to the federal Bureau of Labor Statistics.

"I wish there were more people here," the Rev. Sylvester Hunter, who organized the Fort Wayne event, said to the 15. "But you know how it is when people think they aren't directly affected by something."

With all due respect, we think people do know they are directly affected by card check. That's why they chose to stay away.

They know that under card check, the use of a secret ballot – the method successfully used by generations to form unions – would be stripped away. In its place, people would be forced to openly declare their preference for joining a particular union.

They also know that card check legislation contains harsh arbitration rules. The government could essentially run their workplace if the union can't reach an agreement with management after 120 days.

And if the government bureaucrats know nothing about the business they just took over? Well that's just too bad.

The card check bill has been stalled in Congress for months, and it's unclear when it will come up for a vote.

But one thing that is clear is that Americans – including Hoosiers – are hardly clamoring for this undemocratic plan. By choosing to be absent from the rally, they're voting loud and clear.

June 2, 2009

## Card Check by Mail: Still No Privacy for Workers

At the core of the controversial Employee Free Choice Act is a provision known as card check. Rather than permitting workers to form unions through federally-supervised secret ballot elections, a card check system requires workers to publicly declare – by signing, or not signing, an authorization card – whether they wish to join a particular union.

The card check ploy has been [resoundingly rejected](#) by the American people, with more than four out of five voters agreeing that the best way to protect workers' rights is "a federally supervised secret ballot election where workers privately vote yes or no on whether to authorize union representation."

Now, desperately trying to cobble together a "compromise" on this toxic legislation, card check proponents have concocted a new scheme: card check by mail. *The Washington Examiner* has the story:

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*"The Senate is now working on a compromise version of the controversial 'Card Check' bill that would allow employees to vote by mail on whether to unionize, rather than sign a petition in public.*

*"While union and business groups remain at odds over the new proposal, Democratic backers of the bill are meeting privately this week with moderate lawmakers who have so far been unwilling to back a labor reform bill."*

Ferrechio, "[Dems try new approach on 'Card Check'](#)," *The Washington Examiner*, 06.01.09

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Whether the card is collected by a union organizer or mailed to the National Labor Relations Board, a simple fact remains: under a card check system, workers are denied the privacy and protections of the voting booth.

Without a secret ballot election, workers will always be prone to intimidation, coercion, and the threat of retribution. No one – not organizers, not management – should ask workers to publicly declare – by signing and handing in, or mailing in a card – whether they support a particular union.

June 3, 2009

## Feuding Unions Expose Perils of Card Check

Although card check remains the top legislative priority among union bosses, the *Las Vegas Sun* is reporting that internal squabbles may be threatening prospects for the controversial plan.

It's good news for workers, but the big spending special interests behind the bill will certainly be disappointed:

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*"After spending hundreds of millions of dollars to win Democratic majorities in Congress and elect Barack Obama president, the labor movement's No. 1 legislative priority — a bill that would make it easier for workers to organize — is in severe jeopardy, in large part because of high-profile infighting among some the country's most progressive unions.*

*"Exhibit A: Unite Here General President Bruce Raynor resigned last week from the apparel and hotel workers union after six months of legal and verbal jousting with co-president John Wilhelm over union resources and the direction of Unite Here.*

*"He said he decided to quit after Wilhelm's allies, accompanied by nearly a dozen security guards, broke into his New York union office and stole personal files related to mediation sessions aimed at reconciling the two leaders' differences. Raynor likened the incident to something one would see on the HBO mob series 'The Sopranos.'"*

Mishak, "[Card check might be union war's collateral damage](#)," *Las Vegas Sun*, 06.03.09

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The Raynor-Wilhelm feud may seem like an unrelated sideshow, but in truth, it paints a revealing picture about the consequences of this ill-considered legislation.

The card check organizing method called for in the legislation has received the greatest public scrutiny, but the forced government contracts – called for in the form of binding arbitration – are equally troubling.

Under the legislation, businesses and union leaders who are unable to sort out a complex first contract within 120 days would hand over the reins to a panel of federal arbitrators to hash out salaries, benefits, work rules, and much more.

Empowering a federal bureaucrat to take over every single business that is unable to secure a contract within a compressed timeline is a disturbing prospect. And not just to business owners.

It seems that union leaders have the same concerns about relinquishing their bargaining rights. In fact, the same John Wilhelm cited in the Unite Here spat wrote to SEIU President Andy Stern last month to object to his proposal for arbitration as a means to resolve the union's internal dispute:

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*"No International Union has ever submitted its very future—its membership, its organizing jurisdiction, and its financial resources—to arbitration."*

[John W. Wilhelm Letter to Andy Stern](#), 05.01.09

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Wilhelm has every reason to object. Whether we're talking about a job-creating business or an international labor union, no organization would welcome the idea of handing critical decisions over to a nameless, faceless bureaucrat.

June 4, 2009

## Reality Check: Small Businesses Overwhelmingly Opposed to Card Check

The so-called Employee Free Choice Act is in trouble. It has been rejected by the American public – union and non-union households alike – and it has come under fire from opinion leaders and a growing number of elected officials in Washington and around the country.

Now, in a desperate bid to resuscitate the controversial scheme, a coalition has been manufactured to feign the appearance of support for the bill among America's small businesses:

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*"Business Leaders for a Fair Economy is a new coalition of small-business owners and entrepreneurs backing the legislation, which would make union organizing easier. Put together by labor groups like the AFL-CIO and Change to Win, the coalition represents an attempt to fracture the business community's campaign against the bill, which depicts the card-check measure as hurtful to economy because it would lead to more job losses."*

Bogardus, "[Unions seek help from Main Street](#)," *The Hill*, 06.03.09

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But consider what small businesses themselves have to say on the matter:

- [Card-Check Agreements Bad for Employees and Small Business](#) *NFIB strongly opposes the deceptively named Employee Free Choice Act (EFCA) or "card check" because it mandates employers recognize labor unions without first holding a private-ballot employee election.*
- [NSBA Urges Caution on Card Check Bill](#) *Contrary to proponents' claims that the Employee Free Choice Act—commonly known as the card check bill—would aid in economic recovery, this bill stands to further burden the true centers of economic growth and job creation: small business.*
- [New Study: Small Business Owners Believe EFCA Hurts Job Creation](#) *While many small business owners lack information about EFCA, what they do understand they do not like.*
- [Small Businesses and Community Leaders Blitz Capitol Hill in Opposition to Card Check Bill](#) *The U.S. Chamber of Commerce today led nearly 200 local business and community leaders from Pennsylvania, Virginia, Louisiana, and Nebraska to Capitol Hill to meet with their senators and representatives and voice opposition to legislation that would effectively eliminate workers' right to a private ballot election in union organizing drives.*
- [400+ Local Businesses Say So-Called "Employee Free Choice Act" Thwarts Worker Rights](#) *The Manufacturers' Association of Northwest Pennsylvania, along with the National Association of Manufacturers (NAM), SMC Business Councils and other Pennsylvania businesses, have joined forces in a letter presented to Senators Arlen Specter and Bob Casey opposing the so-called "Employee Free Choice Act" (EFCA). The letter is signed by more than 431 Pennsylvania companies, employing more than 91,400 workers and representing 49 counties in the Commonwealth. This legislation passed the House of Representatives in March.*
- [Chambers Lobby Against Card Check Legislation](#) *The Fort Wayne Chamber of Commerce is in Washington D.C. today with a delegation of Chamber members to lobby Indiana's elected officials against proposed card check union organizing legislation. The controversial*

*bill would eliminate the private ballot, give the federal government power to dictate workplace pay and benefits and force unfair mandates on small business.*

These small businesses have plenty of cause for concern. An [economic analysis](#) released in March predicted that the U.S. economy could lose 600,000 jobs in the first year alone if card check became law.

And with small businesses [just as vulnerable](#) to the harsh effects of card check as larger companies, it's easy to understand why an overwhelming number of small businesses are opposed to this controversial plan.

June 5, 2009

## ***O.C. Register: Card Check "Deserves to Fail"***

***With 345,000 More Americans Out of Work, It's Hard to Imagine a Worse Time for Job-Killing Legislation Like Card Check***

The monthly jobs report from the U.S. Department of Labor came out this morning, and the news was grim. An estimated 345,000 Americans lost their jobs in May, bringing the unemployment rate to 9.4 percent – its highest level in more than 25 years.

Amid continued job losses, it's no surprise to see editorial boards continuing to voice their opposition to the anti-worker, anti-job card check scheme. The *Orange County Register* is the latest in a long line of newspapers to reject the plan, taking issue with the proposal's lack of a secret ballot to protect workers' privacy and its impact on a weak economy.

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*"This proposal deserves to fail. A secret-ballot election is the best way to minimize intimidation from either union or management. Eliminating it would open the door to possible abuses – and possibly lead to increased costs for businesses already struggling with the recession."*

Editorial, "[Checking Out on Card Check](#)," *Orange County Register*, 06.05.09

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Some 2.5 million jobs have been lost since the beginning of the year, and the White House [doesn't expect](#) things to get better anytime soon.

An [economic analysis](#) released in March predicted that the U.S. economy could lose 600,000 jobs in the first year alone if card check became law.

Just imagine how high today's 9.4 percent unemployment rate might go if card check becomes law.

June 8, 2009

## **Labor Law Reform That's Good for Workers**

With all the fuss that's been made over the so-called Employee Free Choice Act, one would be forgiven for thinking it's the only proposal out there to change federal labor law.

Luckily for workers, it's not.

Last week, Republicans led by Rep. Tom McClintock and Sen. David Vitter introduced the Rewarding Achievement and Incentivizing Successful Employees Act – aptly dubbed the RAISE Act, because it removes obstacles that can prevent workers from earning higher pay. The Worcester, Mass. *Telegram & Gazette* has the story:

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*“RAISE would amend the National Labor Relations Act to permit employers to pay unionized employers incentive wages outside the normal limits imposed by collective bargaining. Labor law currently establishes both a floor and a ceiling on union wages, and courts have repeatedly, properly and necessarily ruled against pay arrangements that impinge upon the collective bargaining process. That does not mean, however, that such limits are good for business. Amending the rules makes sense.*

*“The RAISE Act would not affect minimum pay rates required by contracts, nor would it permit management to reward anti-union workers. It merely would give management a way of rewarding those workers who show themselves to be more productive, achieving breakthroughs that benefit the company’s — and ultimately the workers’ — bottom lines. A Heritage Foundation study estimates that workers at companies with performance-based pay incentives could earn between \$2,600 and \$4,300 more per year if Congress were to approve RAISE. The measure is currently with the House Committee on Education and Labor.”*

Editorial, "[Tweaking labor law](#)," *Telegram & Gazette*, 06.08.09

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Imposing the controversial card check scheme on American workplaces is not the only way to change federal labor law. As the RAISE Act proves, there are common sense strategies to modernize outdated policies, increase flexibility for workers, and keep American companies competitive in order to create jobs and rebuild the American economy.

June 9, 2009

## **The Card Check Payday**

***New Report Shows Passage of Card Check Stands to Increase Unions' Earnings by \$35 Billion Over 10 Years; Political Spending Could Balloon by \$1.75 Billion***

For anyone wondering why special interests are still fighting to enact a proposal as unpopular as card check, it may be time to consider that old adage: “follow the money.”

*The Hill* reports this morning on a new analysis that shows a stunning financial gain for union leaders if their predictions about card check hold true:

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*“Passing the Employee Free Choice Act (EFCA) would result in millions in additional political funds for organized labor over the next 10 years, a business group opposed to the legislation will argue in a report to be released Tuesday.*

*“Unions would stand to gain an additional \$320 million more to spend on political activities in year ten alone with a ten year total of \$1.75 billion,*

*according to a report put together by the anti-EFCA Workforce Fairness Institute (WFI). ...*

*"The report takes a statement from SEIU President Andy Stern estimating that EFCA could mean 1.5 million new members for unions each year, and extrapolates that figure with several variables. It assumes \$425 in dues each year for union members with five percent of that devoted to political activity. That would mean a total increase of 15 million new members over 10 years, accruing to an additional \$1.75 billion in available political funds over the same period."*

O'Brien, "[Report claims EFCA would line labor's pockets](#)," *The Hill*, 06.09.09

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The report is nothing more than simple arithmetic based on union leaders' own projections. But its eye-popping conclusion shines a spotlight on the potential financial gain for union bosses if workers are forced to relinquish their rights through the controversial card check scheme.

**June 10, 2009**

## **Poll: Pennsylvanians Not Fans of Card Check**

If card check can't win in Pennsylvania, where can it?

It seems the citizens of the labor-friendly Keystone State are not crazy about the card check scheme, which would impose public sign-up for unionization and limit workers' and employers' ability to negotiate contracts and work rules.

A new poll finds that Pennsylvanians oppose the measure, also known as the Employee Free Choice Act, by a 55-29 percent margin.

Proving that the debate transcends politics, even Democrats oppose it by a 44-37 percent margin, according to the poll of 700 registered voters by Susquehanna Polling and Research Inc.

Here's what Susquehanna President James Lee said about the results:

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*"Even in a blue-collar state like Pennsylvania, with strong ties to organized labor, this poll shows that Pennsylvanians are more concerned about the impact this bill could have on the worsening job climate than making it easier for unions to organize."*

Bumsted, "Poll: Pennsylvanians Oppose 'Card Check' Legislation," *Pittsburgh Tribune Review*, 06.09.09

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Lee is right about Pennsylvania having strong ties to organized labor. The AFL-CIO says there are 847,000 union members living there. That's the fourth highest union population nationwide, behind California, New York, and Illinois.



So in theory, card check should be as popular in Pennsylvania as the Super Bowl champion Pittsburgh Steelers.

But it's not, for several good reasons: Card check eliminates the secret ballot, a proven method to organize; it leaves workers open to intimidation and harassment from union organizers or management; and, if a contract can't be reached, the government essentially takes over the business for two years.

Plus, as Lee noted, many businesses could shut down or shed jobs if EFCA is enacted because of higher labor and legal costs.

That's something to consider when the national unemployment rate is currently 9.4 percent. Pennsylvanians understand this. Why can't card check supporters in Congress?

June 11, 2009

## Summer Assault: Partisan Card Check "Compromise" May Come in July

From the moment the 111<sup>th</sup> Congress was gaveled into session, the controversial card check scheme has been a vexing problem for congressional Democrats.

Special interests have demanded passage of the legislation as [political payback](#), yet the American people remain [firmly opposed](#) to its infringement on basic worker rights.

With support eroding among members of both political parties, the backers of card check have been forced to pursue a so-called compromise on the plan. And as *Roll Call* reports, such a revised plan could be brought to a vote as early as July:

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*"Sen. Tom Harkin (D-Iowa) indicated Wednesday that he will be ready to bring up the long-stalled Employee Free Choice Act next month, following weeks of negotiations with key stakeholders. ...*

*"On Tuesday, Harkin included AFL-CIO legislative director Bill Samuel in the talks—an indication that progress is being made."*

Brady, "[Harkin Suggests Progress on Card Check](#)," *Roll Call*, 06.10.09

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Unfortunately, this so-called compromise is really no compromise at all. *Congressional Quarterly* reports that Democrats are wrangling every last vote in their caucus in order to secure passage of the plan:

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*"Tom Harkin, D-Iowa, has been meeting chiefly with Arlen Specter, D-Pa., and Mark Pryor, D-Ark., to hash out the terms of a compromise that could bring 60 senators on board — a cloture-proof majority that is likely to rest entirely on Democrats' votes. ...*

*"Union officials familiar with the negotiations have said that while the 'card check' provisions of the bill are likely to be altered, it appears that a binding arbitration time limit will still be part of the final product."*

Demirjian, "[Lawmakers May Be Close to Compromise on 'Card Check' Bill](#)," *CO Today*, 06.10.09

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Maybe that's because any card check compromise acceptable to the special interests would contain the same [flawed policies](#) that have made the original plan such a loser in public opinion.

Card check has been rejected because it's bad for workers, bad for job-creation, and just plain bad for democracy. And any alleged compromise that retains these same basic flaws should be rejected for the same reasons.

**June 12, 2009**

## **Life at Work Under "Free Choice"**

Ever wonder what workplace life might look like under the so-called Employee Free Choice Act?

The prospect is contemplated in an essay that appeared this week in the *Central Maine Morning Sentinel*:

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*"Under EFCA, each signature is a public vote and the only vote, conducted in the open, with the full view and knowledge of their fellow workers, management and the union organizers.*

*"Imagine for a moment you work in a 10-person shop, and five of you have signed EFCA cards. Imagine for a moment the kind of pressure the remaining five may face from both sides on this issue. And finally remember, everyone will know who tilted the balance for, or against, joining the union.*

*"Lastly, without the protection of the secret ballot, imagine the potential for long-term division in that workplace between fellow workers, and between workers and management, should this effort succeed or fail.*

*"There is nothing wrong with workers deciding that they can improve or maintain their situation in the workplace through collective bargaining. At issue is whether the EFCA will deprive individuals of making that choice free of intimidation or coercion."*

Gore, "[Employees Don't Need EFCA](#)," *Central Maine Morning Sentinel*, 06.07.09

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It's a scary prospect for workers – many of whom are probably already worrying about [whether they'll have a job at all](#) if this ill-considered legislation ever becomes law.

June 15, 2009

## The Card Check Threat Remains Very Real

Workers worried about their right to privacy in choosing to unionize or their right to vote on a contract may have breathed a collective sigh of relief over the weekend when a Democratic Senator pronounced the controversial card check plan "dead."

Senator Mark Pryor (D-AR), one of a handful of Senate Democrats who have balked at a plan that detractors view as an assault on workers' rights and economic growth, raised serious doubt about reported negotiations to resuscitate card check:

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*"The Employee Free Choice Act is dead, and I am not working on a compromise to this bill," Pryor said. "However, I continue to meet with business, labor and my colleagues to discuss the potential for common ground to make sure the process for forming a union is fair for workers and employers. This is an effort to bring new ideas to the table, but there is no draft and there remains a lot of distance between the various parties."*

Watkins, "Pryor says Employee Free Choice Act is dead," *The Daily Citizen*, 06.13.09

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Not so fast.

*Roll Call* reports this morning that the bill is far from dead:

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*"The bill, which would make it easier for workers to unionize, is the source of closed-door negotiations led by Sen. Tom Harkin (D-Iowa), who has said he wants a vote next month.*

*"Harkin continued to meet last week with Democratic Sens. Charles Schumer (N.Y.), Mark Pryor (Ark.) and Arlen Specter (Pa.) on an EFCA rewrite. The quartet is working out a deal in the hopes of picking off a handful of votes to reach the 60 needed to cut off debate in the chamber."*

Murray, "A Compromising Situation," *Roll Call*, 06.15.09

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In fact, reports *Congressional Quarterly*, the Democrats' negotiations seem intent on crafting a partisan proposal that could squeak through the Senate on a straight party-line vote only if Democrat Al Franken is seated in the still-contested Minnesota Senate race:

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*"Bill supporters have not given up. The negotiators have been meeting 'several times a week,' according to Specter, a pro-labor former Republican who refused to support the original legislation. ...*

*"The working group has been considering a variety of proposals, including time limits for secret-ballot elections once ordered, petition sign-ups by mail, negotiation windows of longer than 120 days and arbitration procedures based on last, best offers.*

*"But the group will likely need Democrat Al Franken of Minnesota to be seated in order to get the 60 votes needed to invoke cloture on a card check bill."*

Demirjian, "Talks on 'Card Check' Compromise Widen Somewhat," *CQ Today*, 06.11.09

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Looks like workers shouldn't be resting easy just yet. Special interests have [invested](#) millions, and they aren't likely to give up on card check anytime soon.

June 16, 2009

## **Decrying Controversial Card Check Plan, Guardsman Asks: "Is this what America stands for?"**

America is a nation founded on freedom, but Alaska National Guard Staff Sergeant Phillip Newton sees some of those basic freedoms eroding under the so-called Employee Free Choice Act, now pending in Congress:

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*"When I joined the U.S. military, I did so because I wanted to protect the freedoms we take for granted — the freedom to vote, to find a job to support a family, to speak freely, and to do the variety of other things guaranteed to us by the Constitution. That's why it upsets me some congressmen are working to undermine workers' freedoms. ...*

*"Severely weakening the secret ballot? Mandatory arbitration with government-imposed contracts? Is this what America stands for? No, but these changes to the American workforce are on their way if union bosses and their political allies get their way."*

Phillip Newton, "[Voting On Unions Should Be Private.](#)" *Fairbanks Daily News-Miner*, 06.15.09

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Losing the right to vote privately, free from intimidation? Or the right to vote on a contract? What's free about that?

June 17, 2009

## **Card Check Flashback: EFCA Backers Are Not Hailing Cesar**

Cesar Chavez is an icon of the American labor movement for successfully organizing farm workers in the 1960s and 1970s.

But how did he become so successful? One of the reasons may have been his insistence on the right to form unions by secret ballot – a right many workers would be denied under the so-called Employee Free Choice Act, a bill better known as card check.

When California lawmakers introduced a similar state law in 2007, some from the United Farm Workers, the union Chavez founded, were bewildered:

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*"In the 1970s, United Farm Workers founder Cesar E. Chavez fought in dusty fields and the halls of government to give agricultural laborers the right to cast secret ballots to form unions at California's farms, ranches and vineyards.*

*"Now, those who came after Chavez want to change the rules, and that has farmers and business groups up in arms.*

*"A bill on the governor's desk would let the UFW represent workers and bargain for contracts -- without having won the backing of a majority of workers in a government-supervised vote. ...*

*"But some of the UFW's earliest backers say they are puzzled by the union's reversal of its long-standing support for the secret ballot.*

*"Don Villarejo, the former director of the California Institute for Rural Studies in Davis and a UFW volunteer activist in the mid-1970s, recalled that the union fought hard to include the secret ballot in the state law that guaranteed the rights of farm laborers. He said the UFW alleged that the rival Teamsters union had intimidated people by competing with the UFW and winning a series of sweetheart contracts that helped employers keep the UFW at bay.*

*"The UFW contended that the secret ballot was the only way people could be protected from intimidation by outsiders," Villarejo said. "You have to scratch your head and say, 'What's going on?'"*

Marc Lifsher, "UFW seeks new way to organize," *Los Angeles Times*, 09.14.07

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What's going on is that special interests are demanding [political payback](#), and card check is how they want it delivered. Never mind that public voting subjects workers to intimidation and strife in the workplace by removing a right that many union members – as well as leaders like Chavez – fought hard to create and protect.

**June 18, 2009**

## **Card Check: Just Another Government Bailout?**

In this era of government-run banks, insurers, and car companies, it is unfortunately not a surprise that another government bailout may be in the offing.

An editorial in today's *Washington Examiner* looks at the looming pension funding crisis among multi-employer pension plans and speculates about how pending card check legislation could put taxpayers, workers, and businesses in the position of bailing out these underfunded plans:

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*"Private firms could be required to save underfunded union pension plans even if doing so reduces profits and jeopardizes the retirement savings of non-union workers. That's the consequence of a binding arbitration provision in a proposal now before Congress. The provision is included in the horribly misnamed Employee Free Choice Act (aka Card Check) and may actually be the primary driving force behind the measure, which is described by labor bosses as their top legislative priority for 2009. ..."*

*"Card Check would not bar federal arbitrators from forcing companies into union-negotiated multi-employer pension plans, many of which are severely underfunded and staggering under steadily increasing rising liabilities. Pensions for nearly half of the nation's 20 largest unions are classified as either 'endangered' or in 'critical' condition due to underfunding, according to federal actuarial reports. ..."*

*"...a Card Check compromise that includes mandatory arbitration would give unions that inadequately funded their pension plans a backdoor way to get a bailout, paid for either by the company or the tax payers."*

Editorial, "[Forcing companies to bail out failing union pensions](#)," *The Washington Examiner*, 06.18.09

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By empowering federal bureaucrats to dictate everything from work rules to pension benefits, the binding arbitration provision of the so-called Employee Free Choice Act disenfranchises workers and the employers who actually create jobs.

Worse still, it could put unsuspecting workers and their employers on the hook for billions in unfunded liabilities. And if they can't pick up the tab? Could a taxpayer bailout be far away?

**June 19, 2009**

## **Card Check: How to Make a Bad Situation Worse**

They say that timing is everything, and now is a really bad time to pass the Employee Free Choice Act.

*The Associated Press* reported today that eight – count 'em, *eight* – states saw record unemployment rates in May.

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*"The Labor Department says 48 states and the District of Columbia saw employment conditions deteriorate last month. The fallout from the longest recession since World War II was the worst in Michigan. Its unemployment rate rose to 14.1 percent."*

*"The eight states that set records are: California, Nevada, North Carolina, Oregon, Rhode Island, South Carolina, Florida, and Georgia."*

*"The West region reported the highest jobless rate at 10.1 percent. The last time any region had a rate of at least 10 percent was September 1983, when the country was emerging from a severe recession."*

Aversa, "[Jobless rate in Western US tops 10 percent](#)," *The Associated Press*, 06.19.09

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Record high unemployment – it's yet another reason why Congress should *not* pass EFCA, a plan better known as card check for its provision that would allow unions to be formed through a public card signing process that eviscerates worker privacy.

As we've noted before, card check [excels at killing jobs](#). To make it law now would rub salt into the open wound of this recession – and make matters even worse.

Under the proposal, if labor and management can't agree on a contract after 120 days, the government steps in and essentially takes over the entire workplace for two years. Never mind if the bureaucrats who would run the business know anything about it. And never mind if the government contract is a bad deal for workers, who don't get a chance to vote on the plan.

Of course, that assumes these workers still have a job at all – an open question if card check ever becomes law.

June 22, 2009

## **Card Check's Forced Government Contracts: "In a Word, Disastrous"**

The controversial card check scheme continues to draw bipartisan opposition, and for good reason. Its forced government contracts – compulsory interest arbitration, in government-speak – are drawing particular scrutiny, with serious questions being raised about their impact on workers, businesses, and the economy.

Today's *Roll Call* contains an essay from R. Theodore Clark Jr., a senior partner at Seyfarth Shaw LLP in Chicago who "has been involved in more than 60 public-sector interest arbitration cases over the past 40 years." Clark lifts the veil on some of the lesser-known aspects of these forced government contracts and debunks the arguments of card check supporters:

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*"As the Supreme Court noted in a recent decision, '[t]he object of [the NLRA] was not to allow governmental regulation of the terms and conditions of employment, but rather to ensure that employers and their employees could work together to establish mutually satisfactory conditions.'*

*"EFCA's compulsory arbitration provision is also a sharp departure from the long-held position of the AFL-CIO. For example, former AFL-CIO President George Meany stated that 'compulsory arbitration ... just will not work because it is an abrogation of freedom. The crucial difference between voluntary and compulsory arbitration is the difference between freedom and its denial.' ...*

*"Even in the best of economic times, compulsory arbitration of first contracts poses serious risks to the economy. But for an economy in that is in dire straits and in desperate need of encouragement, it would be, in a word, disastrous."*

Clark, "[EFCAs First Contract Compulsory Arbitration Provisions Could Be Disastrous](#)," *Roll Call*, 06.22.09

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With [record unemployment rates](#) in some regions of the country and [job losses](#) continuing to mount, it's no wonder policymakers and opinion leaders are looking with suspicion at a bill that could [put 600,000 Americans out of work](#) in the first year after enactment alone.

Disastrous indeed.

June 23, 2009

## What the People are Saying About Card Check...Part II

For months, we've heard from politicians, pundits, and the press about the Employee Free Choice Act, also known as card check.

Ever wonder what ordinary people think about the plan to replace secret ballots with a public sign-up and put federal bureaucrats in charge of workplace contracts? Check out these letters to the editors of newspapers across America ...

From Pennsylvania:

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*"Just as bad, the Card Check bill includes a 'binding arbitration' provision that would let the federal government dictate wages and benefits under a union contract, and then deprive workers of the chance to vote on that contract.*

*"This expansion of government power is almost like re-establishing wage and price controls in our economy, and could put many employers out of business. With the current state of the economy, do we really need to put more employers out of business?"*

Suter, Letter to the Editor, "[Union 'Card Check' Bill is A Form of Coercion](#)," *Pocono Record*, 06.21.09

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From North Carolina:

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*"In my previous career, I worked for 30 years in manufacturing operations for two international companies. I worked in both non-union and union plants.*

...

*"This act has nothing to do with freedom, in fact it denies the employee's right to a secret ballot, nor does it serve the interests of America's workforce. Furthermore, the act targets small businesses with three or more employees."*

Taylor, Letter to the Editor, "[Oppose Employee Free Choice Act](#)," *Greenville Daily Reflector*, 06.21.09

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From Alaska:

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*"I am employed at a non-union HVAC company as a journeyman plumber in North Pole. My company chooses to pay me \$50-plus an hour, cover my health insurance and match my retirement, which is still in good condition. This is more than the unions can say. Their pensions are dwindling, inadequate and might be non-existent when employees try to retire.*

*"This being said, I choose to stay with my company and non-union. This choice however, might not be mine if the unions get the EFCA passed."*

Beckley, Letter to the Editor, ["No Choice Act."](#) Fairbanks Daily News-Miner, 06.21.09

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This isn't the first time we've heard the voices of [everyday Americans](#) speaking out against card check.

When will the special interests listen?

June 24, 2009

## **SEIU Acknowledges Potential for Card Check to Intimidate, Mislead Workers**

The proposal to conduct union organizing through a public card signing process is surely the most infamous provision of the so-called Employee Free Choice Act. In fact, it's where the bill gets its better-known nickname, "card check."

The provision has come under fire because of its obvious potential to harm workers by denying them the privacy and protection of a secret ballot election. It's a well-known argument, but it still may have come as a surprise to some when the Service Employees International Union – one of the biggest backers of the card check plan – sounded the alarm about the card signing process underway in an internal battle between the union and a newly-formed rival:

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*"For years, the powerful Service Employees International Union has played a lead role in the campaign for a landmark federal law that would allow workers to join a labor organization simply by signing petitions.*

*"Now, as part of a high-stakes battle in California, the union is urging federal officials to throw out petitions signed by tens of thousands of its own members who have asked to be represented by a rival upstart group. ...*

*"One of the giant union's allegations echoes a key argument that corporate interests make against the proposed law, the Employee Free Choice Act: that labor activists can intimidate or mislead workers during organizing campaigns."*

Pringle, ["SEIU borrows business' anti-union tactics to fend off a rival,"](#) Los Angeles Times, 06.24.09

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Republicans – and more than a few Democrats – have warned for months about the potential for intimidation, coercion, and the threat of retribution in public card signing organizing drives. In fact, the Education and Labor Committee heard [testimony](#) during the 110<sup>th</sup> Congress about exactly what type of unsavory tactics can be used to pressure workers into signing cards.

That's why Republicans continue to support the [Secret Ballot Protection Act](#). It guarantees that all workplace organizing will take place with the protection of a secret ballot vote, guarding workers against being intimidated or misled.

June 25, 2009

## Card Check and the Constitution

The Employee Free Choice Act could provoke a constitutional challenge if it becomes law.

That's what University of Chicago Law School professor Richard A. Epstein concludes after reviewing the proposal from a legal perspective.

Writing in *Regulation* magazine, Epstein finds there are several constitutional problems with the act, also known as card check. For example, Epstein finds that because it forces workers to openly declare their choice on whether to unionize, it violates their constitutional right of association.

Epstein also notes that card check allows unions to collect cards "at any location in whatever manner they see fit." They can do this in secret to avoid an employer's point of view from being heard or a debate among workers about unionizing. That violates the First Amendment free speech rights of the employer and workers who might not wish to join a particular union. He writes:

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*"The general view we have of political debates is that they work better with more, rather than less, information. I see no social justification whatsoever for a system that silences both the employer and dissident workers in order to facilitate union organization drives that could easily result in trapping workers who have not had an opportunity to express their preferences."*

Epstein, "[The Ominous Employee Free Choice Act](#)," *Regulation*, Spring 2009

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Then there are the arbitration sections of card check, which Epstein says are even more vulnerable to constitutional attack.

For example, Epstein says that card check creates an "impossibly broad delegation of lawmaking authority" to the Federal Mediation and Conciliation Service, which can create arbitration panels in "whatever way it sees fit."

Such broad authority can run afoul with the "takings clause" of the Constitution, which states that the government must provide compensation for the seizure of private property. In the case of card check, Epstein writes, the property is the business that can't work out its differences with the union within 120 days – and is essentially taken over by the government under card check.

In the end, Epstein dismisses card check because "rights of association and property clearly must count for something."

Indeed, they do. Too bad that card check supporters can't see that.

June 26, 2009

## Card Check Fact Check: Solving a Problem that Doesn't Exist?

Although the card check plan has stumbled under the weight of widespread public opposition, its special interest advocates continue to claim that this undemocratic plan is necessary to prevent intimidation and coercion in the workplace.

As evidence, they cite statistics purporting to show illegal behavior by employers. But as today's *Pittsburgh Tribune-Review* explains, the numbers just don't add up:

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*"Indeed, a previous survey of union organizers painted a grim picture – one that's entirely unreliable. It claimed that management threatened workers in 69 percent of election campaigns, fired workers in 34 percent and harassed them in 41 percent.*

*"But a funny thing happens when these figures are compared with those from the National Labor Relations Board, reports James Sherk of The Heritage Foundation.*

*"Based on the NLRB's figures, threats occurred in only 7 percent of the elections; union supporters were fired in 6 percent and harassment took place in only 2 percent. The overwhelming majority of employers obey the law. ...*

*"In attempting to gain the upper hand in this debate, Big Labor reveals that it doesn't have a statistic to stand on."*

Editorial, "[The card-check ruse: Bogus argument](#)," *Pittsburgh Tribune-Review*, 06.26.09

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Card check is starting to look like a solution in search of a problem.

Of course, advocating card check as a way to prevent public pressure has always been a rather bizarre argument, and one that defies common sense. If workers are at risk of threats and harassment based on their vote on whether or not to join a union, federal law shouldn't make that vote public – it should guarantee workers the right to vote in private.

June 29, 2009

## No Summer Break from the Card Check Threat

As Members of Congress return to their congressional districts for Independence Day, workers all across the country may be breathing a sigh of relief. After all, it's nearly July and still,

the card check scheme remains mired in controversy. For workers who value their privacy, there's relief in the appearance that card check isn't going to become law anytime soon.

At least, that's what many workers and business owners may have thought—until they read Somerset County Pennsylvania's *Daily American*, which reported a different story late last week:

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*"A bill that has drawn the acclaim of union organizers and the ire of business owners may be decided on within weeks.*

*"The Employee Free Choice Act, also known as card check, needs 60 votes in the U.S. Senate to move forward. And according to AFL-CIO spokesman Marty Marks, this could come any day.*

*"Everything has kind of been waiting on Al Franken being seated in Minnesota,' Marks said during a visit to Somerset. 'Once that happens things are going to move pretty quickly.'"*

Siwy, "[Union rep: card check vote imminent](#)," *Daily American*, 06.26.09

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If card check is indeed on the verge of becoming law, workers have plenty to be concerned about. Writing for an editorial debate last week on the pages of the *Atlanta Journal-Constitution*, labor attorney Mac Irvin explained why card check should never become the law of the land:

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*"Campaigns to obtain signatures on union cards are rife with coercion and intimidation against employees who refuse to sign. This can be as simple as ostracizing a fellow worker or as menacing as a keyed automobile or damaged tire.*

*"The secrecy of the voting booth assures true free choice. Privacy is so fundamentally a requirement that the government will void any ballot where the voter has signed a name or written anything that might reveal an identity. Official posters assure voters: No one can determine how you have voted.*

*"Proponents of this law contend that the deck is stacked against unions and membership is in decline because unions cannot overcome management opposition during elections.*

*"This is a sham argument. For more than 10 years unions have won a majority of elections conducted, including 67 percent last year."*

Irvin, "[Power grab is no excuse to undermine basic tenet of democracy](#)," *Atlanta Journal-Constitution*, 06.23.09

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So much for a summer break from the card check controversy. Backers of the contentious plan seem as intent as ever to see it become law, even if it means workers lose their right to privacy in workplace organizing elections and their right to vote on workplace contracts.

June 30, 2009

## An Unexpected Card Check Opponent

The irony was obvious in [last week's](#) report that the Service Employees International Union is seeking to toss out signed union authorization cards on the basis that workers were intimidated or misled by a card check union sign-up. After all, the SEIU is a very public backer of the so-called Employee Free Choice Act, a bill that would amend federal law to require union certification through the public card check process.

We're not the only ones who noticed the double standard. An editorial appearing today in Washington's *The Daily News* uses the SEIU's surprising claim as evidence that "genuine free choice requires some privacy" – something card check simply doesn't offer:

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*"The Service Employees International Union, a strong supporter of the so-called Employee Free Choice Act, would appear to be having second thoughts on a key provision of the bill — allowing workers to join a union solely on the basis of signing a petition. ...*

*"The SEIU's argument for federal intervention is particularly ironic. It maintains that the nearly 100,000 California members who signed cards indicating their wish to be represented by the National Union of Healthcare Workers may have been subject to intimidation by NUHW organizers. This is the same reasoning used by opponents of the Employee Free Choice Act. They contend that elections by secret ballot are necessary because workers can be pressured by union activists into signing authorization cards. ...*

*"Studies have found that many workers who sign cards in front of their co-workers and union representatives end up voting against organizing once in the privacy of the voting booth.*

*"The studies merely confirm the obvious. Genuine free choice requires some privacy, where individuals can choose without fear of harassment. This is why we vote by secret ballot in this democracy. The Employee Free Choice Act would deny workers that privacy by requiring the NLRB to approve union recognition once a majority of workers signed union authorization cards. Workers who may feel pressure to sign, but have doubts about a union, would have no opportunity to privately express themselves."*

Editorial, "[Union rift highlights problems with Employee Free Choice Act](#)," *The Daily News*, 06.30.09

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It's been said before, but it bears repeating – the only way to ensure genuine free choice is to protect workers' right to a [secret ballot](#).

July 1, 2009

## All Arbitration is Not Created Equal

As speculation continues to mount about efforts to advance an alternative version of the controversial Employee Free Choice Act, the legislation's call for forced government contracts has come under increasing fire.

In today's *Washington Examiner*, a former Labor Department official explains how the arbitration proposal contained in the card check plan differs from better-known forms of voluntary arbitration:

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*"Card Check's third section, innocuously called 'Facilitating Initial Collective Bargaining Agreements,' would go much further than simply 'facilitating.' It would allow the government to impose a contract on many businesses and workers who would otherwise negotiate terms for themselves. ...*

*"Card Check calls the process 'arbitration,' but the procedure described in the bill is known as compulsory binding interest arbitration, which is quite different from the arbitration most people know.*

*"Most arbitration in the private sector is known as grievance arbitration. Here, an arbitrator is voluntarily chosen to interpret an existing contract, which was originally freely agreed to by both parties. Everyone is there because they choose to be.*

*"Card Check, on the other hand, would allow one party to force the other into compulsory binding-interest arbitration. Both parties would be required to abide by terms of a contract to which neither had previously agreed. Essentially, it would impose a contract on a party against its will. ...*

*"Unlike today where the workers can vote on an agreement, Card Check would give a union representative the power to present the union's position to the arbitrator. The arbitrator would then create the contract, essentially erasing the worker from the final decision."*

Vernuccio, "[Government-forced contracts are Card Check's real threat](#)," *The Washington Examiner*, 06.30.09

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This isn't the first time card check's reality hasn't matched its proponents' spin.

Workers worried about how the card check public sign-up process would take away their privacy should be equally concerned about how the so-called arbitration aspect of the bill would take away their right to have a say about their contracts.

It's not about give-and-take, it's about take-and-take more.

July 2, 2009

## 467,000 Reasons Card Check is a Bad Idea

The U.S. Department of Labor's monthly jobs report was released this morning, and the news wasn't good. An additional 467,000 Americans lost their jobs in the month of June, and the unemployment rate ticked upward to 9.5 percent.

Policymakers in Washington should be focused on policies that will enable job creation and promote economic recovery. At a minimum, it seems obvious that lawmakers should avoid enacting any proposal that would exacerbate our current economic woes by eliminating more jobs and driving the unemployment rate even higher.

In this context, it's useful to look back on a report issued earlier this year that attempted to quantify the employment consequences if the anti-worker card check plan were ever to become law. An abstract of the report, "An Empirical Assessment of the Employee Free Choice Act: The Economic Implications," explains—

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*"The precise effect on unemployment will depend on the degree to which EFCA increases union density, but for every 3 percentage points gained in union membership through card checks and mandatory arbitration, the following year's unemployment rate is predicted to increase by 1 percentage point and job creation is predicted to fall by around 1.5 million jobs. Thus, if EFCA passed today and resulted in an increase in unionization from the current rate of about 12% to 15%, then unionized workers would increase from 15.5 to 19.6 million while unemployment a year from now would rise by 1.5 million, to 10.4 million. If EFCA were to increase the percentage of private sector union membership by between 5 and 10 percentage points, as some have suggested, my analysis indicates that unemployment would increase by 2.3 to 5.4 million in the following year and the unemployment rate would increase by 1.5 to 3.5 percentage points in the following year."*

Layne-Farrar, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," March 2009

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In the face of today's jobs report, it seems clearer than ever that Congress cannot – it must not – embrace an economic policy that will destroy more jobs and drive the unemployment rate up even further. Whether it's the card check component of the bill (forcing union recognition without secret ballots) or the forced government contracts (putting federal bureaucrats in charge of wages, benefits, and work rules), one thing is clear: Card check would take an already bad situation for millions of American workers and families and make it far worse.

July 6, 2009

## Counting to 60 on Card Check is No Easy Task

With Al Franken scheduled to be sworn in this week as the 60<sup>th</sup> Senator who will caucus with Democrats, speculation has exploded about legislative prospects for the card check ploy.

Congressional observers are well-versed on the political pitfalls that have so far stymied card check's enactment. The plan – which requires union certification without the protection of a secret ballot election and could put federal bureaucrats in charge of wages, benefits, and work rules – has never been able to garner the necessary 60 votes in the U.S. Senate, and in the face of widespread controversy, it hasn't even been brought up for consideration in the U.S. House of Representatives.

The special interest groups advocating for card check have always viewed Senator-elect Franken's vote as crucial to enactment of the controversial plan. But various news reports have thrown cold water on the notion that card check is imminent, proving that the elusive 60 votes for this anti-worker plan may not materialize as expected. *Roll Call* first reported last week that a so-called compromise on the card check plan may not be ready as early as originally expected:

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*"Long-stalled legislation to loosen labor-organizing rules likely won't be introduced next week, as a group of Democratic Senators continues tinkering with a proposal they hope can pass Congressional muster.*

*"Sen. Tom Harkin (D-Iowa), who has led the negotiations with a cadre of swing-vote centrists and advocates of the Employee Free Choice Act, said he hoped to introduce a bill shortly after the July Fourth recess. But a Harkin spokeswoman indicated Thursday that the proposal might not be ready by then.*

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*"Indeed, Harkin spokeswoman Kate Cyril noted Wednesday that 'it's going to be a heavy lift' to pass the bill, even with the filibuster-proof majority."*

Jessica Brady, "['Card Check' Compromise Still Elusive, but Fight Continues to Heat Up,](#)"  
*Roll Call*, 07.02.09

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*The Hill* carried the story as well, explaining why Democrats' supposedly filibuster-proof majority may be unable to force through such a controversial plan:

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*"Democrats have enough votes to pass card-check, and Franken's vote means Democrats theoretically have the majority to quash a filibuster, which requires 60 votes.*

*"But on issues as controversial as card-check, the basis of a huge lobbying battle between business and labor, the party can't count on all 60 votes.*

*"Sen. Tom Harkin (D-Iowa) has been working with several colleagues to craft a compromise that would attract enough votes to win the 60 votes necessary to overcome procedural hurdles in the Senate on card-check, formally known as the Employee Free Choice Act (EFCA).*

*"But business groups show no signs of supporting any compromise, which heaps pressure on centrist Democrats who want to support their party but don't like the card-check bill."*

Kevin Bogardus, "[Five key Senate Democrats on card-check,](#)" *The Hill*, 07.03.09



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Thankfully for workers, when it comes to card check, counting to 60 is proving to be no easy task.

July 7, 2009

## Card Check's Secret Ballot Hypocrisy

Advocates of the so-called Employee Free Choice Act do support a secret ballot – but there's a catch.

Under federal law, secret ballots are used to *dissolve* a union. But when workers want to *create* a union, that's different.

Secret ballots, which have been used to form unions for generations, are put aside. Instead, under EFCA, the "card check" method is used, leaving workers open to intimidation and public pressure – and possibly having their workplace taken over by government bureaucrats.

Card-check backers want to do this by re-writing part of the National Labor Relations Act. Here's the section of the Employee Free Choice Act that would do away with the secret ballot:

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*"If the [National Labor Relations] Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, **the Board shall not direct an election but shall certify the individual or labor organization as the representative** described in subsection (a)."*

H.R. 1409, "[Employee Free Choice Act of 2009](#)," introduced 03.10.09, *emphasis added*

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So the question is: If card check is good enough to form a union, then why can't it be used to end one?

Card check supporters remain mum on the obvious hypocrisy. But if past is prologue, you can bet they won't be treating all secret ballots equally any time soon: In 2007, the last time the act was under consideration, Republicans on the House Education and Labor Committee offered an amendment that would allow a card check campaign to decertify a union as well as create one.

Democrats rejected that – and [several other GOP amendments](#) that would make the card-check practice, well, more democratic. Then, as now, card check supporters are awfully selective in their support for the secret ballot.

July 8, 2009

## Canada and Card Check

It appears that America's northern neighbors may be rooting for enactment of the Employee Free Choice Act – but not for the reason you might think.

Canadians have plenty of experience with the public sign-up card check process for forming unions, and that experience has been anything but [positive](#). In fact, card check and the arbitration that accompanies it have wreaked havoc on their economy, leaving many business leaders feeling that the nation is less competitive thanks to these misguided policies.

As *The Globe and Mail* reported today, a group of Canadian business leaders gathered in Washington to warn American politicians not to follow their country's example and pass the act – although, at least one found a silver lining in the potential for an American card check system:

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*“Several Canadian business leaders, including executives of Bank of Montreal, Canadian Tire dealers and a leading Toronto law firm, joined the fray at a gathering in Washington, where they implored Americans not to repeat Canada's mistakes by making it too easy for unions to organize.*

*“In the interest of my Canadian clients, if Congress chooses to shoot itself in the commercial foot with this legislation, God bless you, because we're constantly competing against you,” said Stewart Saxe, a labour relations partner at Baker & McKenzie in Toronto.*

McKenna, [“Anti-union Lobby Fears ‘Armageddon on Capitol Hill.’”](#) *The Globe and Mail (Toronto)*, 07.08.09

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Saxe suggested an interesting point. In addition to EFCA's other dismal effects, there is the possibility of reduced U.S. performance in the global economy. Those other effects, for those who may have forgotten, are:

- Eliminating at least 600,000 jobs – and pushing the 9.5 percent national unemployment rate even higher.
- Setting aside the secret ballot, a successful and proven method of union organizing for generations, for a method that leaves workers open to intimidation.
- Allowing federal bureaucrats to essentially take over businesses that could not reach an agreement with unions after 120 days.

Take it from the Canadians. There is nothing “free” about this “free choice” act.

July 9, 2009

## Backers of Card Check May Also Be Its Blockers

With Democrats now officially able to count 60 votes among their ranks in the Senate, the Employee Free Choice Act should be easy to pass in that chamber because – on paper – they have enough votes to stop a possible Republican filibuster against the anti-worker proposal.

But it turns out it's not that easy.

*The New York Times* today offers a glimpse about why several Democratic senators are sitting on the fence about the act, also known as card check, and it's not just because of the proposal's many flaws. A power struggle among the nation's most powerful labor groups is also partly to blame.

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*"The other side doesn't have to take any shots at us," said Amy B. Dean, a longtime union leader and an author of a new book on reinvigorating organized labor. "We're killing ourselves." ...*

*"[L]abor's No. 1 legislative goal, the card check bill, remains stalled because unions have failed to muster the 60 Senate votes to overcome a filibuster.*

*"Several moderate Democrats have voiced opposition because the bill would make it far easier for workers to join unions without an election. The bill would require employers to recognize a union as soon as a majority of workers signed cards saying they wanted one.*

*"When you go up to lobby on the Hill," said Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees, "some people there are asking, 'What are these unions fighting about, and if you can't get your own house in order, why are you asking us to go out on a limb and support card check?'"*

Greenhouse, "[Infighting Distracts Unions at Crucial Time](#)," *The New York Times*, 07.09.09

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The union-on-union strife is no secret. A top labor leader has [suggested](#) that there is a hidden agenda to card check, namely consolidating power among the many factions of Big Labor.

But the power comes at the expense of a worker's right to a secret ballot, a time honored and successful practice to create unions.

And it comes at the loss of at least [600,000 jobs](#) – in an economy that currently bears a 9.5 percent unemployment rate.

And it comes with the chance of federal bureaucrats essentially taking over a business if the union and management can't agree on a contract after 120 days.

On top of all this, there is also the possibility that card check could hinder America's ability to [compete](#) against other nations in the global marketplace.

No wonder some senators are having second thoughts about this bill.

**July 10, 2009**

## **Beware the Curse of Card Check**

Call it the curse of card check.

Like the monster in a bad horror movie, the latest nightmare scenario making its way through Washington is the theory that the Employee Free Choice Act can return to wreak havoc on workers' rights and the economy – even if it dies in the Senate, where it has been dormant like a sleeping vampire for months.

*Workforce Management* magazine notes that card check advocates are now speculating that the National Labor Relations Board itself could revive the act, as sympathetic politically-appointed board members use their authority over federal labor laws.

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*“There is a possibility that the National Labor Relations Board could rule, if the right case comes along, that a company must recognize a union formed through the card-check process. Card check, also known as majority sign-up, means that a company recognizes a union if a majority of employees sign cards authorizing a bargaining unit. ...*

*“The five-member board is poised to have a Democratic majority now that a Democrat is in the White House, giving it a pro-union orientation. Currently, the board only has two commissioners—one Democrat and one Republican.*

*“President Barack Obama has nominated two people for board positions. One of them, Craig Becker, is the associate general counsel to the AFL-CIO and the Service Employees International Union.”*

Schoeff, [“NLRB Decisions Could Make Card Check A Reality,”](#) *Workforce Management*, July 2009

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The legality of the board doing this is doubtful. And the prospect is downright frightening. After all, a fair National Labor Relations Board is important to federal labor laws – especially for those that organize a workplace.

Take the secret ballot, for example. The board supervises those elections to ensure fairness – and to protect workers who value their privacy from pushy union bosses or company managers.

But imagine if the board has members like Becker with ties to groups such as the AFL-CIO and SEIU that already support card check. With the board's blessing, the secret ballot could be set aside and workers who might not agree with unionizing are now at risk for intimidation.

In other words, the board – once the trusted protector of workers' rights and fairness – becomes a threat. It's not the [first time](#) concerns have been raised about what a politically-motivated board might do. And it's yet another reason why there should be a [federal law](#) that *guarantees* workers the right to a secret ballot in union organizing elections.

**July 13, 2009**

## **Binding Arbitration's Early Victims**

If you're not sure about how the [binding arbitration sections](#) of the Employee Free Choice Act could affect America's struggling economy, take a look at Michigan and Massachusetts.

That's what *Forbes* columnist Shikha Dalmia did in a *Wall Street Journal* op-ed over the weekend, and she found that binding arbitration rules in those states devastated their economies. Here's what she writes about Michigan:

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*"In 1969, the Wolverine State embraced a form of compulsory arbitration nearly identical to the one proposed in EFCA to resolve disputes with its police and firefighters. Years later, Detroit mayor Coleman Young -- who had authored the original law as state senator -- rued what he had done. 'We now know that compulsory arbitration has been a failure,' he lamented to the National Journal in 1981. 'Slowly, inexorably, compulsory interest arbitration has destroyed sensible fiscal management and has caused more damage to the public service than the strikes it was designed to prevent.' ...*

*"Compulsory arbitration also nudged other Michigan cities, including the working-class towns of Hamtramck and Highland Park, into bankruptcy. In 1999 an arbitration panel awarded Hamtramck police officers \$2.1 million in pay raises and back pay, pushing it into state receivership. Under receivership, which is only used in extreme situations, the state government takes over the city's finances and appoints its own manager to run the city. Hamtramck was ultimately forced to impose a combination of service cuts and tax increases, all of which accelerated the exodus of its residents. Highland Park, wishing to avoid similar arbitration, gave its public safety officers raises it couldn't really afford and was also forced into receivership."*

Dalmia, "[The 'Free Choice' Act and Binding Arbitration](#)," *The Wall Street Journal*, 07.11.09

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Massachusetts didn't have an easy time with binding arbitration either, Dalmia noted.

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*"Former Massachusetts Gov. Michael Dukakis also tried to limit public-sector compulsory arbitration during his first term. In 1977, Mr. Dukakis argued that compulsory arbitration 'has removed legitimate management prerogatives in the area of staff assignments, (and) transfers from the control of municipal officials at a time when they are under severe pressure to improve their management and make savings.' Mr. Dukakis failed to stop compulsory arbitration, but two years later Massachusetts voters approved a ballot initiative that effectively scrapped it."*

Dalmia, "[The 'Free Choice' Act and Binding Arbitration](#)," *The Wall Street Journal*, 07.11.09

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"Should EFCA pass," Dalmia concluded, "the costs of compulsory arbitration in the private sector will dwarf those in the public sector. That's because businesses, unlike government, can't just bill taxpayers to pay off unions. They have to compete."

The act, also known as card check, is currently pending in Congress. If lawmakers truly want to help America's struggling economy recover, they should let the bill remain in legislative limbo. Michigan and Massachusetts already had a taste of what card check can bring. The rest of the states should not have to suffer as well.

July 14, 2009

## Public Still Says "No Way" To Card Check

For months, supporters of the Employee Free Choice Act have been pushing for its passage in Congress.

They have held rallies. They have run ad campaigns. They even [enlisted](#) cast members from "The West Wing" to help them out.

The result from all this work? Let's go to the scoreboard, courtesy of Rasmussen Reports:

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*"[A] new Rasmussen Reports national telephone survey finds that 52% of adults do not believe it is fair to form a union without a secret vote. Eighteen percent (18%) are not sure. ...*

*"Just 21% of all Americans believe the federal government should be allowed to mandate an agreement defining pay and benefits for a company's employees if the company and their employees' union cannot reach an agreement on a contract within 90 days. Fifty-six percent (56%) are opposed to giving the government this power which is another provision of the EFCA."*

*["30% Say It's Okay To Form A Union Without A Secret Vote, 52% Disagree,"](#)  
Rasmussen Reports, 07.13.09*

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In other words, [public opinion](#) on the act has been largely unchanged since the bill was introduced in March.

Perhaps the best reason for such little change is that ordinary people can see the bill, also known as card check, for what it really is: an attempt to take away a worker's right to a secret ballot; an invitation for government bureaucrats to essentially take over a business through [forced](#) government contracts; a chance at [killing even more jobs](#) in a country that currently has a 9.5 percent unemployment rate; and an occasion to possibly affect America's ability to [compete](#) in the global marketplace.

It's too bad that card check supporters can't see that. Even after all this time.

July 15, 2009

## Card Check Finds Trouble In Paradise

Not content with trying to take away workers' right to a secret ballot on a national level, many card check supporters have been trying to pass similar laws in state legislatures across the country.

But like their attempts in Congress, there have been few major victories.

The latest defeat arrived yesterday from the Aloha State, as Hawaii Gov. Linda Lingle vetoed a statewide card check measure. The *Honolulu Advertiser* tells us why:

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*"The governor said the card-check process is a poor indicator of union support and susceptible to intimidation and coercion. She said it could also undermine the use of the secret ballot.*

*"Secret-ballot elections, on the other hand, provide employees with an opportunity to carefully consider their choice after being fully informed by both the union and the employer of the advantages and disadvantages of union representation," Lingle said in her veto message.*

*"Lingle has vetoed similar bills in the past, and state House leaders said yesterday that it is unclear whether they have the two-thirds' vote necessary to override the veto."*

DePledge, "[Hawaii Card-Check Option For Unionizing Vetoed by Governor](#),"  
Honolulu Advertiser, 07.15.09

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Fittingly, the card check proposal was just one of a slew of bills that Lingle vetoed because they would "discourage the creation of more jobs" in her state. The unemployment rate in Hawaii is currently 7.4 percent. That's lower than the national rate of 9.5 percent, but Lingle noted her state's rate is more than double from a year ago.

Lingle clearly understands that card check takes away workers' rights, destroys jobs, and kicks down an economy trying to get back on its feet.

Too bad supporters of the Employee Free Choice Act in Congress can't see that as well.

**July 16, 2009**

## **What A "Productive" Conversation Produces**

There were few details reported about a White House meeting earlier this week between President Obama and card check supporters.

But we do know some things. First, the Employee Free Choice Act was a topic of discussion. Second, supporters said President Obama's commitment to the bill is "strong" even though it's been in limbo for months. *The Associated Press* sets the scene:

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*"Obama met for about an hour with the National Labor Coordinating Committee, a group that includes the two big labor federations – AFL-CIO and Change to Win – along with leaders from 11 major unions representing 16 million workers. ...*

*"A White House statement called the meeting 'a productive conversation about shared priorities like creating jobs, health care reform and the Employee Free Choice Act.'"*

Hananel, "[Obama Still Pushing for Union Organizing Bill](#)," *The Associated Press*, 07.14.09

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That must have been a short “productive conversation” if the priority subjects were about creating jobs, health care reform, and card check.

For one thing, experts say card check is poised to be a [job killer](#) – not a good thing to be at a time when even President Obama expects the unemployment rate to go higher than 9.5 percent.

As for health care reform, there is mounting evidence that it, too, [kills jobs](#) more than it creates them.

So what were President Obama and the card check supporters talking about specifically? Beats us. But we’ll guess the only thing their “productive” conversation will produce will be longer unemployment lines in the future.

July 17, 2009

## **“Free Choice” Act Takes Major Blow in Senate – But Is It Too Soon to Celebrate?**

A worker’s right to a secret ballot became a little safer today as a handful of senators dropped their support of the “card check” provision in the Employee Free Choice Act.

But while this appears to be good news for workers, rejection of the politically toxic proposal may merely be camouflage for an agenda to impose alternative revisions to workplace law that would be equally threatening to workers and job creation.

*The New York Times* reports on this major development in the months-long battle, the stakes of which are nothing less than the future of the workplace and the health of the U.S. economy:

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*“A half-dozen senators friendly to labor have decided to drop a central provision of a bill that would have made it easier to organize workers.*

*“The so-called card-check provision – which senators decided to scrap to help secure a filibuster-proof 60 votes – would have required employers to recognize a union as soon as a majority of workers signed cards saying they wanted a union. Currently, employers can insist on a secret-ballot election, a higher hurdle for unions. ...*

*“Though the Democrats have a 60-40 vote advantage in the Senate, and President Obama supports the measure, several moderate Democrats opposed the card-check provision as undemocratic.”*

Greenhouse, [“Democrats Drop Key Part of Bill to Assist Unions,”](#) *The New York Times*, 07.17.09

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Despite its name, the Employee Free Choice Act has never been about giving workers a “free choice” in whether to join a union because the secret ballot – a time-honored and successful method of organizing – would be set aside.



In its place, a public majority sign-up would be used, leaving workers open to intimidation and coercion.

Formal repudiation of card check by Senate Democrats is a great victory for those who believe in the sanctity of the secret ballot. But now is not the time to rest easy.

As *The Times* notes, workers may not be out of the woods just yet. The decision to jettison the card check provision may turn out to be a political calculation to force passage of equally troubling proposals that change the way workers organize.

And, lest we forget, there are other dangers lurking in the bill that can wreck our already weakened economy, such as the forced government contracts.

Whether it's a card check alternative or a bureaucratic takeover of small businesses, any iteration of the Employee Free Choice Act would be "[disastrous](#)" for our economy and our record unemployment rates.

The fight against the so-called Employee Free Choice Act must continue.

July 20, 2009

## Taking Stock (And Heed) of the "New" Card Check

Even though the "card check" aspect of the Employee Free Choice Act [received a major blow](#) last week, it's no time to celebrate.

A *Wall Street Journal* editorial today offers a glimpse of some equally bad ideas in the "new" card check, which is currently brewing in the Senate:

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*"One proposal would slash the time for an organizing vote, requiring that it be held within five or 10 days after 30% of workers had signed cards asking for a union. The median time today is 38 days. Organizers want the rush because they know the more time workers have to learn about a union, the less they usually want one. Once employees hear the other side of the story, support dwindles.*

*"This also explains a Big Labor demand to bar companies from requiring their workers to hear management's side during a union campaign. Labor supporters say this creates a 'captive audience,' but these meetings are one of management's few opportunities to address workers, since companies are barred from the sort of outreach allowed to union organizers – such as visiting employees at home. At the same time, Senators want to give union organizers access to company property."*

Editorial, "[The New Old 'Card Check'](#)," *The Wall Street Journal*, 07.20.09

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Supporters can dress it up all they like, but the Employee Free Choice Act still threatens our weakened economy – even without the provision that sets aside the secret ballot in organizing unions.

It still [kills jobs](#). It still has [forced government contracts](#). And it still could affect America's ability to compete in the [global marketplace](#).

Meet the "new" card check, same as the old card check: It's a terrible proposal no matter what supporters do to it.

July 21, 2009

## Take It From Michigan, Forced Arbitration Harms

Supporters of the Employee Free Choice Act should take a long, hard look at Michigan before moving forward with the proposal – especially in this struggling economy.

That's what *The Detroit News* suggested in a Sunday editorial about one of the most destructive features of the act: [forced government contracts](#).

*The News* knows its stuff here. Michigan enacted a similar law in 1969, Public Act 312. It requires binding arbitration if cities can't reach agreements with local police and firefighter unions.

The results? So bad, even one of Act 312's original supporters backed away from it:

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*"The bill was supported in the Legislature by then-state Sen. Coleman Young, who ironically came to regret his own decision as mayor of Detroit. Young, who early in his career was a Democratic Party stalwart and labor activist, frequently complained about the additional costs imposed by the act on Detroit's budget.*

*"A commission on local government finances convened in 2006 by Gov. Jennifer Granholm surveyed public employee costs in arbitration states and concluded that, compared with nonarbitration states, they were 3 to 5 percent higher. Spread over the multimillion-dollar budgets of larger cities, this can lead to large differences in costs for the taxpayers.*

*"At one point, for example, Young estimated that the costs of running Detroit were \$50 million higher 10 years after the law was enacted than they would have been without it.*

*"A 2007 panel on the state's fiscal crisis convened by the governor and headed by ex-GOP Gov. William Milliken and ex-Democratic Gov. James Blanchard also called for reform of the Act 312 process. ...*

*"And yet it is this kind of process that many Democrats in Congress want to impose on struggling businesses through this labor legislation.*

*"Michigan's long and unhappy experience with compulsory arbitration, and the chagrin it has caused Democratic officeholders who actually have to make budgets work, ought to help federal lawmakers understand the folly of this bill."*

Editorial, "[Bad Business](#)," *The Detroit News*, 07.19.09

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Forced government contracts. [Lost jobs](#) in an economy that desperately needs them. Higher costs all around. What's so free about the "free choice" act again?

July 22, 2009

## Following the Pension Money With Card Check

The debate over the Employee Free Choice Act is about many things. It's about a worker's right to a secret ballot, of course, as well as jobs.

But it's also about forced government contracts, a "[disastrous](#)" part of the bill that has taken center stage now that there are reports its "card check" provision could be [removed](#).

There are several reasons to oppose binding arbitration, but *Investor's Business Daily* uncovers a different side to the debate, namely the ailing pension funds of the act's biggest supporters. *IBD* follows the money here:

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*"Businesses fear arbitration could be used to require them to take up the slack in underfunded pension plans. In effect, companies could have to pay the pensions of people who never worked for them. ..."*

*"How weak are union-managed pension funds? The Labor Department today lists 96 in 'critical status,' meaning they have less than 65% of the assets needed to cover present and projected liabilities.*

*"Another 127 are listed as 'endangered,' with 65% to 80% of the necessary assets.*

*"That is based on data from last summer, before the market's September meltdown. The Labor Department's list is set to be updated later this summer.*

*"Cynthia Eagan, spokeswoman for the Central New York Painters and Allied Trades Pension Plan, said they had only enough assets to cover 54% of their liabilities.*

*"That was based on last year's numbers. This year's numbers are even worse," Eagan told IBD. Asked when the fund may be able to get out of critical status, she replied: 'We're not able to say right now.'"*

Higgins, "[Union Pension Woes Help Spur Push For Forced Arbitration](#),"  
*Investor's Business Daily*, 07.20.09

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The continued underfunding of union pension plans is a major problem. But pushing a bill that could [kill jobs](#) in an economy already burdened with a 9.5 percent unemployment rate is certainly not the solution.

July 23, 2009

## Eau d'EFCA

Sniff...what's that odor? The "new" Employee Free Choice Act does not pass the smell test, two newspapers say.

Both the *Pittsburgh Tribune-Review* and the Harrisonburg, Va., *Daily News-Record* decried the act's stench of bad lawmaking in editorials – even after reports that one of its smelliest features, "card check," would be [removed](#).

Senators are being tight-lipped about this alleged compromise, so we don't know how stinky the final bill will actually be. But the *Tribune-Review* explains why its nose is firmly pinched:

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*"Gone from the Employee Free Choice Act – which isn't free and offers workers no choice – is the secret ballot-busting, filibuster-assured 'card check' provision. Yet Plan B takes this skunk of a bill and only gives it a quick dip in a tomato juice bath.*

*"Among proposals is a measure to slash the time for an organizing vote from a median 38 days to only five or 10 days after 30 percent of workers request a union. That puts enormous pressure on employers not only to fulfill all the legal obligations for an election but to present their case to employees – that is, assuming they would still be allowed to do so."*

Editorial, "[EFCA Still Stinks](#)," *Pittsburgh Tribune-Review*, 07.22.09

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Meanwhile, the *Daily News-Record* also caught a whiff of the new act and winced:

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*"They're merely taking a different tack to attain their dubious and job-killing ends. This stinkeroo has simply been re-packaged. Many of the bill's noxious elements remain. ...*

*"The bill's advocates presumably deem any agreement to keep the secret ballot is sufficient to garner the support of 60 senators. Opponents should keep applying pressure. This measure is no horse of a different color, but rather a 'Trojan horse' not-so-neatly disguised to pursue similar ends."*

Editorial, "[Re-Wrapping Card Check](#)," Harrisonburg, Va. *Daily News-Record*, 07.23.09

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No matter how many ways they present it, supporters of the Employee Free Choice Act can't hide the fact that the measure kills jobs and forces government contracts, which weigh down our already struggling economy.

The act not only fails the smell test, it fails the commonsense one as well.

July 24, 2009

## Throwing the Book at EFCA

Leave it to *National Review* to cite not one but two literary giants in its opposition to the Employee Free Choice Act.

The brainy conservative opinion journal noted, as have others, that the name of the act would make George Orwell proud. (In his classic novel *1984*, Orwell wrote about a government that used phrases such as "War is Peace" and "Freedom is Slavery" to lull its citizens into submission. A bill that would restrict workers' ability to freely and privately choose to form a union with the protection of a secret ballot being dubbed the Employee Free Choice Act? Can it get more Orwellian than that?)

But the magazine's editors also noted that content of the act itself, especially its parts about [forced government contracts](#), is "pure Kafka":

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*"If a union enters the picture and the owners of a business are unable to negotiate a satisfactory contract, then the NLRB is empowered to impose 'binding arbitration,' meaning that the government will write the contract and force the firm to abide by its terms. This amounts to extortion. President Obama has picked a like-minded lawyer culled from the ranks of the Teamsters to chair the NLRB, and another Obama NLRB pick, Craig Becker, is a labor radical who wrote that 'federal policy should not acknowledge employees' 'choice to remain unrepresented.' Given that these are the people who will be making the calls, businesses find themselves in a double-bind: They are at a disadvantage when negotiating with union bosses because the unions have every reason to believe that arbitration will be handled by one of their own. So business owners are left either to negotiate with the unions from a position of weakness or to throw themselves on the mercy of the union-dominated NLRB."*

Editorial, "[Card-Check Is A Trojan Horse](#)," *National Review*, 07.21.09

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Kafka often wrote about people struggling against forces beyond their control. But he and Orwell wrote fiction. The Employee Free Choice Act is very real – as would be its effects on this nation's weakened economy.

July 27, 2009

## If Anyone Knows the Value of the Secret Ballot, It's a Union Member

If you didn't know any better, you might assume Dave Baloga is totally behind the Employee Free Choice Act.

He is a journeyman with more than 28 years in the Graphic Communications International Union, a subordinate of the International Brotherhood of Teamsters. As a union member, you might assume he's solidly behind the act, which has been so heavily lobbied by Big Labor. You'd be wrong.

In a letter to *The Patriot-News* in Harrisburg, Pa., Baloga is anything but a fan. Specifically, he is not happy with the act's ability to set the secret ballot aside in favor of a "card check" process that leaves workers open to intimidation:

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*"We use secret ballots to elect our union officials, approve contracts and decide other critical matters pertaining to the welfare of the membership. That the secret ballot may be taken away in the unionization process seems to contradict the protection of workers that we organized to protect in the first place. We have lost countless lives to protect this right. This limitation of people's rights cannot occur. We should not let Congress take this right away."*

Baloga, Letter to the Editor, "[Secret Ballot Must Remain Part of Unionization](#)," (Harrisburg, Pa.) *The Patriot-News*, 07.24.09

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As Baloga and many other union members know, the secret ballot is a respected, successful, and time-honored practice to organize – and once organized, it's the preferred method for union governance. Why are supporters of the Employee Free Choice Act trying to take away that right?

July 28, 2009

## Why Do EFCA Supporters Want the Bill ... Really?

The Employee Free Choice Act will create [forced government contracts](#); it will [deny workers the right](#) to a secret ballot (or maybe rush union [elections](#)); and it will kick an economy that's already [down](#).

And its supporters want to pass the proposal anyway.

That's what Steve Forbes concludes in a piece he wrote for today's *Politico*. The editor-in-chief of *Forbes* magazine says that supporters are acting more for their own [economic interests](#) than the country's – or even those of their fellow workers:

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*"It is clear that Big Labor will say and do anything to move this legislation forward and that it is not concerned with the integrity of the debate or whether businesses and our economy can withstand the results. Big Labor's concern is not for workers but the bottom line of the organizations they have mismanaged."*

*"Our bottom line is that it is nonnegotiable that workers must have a say on the terms of contracts that deal with their wages, benefits and workplace conditions. And it is nonnegotiable that workers have the right to vote via secret ballot and be afforded enough time to make an informed decision about unionization."*

Forbes, "[Binding arbitration is still bad for workers](#)," *Politico*, 07.28.09

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For months, we have heard about a possible compromise for the Employee Free Choice Act, including a version that would [eliminate](#) the “card check” provision. But as Forbes and others have noted, the entire act – even in a compromised form – is still a threat to the economy. To protect our economic future, this bill must not become law.

July 29, 2009

## Before They Know What Hit Them

How fast can the Employee Free Choice Act go from zero to 60 votes?

That’s the question *Roll Call* tried to answer in a report Tuesday. The congressional newspaper says Senate leaders are considering an idea to rush the bill through the chamber as fast as possible to avoid debate and opposition:

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*“As Senate Democrats struggle to hammer out a compromise bill on union organizing, Majority Leader Harry Reid (D-Nev.) is sketching a process for railroading the bill through the floor as quickly as possible to prevent Republicans from rallying a major campaign against it, senior Democratic aides said.*

*“Talks on the bill are ongoing, and with health care on the Senate’s plate, Democrats said no deal on the labor bill is expected until September at the earliest — if at all. ...*

*“As [Iowa Sen. Tom] Harkin tries to build a consensus Democratic bill, Reid has been thinking through a strategy to pass it that would require not only the support of all 60 Democrats in the Senate, but also the physical presence of ailing Sens. Edward Kennedy (D-Mass.) and Robert Byrd (D-W.Va.) for floor votes, since Republicans are likely to filibuster the legislation.*

*“Cutting off debate on the bill would likely ignite a major partisan firestorm, and top Democrats will look to make their move as fast as possible, according to the Democratic aides.*

*“This is not the kind of thing where we could have a long, drawn-out rollout. We’d have to say, ‘Here’s the deal,’ and then get to the floor and get it passed before anyone can mobilize against it,’ one leadership aide said.”*

Stanton, [“Speed May Be Key to Labor Bill,”](#) *Roll Call*, 07.28.09

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If anything, this strategy shows that the act’s supporters are running scared. They can’t win on the act’s merits, so instead they go for speed.

But don’t they know that “speed kills”? In this case, the victims would be [jobs](#), a worker’s [right to a secret ballot](#), and possibly America’s ability to [compete in the global marketplace](#), among other casualties. Debate is needed for everyone’s sake – especially during this lengthy recession. Senate leaders should slow down on the Employee Free Choice Act, or better yet: Stop.

July 30, 2009

## Running Down the Clock on Card Check

It appears time is not on the side of the Employee Free Choice Act.

Although it remains a threat, *National Journal's CongressDaily* reports that with health care, climate change, and spending bills pending in Congress – plus continuing questions about Democrats' ability to muster the needed 60 votes – the act's chances of becoming law this year are dwindling:

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*"Senate efforts to compromise on a watered-down version of the Employee Free Choice Act have been put firmly on the chamber's back burner -- perhaps for the rest of the year -- as senators, aides and lobbyists focus on health care and other legislation, participants said.*

*"We're not doing anything right now,' Sen. Tom Harkin, D-Iowa, said of talks he has led among a group of Democrats since it became clear in late March that a more ambitious 'card check' bill to help unions organize could not win 60 Senate votes.*

*"We've got the healthcare bill; we've got appropriations bills, and we're lacking two senators that we need right now,' Harkin said in an interview. 'Nothing is happening on that right now.'*

*"Harkin and other senators and aides involved in discussions on the union organizing bill said the group has not met in two weeks and has no plans to talk again before the August recess. ...*

*"But the halt reflects the dwindling chance the bill will get a vote this year, Senate aides said. Senior Democratic aides played down chances the talks will lead to legislation on the floor this year, noting that health care, appropriations, and climate change will consume the fall and possibly the rest of 2009."*

Friedman and Dann, "[Busy Senate Schedule Could Leave Card Check In The Cold](#)," *CongressDaily*, 07.29.09

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The Employee Free Choice Act has the ability to deny workers [the right to a secret ballot](#), [kill jobs](#) in an economy that desperately needs them, and create [forced government contracts](#) on businesses that depend on flexibility in the marketplace. Whether the bill is ready by Arbor Day, Halloween, or the end of the year, a bad idea is still a bad idea. It needs to be dropped entirely.

July 31, 2009

## Secret Ballot For Me, But Not For Thee

Meet Senator Tom Harkin, secret-ballot supporter ... sometimes.



*The Hill* quoted the Iowa Democrat as saying that Senate committee chairmen should be elected every two years by secret ballot – a method the Employee Free Choice Act, which Harkin has co-sponsored, tosses aside for workers during union organization drives.

The congressional newspaper reported Wednesday on Harkin's selective support here:

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*"In an apparent warning to Senate Finance Committee Chairman Max Baucus (D-Mont.), some liberal Democrats have suggested a secret-ballot vote every two years on whether or not to strip committee chairmen of their gavels.*

*"Baucus, who is more conservative than most of the Democratic Conference, has frustrated many of his liberal colleagues by negotiating for weeks with Republicans over healthcare reform without producing a bill or even much detail about the policies he is considering.*

*"Every two years the caucus could have a secret ballot on whether a chairman should continue, yes or no," said Sen. Tom Harkin (D-Iowa), the chairman of the Senate Agriculture Committee. 'If the 'no's win, [the chairman's] out.*

*"I've heard it talked about before," he added."*

Bolton, "[Dems warn Baucus with gavel threat](#)," *The Hill*, 07.29.09

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When it comes to the secret ballot, Harkin is something of an expert.

Indeed, most of Harkin's *career* has been dependent on Americans' ability to vote privately: Harkin was first elected to the House in 1974, when he was a thirty-something lawyer. He served there until 1984, when he was elected to the Senate. He was re-elected in 1990, 1996, 2002, and 2008 – each time by secret ballot.

Clearly, the secret ballot has been good to Harkin and, presumably, the people of Iowa. Why can't he ensure that workers – including those from the Hawkeye State – are allowed to exercise that right as well?

This is not the [first time](#) a member of Congress has extolled the virtues of the secret ballot ... for Congress. Members of Congress who jealously guard *their* right to the secret ballot might want to rethink their support for a bill that would take that same right away from those they have been elected to represent.

**August 3, 2009**

## **Health Care Not the Only Benefit at Risk**

Will they or won't they?

That was the question on Capitol Hill last week as Democrats wrestled with their self-imposed deadline to rush a radical overhaul of our nation's health care system through both chambers before the month-long August recess started.

In the end, that question remained unanswered, with Democrats in both the House and Senate facing stiff opposition to their plan to put bureaucrats in charge of health care decisions best left to patients and doctors.

Unfortunately, all the talk about employer-provided health care benefits may have overshadowed another issue important to working families: their pension benefits.

Pension benefits may not be as headline-grabbing as health care. But Democrats' proposed "remedy" could be just as [devastating](#) to the economy. *The Wall Street Journal* gives the details here:

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*"We've all read about underfunded corporate pensions, but here's an unreported story: Union pensions are even more in the red, and it's one reason union chiefs are so eager to rig organizing rules to gain more dues-paying members. ...*

*"In April, the SEIU National Industry Pension Fund—which covers some 101,000 rank-and-file members—announced that its pension has been put into what the feds call 'critical status,' or 'red zone.' In other words, it lacks the cash to pay promised benefits and may have to cut them. As of 2007, the last year for which it reported results to the government, the fund had 74.4% of the assets needed to pay its benefits.*

*"Thirteen of the bigger plans operated for the Teamsters have, together, a mere 59.3% of reserves necessary to cover obligations. Or consider that 26 pension funds at the food workers union, the UFCW, are at 58.7%. Seven locals at the United Brotherhood of Carpenters fare better at 67%. As a rule of thumb the government considers a fund to be 'endangered' at below 80%, and in 'critical' status at below 65%, and requires them to come up with a plan to get off probation within a decade. ...*

*"We suspect most current union members would be surprised to learn how their leaders are handling their hard-earned retirement money. The 93% of the private workforce that doesn't belong to a union, but that might have little choice if Big Labor's agenda becomes law, would be even more interested."*

Editorial, "[Union Pensions in the Red](#)," *Wall Street Journal*, 07.26.09

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Indeed they should. As some media outlets have [reported](#), the so-called Employee Free Choice Act could force businesses – through its controversial binding arbitration requirements – to pick up the slack in paying a union's underfunded pension plan.

The fact that union pensions have little cash is a serious problem. But using the Employee Free Choice Act to fix it – with its terrible effects on jobs and the economy – would make the cure worse than the disease.

August 4, 2009

## Never A Good Time for Card Check

The so-called Employee Free Choice Act was a bad idea in the spring, when it was re-introduced in Congress, and it is still a bad idea now.

That's what the editors of *The Daily News* in Newburyport, Mass., said recently about the act that's been sitting in the Senate for months.

The "card check" provisions in the act alone make it worthy of rejection, explains the paper's editorial:

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*"The act is an extraordinarily bad idea, one that Congress should reject simply on the flaws of the way that elections will be handled.*

*"With the card check option, workers never hear the full story of whether unionizing is the right move for them. They'll hear the union's pitch, but they won't hear the perspective from the company management. What's more, it deprives workers of their right to a private vote. It's much easier to coerce someone into signing a card than it is to persuade them to approve a union in a federally supervised secret-ballot vote, which is the system in place now.*

*"Secret ballots are essential to the democratic process. Secret ballots are good enough to put members of Congress in office, to elect our mayors, selectmen, governors and state lawmakers. They should be good enough to determine whether workers want to form unions."*

Editorial, "['Free Choice Act' isn't about freedom of choice.](#)" *The Daily News* (Newburyport, Mass.), 07.23.09

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True, rumors have been [swirling](#) about a potential "compromise" that would jettison the politically toxic card check plan to do away with secret ballots and replace it with equally damaging limitations on the way workers form unions. But the reality is that card check and the rest of this economically devastating scheme remain very much on the table – which is why editorial pages from coast to coast continue speaking out against this anti-worker plan.

*The Daily News* and many others are right. Secret ballots are essential to the democratic process, which is why Republicans want to make sure they [stay protected](#). That's the only way to ensure fairness when organizing a workplace.

August 5, 2009

## EFCA State Update: Arizona

It looks like Arizona voters will have a chance to decide if workers' right to a secret ballot is worthy of protection.

The state's Legislature recently voted to offer a referendum in 2010 protecting the right of workers to organize by secret ballot.

Lawmakers created the referendum in response to the federal Employee Free Choice Act, currently pending in Congress. The act, among other things, would set aside the secret ballot in favor of a majority sign-up or "card-check" system – leaving workers open to intimidation during unionizing drives.

The *Arizona Capitol Times*, an inside guide to the Grand Canyon State's political scene, gives the lowdown here:

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*"In the final hours of the 2009 regular legislative session, House Republican lawmakers passed SCR1026, a referendum designed to thwart a federal proposal to implement what is known as 'card-check' elections used to unionize business workforces.*

*"The federal proposal, known as the Employee Free Choice Act, would do away with workforce organizing elections where workers cast their ballots in secrecy. The act mandates that a union would be formed if labor organizers secure the written approval of a majority of a business' workers.*

*"The state proposal, presented by Tucson Republican Sen. Jonathan Paton, would undercut the federal legislation by extending Arizonans' right to secret-ballot elections to apply to organized labor.*

*"The referendum supersedes an effort headed by Sidney Hay to gather signatures for a citizens' initiative. Hay, the president of the Arizona Mining Association and a former candidate for Congress, said the referendum effort was kick-started by the federal legislation.*

*"Legislators, she said, felt threatened enough by the Employee Free Choice Act to break an 'unwritten rule' against passing referendums in non-election years. 'The timing wasn't set by us,' she said. 'It was set by the Obama administration.'*

*"Hay said the constitutional amendment is necessary to prevent the likelihood that card-check elections will invite the harassment or intimidation of employees by union officials and business owners seeking to influence elections."*

Palmer, "[GOP sends 3 measures to 2010 ballot](#)," *Arizona Capitol Times*, 08.05.09

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Arizona is not the only state giving voters a say in how workplaces should be organized. In Missouri, for example, voters are currently collecting signatures to put a similar initiative on their state's 2010 ballot.

These initiatives show the will of the people, and that will is a clear repudiation of the so-called Employee Free Choice Act. Besides, there's a terrific irony to the situation: Voters will be deciding a referendum about the need for a secret ballot ... through a secret ballot.

Still, that might not be enough. Even if state ballot initiatives pass, the Employee Free Choice Act *must* be defeated to protect workers' rights on both a state and federal level. That's the only way to ensure fairness in workplaces across America.

August 6, 2009

## Gambling With EFCA and the Economy

What would you do with \$11 million?

If you're anything like organized labor and its supporters of the Employee Free Choice Act, you'd use it to place huge bets on the measure and the rest of your agenda.

Sadly, you'd be gambling with the future of the U.S. economy – and betting against workers and their rights.

*Congressional Quarterly* examined Federal Election Commission records, and found that organized labor has been the No. 1 special-interest contributor to Congress so far this year, followed closely by the health care industry. *CQ* checks out the coffers here:

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*"Union political action committees shelled out \$11 million to lawmakers during the first six months of this year. Ranking second were health care interests, which gave \$9.5 million from Jan. 1 through June 30, according to a CQ MoneyLine analysis of the latest filings with the Federal Election Commission (FEC).*

*"While labor PACs were the top contributors in the previous election cycle, the health care industry jumped to second place in the first half of the year from fourth in the 2007-08 cycle. Revamping health care is the top priority of President Obama and Democratic leaders in Congress as lawmakers struggle to fashion an overhaul proposal. ...*

*"Trevor Potter, president of the Campaign Legal Center and a former FEC chairman, said it is not surprising that labor leads the pack in giving this year.*

*"The unions have an agenda in this Congress, and they are trying to move legislation," Potter said. He added that unions, which give overwhelmingly to Democrats, also may be trying early in the election cycle to shore up the majority party in Congress, particularly its vulnerable members.*

*"Aside from the health care issue, unions have mounted a major push for legislation that would make it easier for workers to organize workplaces. The measure (S 560) has been aggressively opposed by business interests. Senate sponsors have signaled that they may have to drop a controversial labor-backed provision that would allow workers to agree to unionize when a majority sign a card, rather than voting by secret ballot."*

Roth and Knott, "[Unions Top the List of Biggest Campaign Contributors in First Half of 2009](#),"  
(subscription required) *Congressional Quarterly*, 08.05.09

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Unfortunately, these special interests have laid down all their chips on an economic loser. The Employee Free Choice Act can kill jobs at a time when America needs them badly. It can also allow federal bureaucrats to effectively take over businesses through forced government contracts, and it can set aside a worker's right to a secret ballot.

If the act becomes law, supporters may feel their big money gamble was worth it. It's too bad the rest of America will feel like they just lost big.

August 7, 2009

## Monthly Reminder of Why EFCA Must Not Take Effect

There are plenty of reasons not to enact the job killing, privacy destroying Employee Free Choice Act, but this morning, the U.S. Department of Labor gave us 247,000 more.

Those reasons? The 247,000 Americans who lost their jobs in the month of July, bringing the job loss totals since the recession began to 6.7 million and the total number of Americans out of work to 14.5 million.

No matter how you read the latest jobs report, looking at the facts, one thing is obvious: Job losses are continuing to mount.

A clear sign that the so-called stimulus package has failed to provide the jobs that were promised? You bet.

An overwhelming repudiation of the anti-worker card check plan? Without a doubt.

Again, just look at the facts. Card check was not designed to create jobs or speed economic recovery. It's all about consolidating power for a special interest group whose influence has waned in a changing economy.

Yet the legislation's consequences for workers and job-seekers would be profound. Workers who *have* jobs would lose their right to privacy in workplace organizing elections, and their right to have a say in contract negotiations that could be hijacked by government bureaucrats.

But that's nothing compared to the workers who stand to *lose* their jobs because of the bill's likely consequences for job creation and American competitiveness.

A report issued earlier this year projects that the so-called Employee Free Choice Act would destroy existing jobs and hamper the creation of new ones at a time when our economy needs them most. The report, from Dr. Anne Layne-Farrar, an economist with the non-partisan firm LECG Consulting, uses Canada's economic experiences to predict the impact of card check legislation on the American economy. Canada has seen similar shifts in union certification and arbitration policies as those proposed in the card check plan, providing a glimpse into the economic future if the disastrous card check plan was ever to become law—

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*"[T]he unintended consequences of passing EFCA are likely to be significant. Increased unemployment and reduced labor supply are very high prices to pay during any time, but especially during a recession."*

Layne-Farrar, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," March 2009

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Each monthly report of lost jobs and struggling American families is a reminder that EFCA must never take effect. Its consequences for workers and our economy are something America simply cannot afford.

August 10, 2009

## Election Doesn't Go Your Way? Accuse the Other Side of Cheating!

Of all the arguments made by proponents of the so-called Employee Free Choice Act, one of the most dubious is the claim that secret ballot elections are rigged against union organizing.

After all, secret ballot elections protect the privacy of workers *no matter how they plan to vote*. If anything, secret ballot elections actually favor unionization in workplaces where workers may wish to form a union. They allow workers to cast a vote in favor without company officials or coworkers knowing their decision. And by the same token, when a worker would rather not join a particular union, a secret ballot is needed to guarantee their right to vote against organizing without facing public pressure or intimidation.

Such was the case in an election held last week in Texas, when two-thirds of workers at a Valero refinery rejected plans to join the United Steelworkers union:

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*"Workers voted 183 to 94 to reject affiliation with the Steelworkers, which represents 30,000 U.S. refinery workers. ...*

*"A union leader said the results show the difficulty in organizing under current law.*

*"This is a prime example of how the laws are clearly in favor of the corporations when it comes to organizing," said USW Subdistrict Director Jim Lefton.*

*"The Steelworkers are in favor of a card-check proposal before the U.S. Congress that would allow workers to join a union when the majority of employees at a location sign cards indicating their desire to become members."*

Seba, "[Valero Texas City refinery workers reject union](#)," Reuters, 08.09.09

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A prime example of how laws favor corporations? Just because the union happened to lose? What about the two-thirds of secret ballot elections that [unions win](#)? Are those elections rigged as well?

We've said it time and time again. Secret ballot elections are the only way to protect workers' right to vote freely, without intimidation, coercion, or the threat of retribution. No matter which way they plan to vote.

August 11, 2009

## How “Free Choice” Can Make Free Speech Costly

The closer you look at the Employee Free Choice Act, the worse it becomes.

Of course, there is the act's ability to set aside workers' right to a secret ballot and expose them to intimidation. There is also the act's ability to impose forced government contracts and kill jobs in a [weakened economy](#).

But John S. Irving, a former general counsel to the National Labor Relations Board, has found yet another harmful part of the act. If it becomes law, it can threaten the free speech rights of employers through massive fines – and shut them out of an important debate that affects the future of their companies.

Irving made his case in a *Wall Street Journal* essay last Friday:

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*“Today, according to the National Labor Relations Act—as amended in 1947—employers are permitted to express themselves to their employees with ‘views, argument, or opinion . . . if such expression contains no threat of reprisal or force or promise of benefit.’ Of course, this leaves unclear just what constitutes lawful opinion versus unlawful threats or promises. And over the years, the shifting composition of the NLRB—and of the courts—has caused disagreements over what permissible free speech is.*

*“For example, employers who might sincerely assert to their employees that ‘unions cause plant shutdowns’ or ‘could cause loss of customers’ may or may not be exercising lawful free speech, depending on the views of the labor board at the time. If employers fall afoul of the law today, they face only nonpunitive ‘make-whole’ and ‘cease and desist’ sanctions.*

*“But EFCA dramatically escalates these penalties. Under the new bill, the employer could be subject to a \$20,000 fine for each questionable statement, and to near-automatic injunction proceedings based on union-filed unfair labor practice charges.*

*“Under EFCA, employers would risk federal injunction litigation even before the labor board has considered whether there was a threat or promise. Based on union-filed unfair labor practice charges, if the board's general counsel—one person—determines that there is ‘reasonable cause’ to believe an employer threat or promise may have been made, EFCA requires the general counsel to seek an immediate federal court injunction.*

*“Only much later, perhaps years later, after a costly trial, briefing and appeals will the NLRB and courts decide whether the statements were lawful and whether fines are to be imposed.*

*“There is no provision in current law for punitive fines and treble damages. Nor is there any requirement, as there would be under EFCA, that nondiscretionary injunctions be sought against employers based solely upon the NLRB general counsel's determination of ‘reasonable cause.’”*

Irving, [“Don't Employers Deserve Free Speech?”](#) *The Wall Street Journal*, 08.07.09



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Irving concludes that faced with these massive penalties, employers will be “forced to remain silent” and not give their side of the unionizing debate to workers “before they make important choices affecting their livelihood.”

So EFCA provides no right to a secret ballot, imposes heavy fines for employers trying to speak up about the future of their companies (while doing nothing to increase protections for workers against illegal or improper behavior on the part of union organizers), and kills jobs in an economy that needs them badly. Remind us again what part of the Employee Free Choice Act is about freedom or free choice?

**August 12, 2009**

## **Card Check and the Classroom**

There’s a lesson to be learned about the Employee Free Choice Act – and it’s not just about what this special interest play can do to a weakened economy. The act can stifle education reform as well.

Take it from former Massachusetts Gov. Mitt Romney. He vetoed a similar proposal in his state a few years ago, but his successor signed it into law.

At the time, most saw the new law in economic terms – a victory for Big Labor over businesses. Later, as Romney explained in an online essay for *The Denver Post* last week, Bay State parents and others discovered how the law affected their children’s education.

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*“In 2006, my last year as governor of Massachusetts, I vetoed a card check bill that would have applied to public employees. But the following year, after I had left office, big unions again campaigned for the legislation, and this time my Democratic successor signed the bill into law. No one expected what happened next.*

*“With new authority to compel workers to join unions, labor leaders and organizers unionized a charter school for the first time in Massachusetts, unbeknownst to school administrators and parents. One of the crucial benefits of charter schools is that they operate outside public employee union contracts.*

*“Charter schools can be flexible and innovative, reward results, and provide alternatives to traditional public schools. They do not face the often burdensome union contract rules that stifle creativity and reward ineffective and unproductive teachers protected behind the muscle of union power. ...*

*“Working Americans and business owners are both Republicans and Democrats. Our nation’s labor laws should encourage businesses, schools, and other institutions to succeed through collaboration and flexibility, not by placing new power and authority in the hands of Big Labor and the federal government at the expense of employers and employees.”*

Romney, [“The EFCA threatens educational innovation,”](#) *Denverpost.com*, 08.07.09

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We know all too well what EFCA means for our workplaces: workers' privacy would be eliminated, and their voices would be shut out of a contract resolution process that puts federal bureaucrats in charge of American businesses. But what would the proposal mean for our classrooms?

Teachers could lose the right to privacy in union elections. Innovative teaching strategies and school operations could be hampered by contracts and work rules imposed by federal arbitrators who know nothing about what it takes to turn a school around and help disadvantaged children succeed and thrive. In short, the very characteristics that make charter schools successful – their ability to innovate and respond to students' needs – could be quashed by a system that puts the interests of the union ahead of the interests of the students or their teachers.

It's a lesson about the power of special interest politics that our students should never have to learn.

**August 13, 2009**

## **"Free Choice" And Mistrust**

A company can't compete in today's economy if workers and managers can't trust each other – and the Employee Free Choice Act will breed that mistrust in the workplace.

That's what Kevin D. Manship says in a letter to *The News Herald* of Morganton, N.C.

Manship is a facility manager of the local branch of Caterpillar Inc., a Fortune 500 company which makes construction and mining equipment, diesel and natural gas engines, and industrial gas turbines for clients worldwide.

But Manship says in his Wednesday letter that the act's ability to set aside the secret ballot in union organizing elections would affect his company's standing because of the intimidation it would bring in offices and the shop floor.

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*"Employee engagement is vital to Caterpillar Morganton's success. Some of our greatest innovations have stemmed directly from the constant-improvement efforts of our frontline workforce. This does not happen by coincidence. Only when employees work in an atmosphere of mutual trust, free of the effects of coercion and unwanted influence, can they contribute the ideas that keep Caterpillar Inc. competitive in the marketplace.*

*"The Employee Free Choice Act would erode a major source of our competitive advantage – our engaged workforce – to the detriment of both our workers and the American economy.*

*"Congressional leaders who support the Employee Free Choice Act belong to a legislative body elected by private ballot. It is ironic they are now working to take that right away from American workers and make American companies, like Caterpillar Inc., less competitive in the process."*

Manship, Letter to the Editor, "[Free Choice Act' will make U.S. less competitive](#)," (Morganton, N.C.) *The News Herald*, 08.12.09

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Manship is not the only one who has suggested that the act would dull America's competitive edge in the global economy. Some Canadians are [almost cheering](#) for its passage. But with a 9.4 percent unemployment rate and a lingering recession, the economy does not need any more burdens and the Employee Free Choice Act would just add to them.

August 14, 2009

## (At Least) 10 Reasons EFCA Must Fail

With a bill as bad as the Employee Free Choice Act, limiting the list of flaws to a top 10 can be quite a challenge. Still, with apologies to David Letterman, below are the first (but certainly not the last) 10 reasons why the anti-worker card check scheme must fail:

10. Even [George McGovern](#) is against it.
9. Have you SEEN the [unemployment rate](#) lately?
8. Those [clever Canadians](#) could outpace us in the global marketplace.
7. Three words: [Forced](#) ... [government](#) ... [contracts](#).
6. Card check does not have a friend in [Pennsylvania](#) – or [anywhere else](#).
5. [\(Post\)card check](#) is no better than card check.
4. Just ask [Michigan](#) how well it works.
3. If we elect presidents and [homecoming queens](#) by secret ballot, why not unions?
2. [Jobs!](#) [Jobs!](#) [Jobs!](#)
1. "[Free choice](#)"? Yeah, [right](#).

August 17, 2009

## Reasons EFCA Must Fail No. 10: Even George McGovern is Against It

One would think George McGovern would be a shoo-in as a supporter of the Employee Free Choice Act.

In his acceptance speech for the 1972 Democratic presidential nomination, he called for "justice and jobs for all our people" – a vision that supporters of EFCA claim pursuit of today.

So it was quite a surprise – especially to the act's supporters – when the former South Dakota senator came out against the proposal. McGovern – a longtime advocate of workers – found the bill to be, well, undemocratic and bad for ... you guessed it, workers.

In 2008, he made his original case against the act in *The Wall Street Journal*, and he expanded on his views about why it is bad for workers and our economy in May:

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*"Last year, I wrote on these pages that I was opposed to this bill because it would eliminate secret ballots in union organizing elections. However, the bill has an additional feature that isn't often mentioned but that is just as troublesome -- compulsory arbitration.*

*"This feature would give the government the power to step into labor disputes where employers and labor leaders cannot reach an agreement and compel both sides to accept a contract. Compulsory arbitration is bound to trigger the law of unintended consequences. ...*

*"A federally appointed arbitrator cannot be expected to understand the nuances specific to each business dispute, the competitive market position of the business, or the plethora of other factors unique to each case. Yet fundamental decisions on wages and benefit costs, rules for promotions, or even rules for exiting an unprofitable line of business could fall to federal arbitrators under EFCA.*

*"Many labor contracts can run over 100 pages with their requirements of each party. Compulsory arbitration is, in one sense, government dictating to employees what they will win or lose in the deal, with no opportunity to approve the 'agreement.' Why should employees pay union dues to get such a contract?  
...*

*"When it comes to labor disputes, both parties should be guaranteed a real chance for compromise under the joint economic threat of contract breakdowns. George Meany, president of the AFL-CIO for nearly 30 years before retiring in 1979, had it right in condemning mandatory arbitration as 'an abrogation of freedom.'"*

McGovern, "[The 'Free Choice' Act Is Anything But](#)," *The Wall Street Journal*, 05.07.09

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McGovern is not some Democratic Party renegade. His 1972 speech also called for national health insurance, more taxes for the wealthy, and pulling U.S. troops out of Vietnam within 90 days of taking office.

Both [Democrats](#) and Republicans alike have found reason to oppose this misguided legislation. McGovern's opposition to this anti-worker scheme is [just another reason](#) EFCA must fail.

**August 18, 2009**

## **Reasons EFCA Must Fail No. 9: Have You SEEN the Unemployment Rate Lately?**

Ever hear the phrase, "making a bad situation worse"?

That's exactly what would happen to our economy – which, unfortunately, is in a "bad situation" at the moment – if some in Congress and their special interest allies get their way with enactment of the so-called Employee Free Choice Act.

A report issued in March found the act would destroy jobs and stifle productivity at a time when our economy needs both. And it's not a numbers game, either. The report, written by Dr. Anne Layne-Farrar of the non-partisan firm LECG Consulting, is based on Canada's economic experiences with card check and binding arbitration policies similar to those in EFCA.

What she found was a dark glimpse into the future if the act becomes law:

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*"[T]he unintended consequences of passing EFCA are likely to be significant. Increased unemployment and reduced labor supply are very high prices to pay during any time, but especially during a recession."*

Layne-Farrar, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," March 2009

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As Dr. Layne-Farrar concludes, there could not be a worse time to support such a proposal. About 247,000 Americans lost their jobs last month, according to the Labor Department. That brings the job loss totals to 6.7 million since the recession began, and the total number of Americans out of work to 14.5 million. It's just [another reason](#) why EFCA must fail.

**August 19, 2009**

## **Reasons EFCA Must Fail No. 8: Those Clever Canadians Could Outpace Us In the Global Marketplace**

If you want to see what America's economic future would be like under the Employee Free Choice Act, look to the north.

Canada has experimented with similar laws about the public sign-up card check process for forming unions, and that experience has not been good. Card check and the forced arbitration that goes with it have wreaked havoc on our northern neighbor's economy.

In fact, Canada's card check laws have been so harmful that a group of Canadian business leaders gathered in Washington last month to warn American politicians about card check's consequences.

But as the Toronto newspaper *The Globe and Mail* reported, at least one of our northern neighbors saw a bright side in a potential American card check system:

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*"Several Canadian business leaders, including executives of Bank of Montreal, Canadian Tire dealers and a leading Toronto law firm, joined the fray at a gathering in Washington, where they implored Americans not to repeat Canada's mistakes by making it too easy for unions to organize.*

*"In the interest of my Canadian clients, if Congress chooses to shoot itself in the commercial foot with this legislation, God bless you, because we're*

*constantly competing against you,' said Stewart Saxe, a labour relations partner at Baker & McKenzie in Toronto."*

McKenna, "Anti-union Lobby Fears 'Armageddon on Capitol Hill,'" *The Globe and Mail*, 07.08.09

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In other words, some Canadians want card check passed because America would be willing to weigh itself down to their level. And it would not be far to go: According to the latest *Index of Economic Freedom*, the United States has just a 0.2 point edge over Canada in the rankings of the freest economies in the world.

Passing EFCA would certainly grind down that edge even further and make America less economically competitive with Canada and other countries. It is just [another reason](#) why EFCA must fail.

August 20, 2009

## **Reasons EFCA Must Fail No. 7: Three Words: Forced ... Government ... Contracts**

Since it was first conceived, the so-called Employee Free Choice Act has received much attention about its ability to set aside a worker's right to a secret ballot. Indeed, this very series was created, in part, to highlight why the secret ballot needs protection.

But there are other dangers lurking in this legislation.

Another part of EFCA equally troubling to workers, scholars, and activists is the act's power to force government contracts on businesses that can't reach agreement with the newly formed union within 120 days.

Legal expert Richard A. Epstein explained how it works in a March essay for *The Washington Times*:

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*"Here is what the key provision says: Once mediation has failed, the Federal Mediation and Conciliation Service 'shall refer the dispute to an arbitration board established in accordance with such regulations as may be prescribed by the Service.' The arbitration decision then binds the parties for two years.*

*"For the layman, here is what it means: An outpost of the Labor Department, the mediation service, will set the terms of all new labor contracts in the United States. It will do so under provisions that are undefined under the act. The FMCS will have sole authority to pick the arbitration panel, which will have the power to draft, on its own initiative, detailed contract provisions, tables and appendices that can run to more than 1,000 pages. The arbitrators' decision will be final: The EFCA allows neither employers nor unions to appeal arbitrators' decisions to a neutral judicial body. ...*

*"As government arbitrators dither in deciding on terms for that initial two-year decree, the global competition will hobble the firm's economic prospects, leading to massive losses and job layoffs."*

"Massive losses and job layoffs" are not words you want to hear at anytime – but especially during a lengthy recession like the one America is in right now. Although they don't get as much attention, forced government contracts are equally as bad as removing the secret ballot. It's just [another reason](#) why EFCA must fail.

August 21, 2009

## **Reasons EFCA Must Fail No. 6: Card Check Does Not Have A Friend In Pennsylvania – Or Anywhere Else**

Supporters of the Employee Free Choice Act must be a lonely bunch.

Poll after poll shows their numbers are few as Americans have soundly rejected the act, and no wonder: It sets aside the secret ballot in favor of a public majority sign-up. It offers forced government contracts and could make America less competitive in the global economy – all during a lengthy recession.

How strongly are people against the act? Rasmussen Reports released a survey in July that found the following:

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*"[A] new Rasmussen Reports national telephone survey finds that 52% of adults do not believe it is fair to form a union without a secret vote. Eighteen percent (18%) are not sure. ...*

*"Just 21% of all Americans believe the federal government should be allowed to mandate an agreement defining pay and benefits for a company's employees if the company and their employees' union cannot reach an agreement on a contract within 90 days. Fifty-six percent (56%) are opposed to giving the government this power which is another provision of the EFCA."*

*["30% Say It's Okay To Form A Union Without A Secret Vote, 52% Disagree,"](#) Rasmussen Reports, 07.13.09*

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Even in Pennsylvania – a state with 847,000 union members – the act has few friends. A June poll found that citizens of the Keystone State opposed the measure by a 55-29 percent margin. In fact, even state *Democrats* opposed it by a 44-37 percent margin, according to the poll of 700 registered voters by Susquehanna Polling and Research Inc.

One might assume that Pennsylvanians would like the act as much they like the Super Bowl champion Pittsburgh Steelers. But in reality, they – along with the rest of the country – do not. It's just [another reason](#) why EFCA must fail.

August 24, 2009

## Reasons EFCA Must Fail No. 5: (Post)card Check Is No Better Than Card Check

The card check is in the mail – and it's just as good as voting for a union by secret ballot.

If you believe that, there's a bridge in Brooklyn, N.Y., you might be interested in purchasing.

With public opposition to the anti-worker card check plan mounting, its supporters have concocted a series of alternative proposals. Unfortunately for workers, the alternatives are as bad as the original.

One idea was card check by mail – a method where workers send in their votes through the postal service. *The Washington Examiner* had some details about this proposal in June:

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*"The Senate is now working on a compromise version of the controversial 'Card Check' bill that would allow employees to vote by mail on whether to unionize, rather than sign a petition in public.*

*"While union and business groups remain at odds over the new proposal, Democratic backers of the bill are meeting privately this week with moderate lawmakers who have so far been unwilling to back a labor reform bill. ...*

*"Opponents of the latest proposal are calling it 'card check by mail' in part because union officials would be able to target home visits with employees and pressure them to vote to unionize."*

Ferrechio, "[Dems try new approach on 'Card Check'](#)," *The Washington Examiner*, 06.02.09

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Whether the card is collected by a union organizer or mailed, it still denies workers the privacy and protections of the voting booth.

Without that privacy and protection, workers will always be vulnerable. They could be intimidated, coerced, or threatened by union organizers or management. No one should ask workers to publicly declare – whether by signing, handing in, or mailing – if they support a union. It's just [another reason](#) why EFCA should fail.

August 25, 2009

## Reasons EFCA Must Fail No. 4: Just Ask Michigan How Well It Works

Michigan doesn't have to wait for the Employee Free Choice Act to be passed.

It already knows how bad some of the act's effects will be.



Back in the late 1960s, the Wolverine State passed Public Act 312, a law that featured forced government contract provisions similar to those proposed in EFCA. It requires binding arbitration if cities can't reach agreements with local police and firefighter unions.

And Michiganders – including some of Act 312's original supporters – have rued the law ever since.

*The Detroit News* told Act 312's sad history in a July editorial:

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*"The bill was supported in the Legislature by then-state Sen. Coleman Young, who ironically came to regret his own decision as mayor of Detroit. Young, who early in his career was a Democratic Party stalwart and labor activist, frequently complained about the additional costs imposed by the act on Detroit's budget.*

*"A commission on local government finances convened in 2006 by Gov. Jennifer Granholm surveyed public employee costs in arbitration states and concluded that, compared with nonarbitration states, they were 3 to 5 percent higher. Spread over the multimillion-dollar budgets of larger cities, this can lead to large differences in costs for the taxpayers.*

*"At one point, for example, Young estimated that the costs of running Detroit were \$50 million higher 10 years after the law was enacted than they would have been without it.*

*"A 2007 panel on the state's fiscal crisis convened by the governor and headed by ex-GOP Gov. William Milliken and ex-Democratic Gov. James Blanchard also called for reform of the Act 312 process. ...*

*"And yet it is this kind of process that many Democrats in Congress want to impose on struggling businesses through this labor legislation.*

*"Michigan's long and unhappy experience with compulsory arbitration, and the chagrin it has caused Democratic officeholders who actually have to make budgets work, ought to help federal lawmakers understand the folly of this bill."*

Editorial, "[Bad Business](#)," *The Detroit News*, 07.19.09

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Just imagine what forced arbitration could be like on the national level in the private sector thanks to EFCA, especially during these economic times. It's a scary situation that the economy doesn't need, and just [another reason](#) why EFCA should fail.

**August 26, 2009**

## **Reasons EFCA Must Fail No. 3: If We Elect Presidents and Homecoming Queens By Secret Ballot, Why Not Unions?**

The President of the United States, 50 governors, 535 members of the House and Senate, and high-school homecoming queens.

What do all these people have in common?

They were all elected by the secret ballot, a practice almost as old as democracy itself – and one that is threatened by the Employee Free Choice Act.

The act promises to set aside that right for workers when forming a union, leaving them open to intimidation and coercion.

Supporters say this makes it easier to organize, but ironically, many of the act's biggest backers are themselves elected by secret ballot.

Take the Teamsters, one of the most powerful labor groups in the country. According to their own [constitution](#), secret ballot elections are used for several of their posts. Here's one section, with emphasis on secret ballots added throughout:

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### ***Election of Delegates and Alternates***

*Section 5(a)(1). Delegates to any International Convention in which any International Union officers are nominated or elected **shall be chosen by secret ballot vote of the membership** ...*

*Section 5(a)(3). Local Unions in Trusteeship may send delegates to the Convention **only if a secret ballot election is conducted** in accordance with Article XXII.*

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Here's another section, again with emphasis on the secret ballot:

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### ***Election of Officers***

*Section 2(a). At the International Convention, delegates shall nominate candidates for International Union Vice President by motion made in open Convention by a delegate and seconded by another delegate. ... To qualify for the ballot as a candidate for Vice President, a candidate who has been nominated from the floor of the Convention must, thereafter, receive at least five (5%) percent of the votes cast by the delegates ... **Such voting shall be conducted by secret ballot.***

*(b). Candidates for the three (3) Trustee positions shall be nominated by motion made in open Convention by a delegate and seconded by another delegate. ... To qualify for the ballot as a candidate for Trustee, a candidate who has been nominated from the floor of the Convention must, thereafter, receive at least five (5%) percent of the votes cast by the delegates to the Convention. **Such voting shall be conducted by secret ballot.***

*(c). After the nomination of International Vice Presidents and Trustees, delegates shall nominate candidates for General President and General Secretary-Treasurer. Nominations shall be made in open Convention by a delegate and seconded by another delegate. ... To qualify for the ballot as a*

*candidate for General President or General Secretary-Treasurer, a candidate who has been nominated from the floor of the Convention must, thereafter, receive at least five (5%) percent of the votes cast by the delegates to the Convention. **Such voting shall be conducted by secret ballot.***

*Section 3(a). No less than four (4) months and no more than six (6) months after the Convention, candidates nominated for the ballot for the offices of General President, General Secretary-Treasurer, Vice Presidents, and International Trustees shall be elected by direct rank-and-file voting by members in good standing. **All voting shall be by secret ballot.***

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Clearly, the secret ballot system works – even for supporters of the Employee Free Choice Act. The hypocrisy is too much for anyone, especially workers, and it's just [another reason](#) why EFCA must fail.

August 27, 2009

## **Reasons EFCA Must Fail No. 2: Jobs! Jobs! Jobs!**

The American economy is sick and the best cure is jobs.

The national unemployment rate is currently 9.4 percent. That's a slight improvement from the previous mark of 9.5 percent, but that's like saying a 102-degree fever has improved ... to 101.

The Employee Free Choice Act will not reduce that fever. If anything, it will only make it worse.

Experts have studied the act and have concluded that its ability to kill jobs will prolong an already lengthy recession. Here's what Dr. Anne Layne-Farrar, an economist with the non-partisan firm LECG Consulting, said about it in March:

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*"[T]he unintended consequences of passing EFCA are likely to be significant. Increased unemployment and reduced labor supply are very high prices to pay during any time, but especially during a recession."*

Layne-Farrar, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," March 2009

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An April analysis from Applied Economic Strategies (AES) found similar results:

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*"[A] policy decision like passing EFCA is not cost-free; someone has to pay for it. Economic research and state comparisons indicate that American workers, including union members, will pay for a large part of the cost with higher unemployment, slower job growth and fewer job opportunities, and slower wage growth – costs that many workers can not afford, especially in this recession. Research also shows that higher labor costs are passed on to*

*consumers through higher prices, and businesses through lower profits – two additional costs that will hit the economy just as profits have collapsed by 21.5 percent over the past year and family budgets are under great stress.”*

Wilson, "[EFCA: Who Pays For The Unintended Consequences of Increasing Union Influence,](#)"  
04.17.09

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But perhaps the best job experts of all are employers themselves. They, too, don't think the Employee Free Choice Act will help an already dire job situation, as the *Rocky Mount Telegram* of North Carolina reported in April:

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*"The owner of an Edgecombe County boat manufacturer told a congressman on Monday that his company, which plans to triple its local work force over the next three years, might not prosper if federal lawmakers pass a controversial labor bill that's building momentum in Washington, D.C.*

*"U.S. Rep. G.K. Butterfield, D-1st District, asked to tour the World Cat manufacturing facility after learning the Tarboro-based company was investing \$2.65 million to buy a competing firm and expand local operations by 120 jobs.*

*"World Cat President Andrew Brown used the visit as an opportunity to share his concerns about the Employee Free Choice Act, which was introduced last month in the U.S. Senate.*

*"Brown said he was troubled by the most controversial aspect of the bill, the so-called 'card check' provision, which would make it easier for workers to form unions.*

*"The measure, Brown told Butterfield, could drive a wedge between management and employees.*

*"'We have a good relationship with our employees, and I think our employees like working here,' Brown said. 'We have a good partnership, and that has been important, especially with the economy the way it is. I don't think workers always get what they sign up for with unions in a lot of cases.' ...*

*"Political posturing aside, Butterfield said he was impressed by the boat manufacturer that last month announced its intentions to purchase Glacier Bay Catamarans of Seattle, which makes twin-hull cruising boats. ...*

*"'We have a tremendous unemployment rate in Edgecombe County, and they're doing something about it,' Butterfield said. 'They're hiring and intending to hire more people in this facility. Our economy is not doing so well right now, as everyone knows. And, if we're going to turn this economy around, we have got to get people working.'"*

Hixenbaugh, "Owner, lawmaker debate labor bill,"  
*Rocky Mount Telegram*, 04.07.09

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The Employee Free Choice Act will kill jobs in an economy that desperately needs them. It's just [another reason](#) why EFCA must fail.

August 28, 2009

## Reasons EFCA Must Fail No. 1: "Free Choice"? Yeah, right.

Ask Larry Getts how much "free choice" there is in the Employee Free Choice Act.

Chances are, he'll say "not much."

Getts is an employee of the Dana Corporation in Fort Wayne, Ind. He has seen firsthand the pressure, badgering, and intimidation that come with the card check process for union organization, a major part of the act.

In March, he testified before the U.S. Senate Committee on Health, Education, Labor, and Pensions about what he saw:

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*"Union organizers waited for us in the break room, sat with us at lunch whether we wanted them to or not, and walked us to our cars at the end of the day.*

*"The entire time they were constantly badgering us to sign the cards. ...*

*"I refused to sign the card every time they asked, and I know many others shared my sentiment.*

*"But none of that mattered to the UAW, because the pressure did not let up.*

*"In fact, one day, an official approached me again claiming fifty percent of the plant had signed -- so now I was going to have to sign the card to 'get my information in the system.'*

*"I signed the card then because I thought I had to.*

*"I didn't learn until later that even then, I should not have been forced to sign the card. ...*

*"I hope you'll vote to defeat the misnamed Employee Free Choice Act. "*

Larry Getts, testimony before the U.S. Senate Committee on Health, Education, Labor, and Pensions, 03.10.09

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(Watch a news report about Getts and other Dana employees fighting the intimidation [here.](#))

Imagine pressure tactics like this occurring in workplaces across the country. Shop floors, warehouses, showrooms, and offices suddenly become tense battlegrounds. This can affect morale and even productivity, which eventually can affect an already weakened economy.

Sadly, even after hearing this account, lawmakers have continued to push for the so-called Employee Free Choice Act, which makes you wonder what they really think about employees and their “free” choices. It’s just [another reason](#) why EFCA should fail.

**August 31, 2009**

## **Keep That Plate Full, Senator ... Please!**

It’s been a quiet summer for card check – and here’s hoping it stays that way.

The Employee Free Choice Act has been in legislative limbo since the spring as Democrats try to rally 60 votes to stop a possible filibuster if the proposal ever comes to the Senate floor for a vote.

Since then, there have been rumors and hints of “card check lite,” a compromise version of the bill that, theoretically, would be easier to pass and move through the legislative process to become law. But Senate Majority Leader Harry Reid told the Las Vegas Chamber of Commerce last week the act is staying put for now:

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*“Reid also said the Employee Free Choice Act, designed to help unions organize more easily through card-check votes and mandatory binding arbitration, has fallen off the Senate’s radar for now.*

*“We have too many other things on our plate,’ he said.”*

Robison, [“Reid hit, feted at business luncheon,”](#) *Las Vegas Review-Journal*, 08.27.09

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There are [many reasons](#) why the Employee Free Choice Act should not become law, including its ability to set aside the secret ballot for workers, force government contracts, and kick an economy that’s trying to get back on its feet.

Let’s hope the Senate’s “plate” remains full for a long time. Putting EFCA back on it will give the economy a major case of indigestion.

**September 1, 2009**

## **Hotel Chief Has No Vacancy For EFCA In Any Form**

Even if supporters dropped the “card check” provision of the Employee Free Choice Act, it would still be inhospitable to the economy.

That’s what George Glover says in a Monday essay for *The Tampa Tribune*.

Glover knows a thing or two about hospitality. He’s the chairman and CEO of the BayStar Hotel Group, which develops, acquires, operates, and sells hotels in the southeastern United States. Here’s his take on the act:

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*"As hoteliers whose business is hospitality, we know that employee job satisfaction is key to making our guests feel welcome. We respect and support our employees' right to determine for themselves whether they want to be represented by a union through a fair and free election process.*

*"EFCA - with or without the card-check provision - would fundamentally change that, and in the process, change the way we do business. It would have the unintended consequence of damaging our ability to compete and therefore would put in jeopardy the jobs that EFCA purports to protect.*

*"EFCA's mandatory first-contract arbitration provision is unrealistic, vague and unfair. Employees are required to make perilously quick decisions on unionization; the voice of the employer is deliberately stifled; and government takes center stage in contract talks. ...*

*"Travel and tourism is a \$740 billion industry in the United States, with more than 7.5 million people employed in travel or travel-related professions. According to the U.S. Travel Association, business travel alone creates 2.4 million American jobs, \$240 billion in spending and \$39 billion in tax revenue. Taking a bite out of such a large apple is a troubling strategy at a time when our national pantry is not particularly well stocked."*

Glover, "[Employee Act would harm industry](#)," *The Tampa Tribune*, 08.31.09

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Glover's right. Removing card check doesn't make the proposal any better and there is a lot at stake with the weakened economy. It's time for the Employee Free Choice Act to check out for good.

**September 2, 2009**

## **Replacing One Bad Idea With Another? That's No Compromise**

There's more than one reason to oppose the Employee Free Choice Act.

There's its notorious ability to set aside secret ballots for workers through "card check," of course. But there are other aspects of the bill – and of supposed "compromises" that drop the "card check" provision and replace it with other misguided changes to workplaces rules – that are equally troubling.

In an essay for *The News & Advance* of Lynchburg, Va., businessman Ben J. Davenport notes that a possible compromise version is not much of an improvement from the original:

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*"To further limit employer's freedom of speech, another provision of the so-called 'compromise' would prohibit companies from having mandatory meetings with employees on company property and company time. But amazingly, under*

*the compromise proposal unions want access to company property to give them time to campaign with employees.*

*"Under the current system the company can present its side of the story while employees are at work. However, the union has the right to approach workers outside the workplace — homes, parking lots, just about anywhere — to make their case.*

*"Communication is balanced because the company cannot approach employees outside the workplace. So while it seems on the surface that giving unions access to employees on company property would 'level the playing field,' it would actually give unions a decided advantage. ...*

*"We need to encourage our congressional representatives to reject unreasonable compromises with regard to the Employee Free Choice Act so that businesses may continue to freely communicate with their employees and to operate without unnecessary governmental interference."*

Davenport, "['Card check' remains a threat to U.S. businesses](#)," *The News & Advance* (Lynchburg, Va.), 08.23.09

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Protecting the secret ballot for workers is important. But as Davenport points out, it's also important to protect the free speech rights of employers. Either way, the Employee Free Choice Act, even in a compromise form, is terrible legislation and needs to be defeated.

**September 3, 2009**

## **Even Labor Leaders Warm Up to Secret Ballot**

You know eliminating the secret ballot is a bad idea when even card check's biggest backers start cooling off to the assault on worker's rights.

Richard Trumka, the next president of the AFL-CIO, has indicated his union could live with a version of the Employee Free Choice Act that drops the heinous "card check" provision of the bill, which can leave workers open to intimidation.

The AFL-CIO has been a huge supporter of the act, and *The Hill* has the story here:

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*"The incoming president of the AFL-CIO signaled Wednesday his union could accept a card-check bill that preserves an employer's right to demand a secret-ballot election.*

*"Secretary-Treasurer Richard Trumka hedged on whether a card-check bill must include the provision that gives it its name.*

*"As written, legislation in the House and Senate would allow workers to organize by signing cards and would eliminate an employer's ability to require a secret-ballot election. Unions and business groups both argue this would make it much easier for workers to organize.*



*"Asked Wednesday if including the provision was a key for the union, Trumka said 'it may or may not be.'"*

Bogardus, "[AFL-CIO suggests a hedge on card-check](#)," *The Hill*, 09.02.09

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Although this appears to be welcome news, signs that the "card check" part of the act may be dropped have appeared [before](#). Moreover, elimination of "card check" may not be good news at all if it means an alternative version of this bad bill could become law.

The Employee Free Choice Act has many other [terrible aspects](#) to it, including its ability to force [government contracts](#) on businesses for two years. Workers and employers won't truly be able to rest easy until the entire act is stopped cold.

**September 4, 2009**

## **You Think Things Seem Bad Now? What If EFCA Takes Effect?**

It's hard to imagine worse news to kick off Labor Day Weekend.

The national unemployment rate for August was 9.7 percent, the Labor Department reported today. That's up from 9.4 percent in July and it's the worst rate in 26 years.

And there doesn't seem to be any end in sight.

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*"Analysts generally believe that economic output began rising by late summer. But new Labor Department data released Friday morning shows that that improvement isn't yet flowing through to the job market, as employers remain highly reluctant to add staff. ..."*

*"The tally now stands at 6.9 million jobs lost since the beginning of the recession in December 2007. A broader measure of joblessness rose even more sharply than the headline unemployment rate. An expanded unemployment rate that includes people who have given up looking for a job out of frustration and who are working part time but want a full-time job rose to 16.8 percent, from 16.3 percent."*

Irwin, "[Unemployment Rises to 9.7 Percent; 216,000 Jobs Lost in August](#)," *The Washington Post*, 09.04.09

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This is all the more reason why the Employee Free Choice Act should remain [in the Senate](#) and not become law.

In addition to its ability to suppress a worker's right to vote privately, experts say the act can also destroy thousands or even millions of jobs – on top of the losses we're having right now (216,000 went away in August alone).

Add to that the proposal's power of forced government contracts, and its possible affect on the country's ability to compete in world markets, and you have a recipe for prolonged economic suffering, if not disaster.

If President Obama is truly concerned about saving America's economy, then signing the Employee Free Choice Act into law is the last thing he should do.

September 8, 2009

## A Commonsense Alternative to Card Check

There are better ways to protect American workers than the Employee Free Choice Act.

Writing in the conservative opinion journal *Human Events*, Republican Reps. John Kline of Minnesota and Cathy McMorris Rodgers of Washington spell out the act's numerous flaws and present a positive alternative designed to truly empower workers. The piece is one in a compilation of articles highlighting GOP solutions to the major challenges facing our nation:

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*"Instead of promoting free choice, the bill calls for a public sign-up process that opens workers up to intimidation, coercion, and the threat of retribution from anyone who disagrees with their decision. This is the infamous 'card check' procedure: a public voting process that has been denounced by workers and opinion leaders from coast to coast.*

*"To make matters worse, under the guise of facilitating contracts, it empowers federal bureaucrats to commandeer the negotiation process after a scant 120 days have passed, putting federal arbitrators in charge of everything from salaries and benefits to work rules and business practices. Despite rosy claims by supporters, this does not ease the negotiation process. On the contrary, it promotes bad-faith negotiating by encouraging outrageous demands in the hopes that a federal arbitrator will simply split the difference.*

*"Republicans have a very different plan.*

*"Our alternative – the Secret Ballot Protection Act, H.R. 1176 – permanently eliminates the uncertainty surrounding the union election process. It assures workers that no one – not a union organizer, not management – will know how they voted. Simply put, it guarantees workers will be able to vote with the privacy and protection of a secret ballot, empowering them to cast their ballot freely."*

Kline and McMorris Rodgers, "[Card Check: The Conservative Alternative](#)," *Human Events*, 09.08.09

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Kline and McMorris Rodgers also note that the Secret Ballot Protection Act is needed to help modernize the American economy, which [needs](#) all the help it can get.

Republicans are doing more than simply saying "no" to the flawed proposals put forward by congressional Democrats. They're crafting commonsense alternatives that will restore fiscal responsibility, promote job creation, improve health care affordability and accessibility, and ensure energy innovation, conservation, and independence.

Anyway you look at it, the Employee Free Choice Act is not a good choice for workers. Republicans are offering better solutions for *real* employee free choice.

September 9, 2009

## Federal Agency Rejects "Unreliable" Card Check

As Congress debates whether to pass the Employee Free Choice Act, one government agency has declared a key feature of the legislation "unreliable."

*The Washington Times* reports that the Legal Services Corp., which provides grants to legal-aid groups that help the poor, has determined that the card check method of organizing is flawed. In fact, it rejected an effort by some of its workers to organize that way.

Card check is a major part of the Employee Free Choice Act, and *The Times* provides exclusive details of the LSC's move here:

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*"The Legal Services Corp., a congressionally chartered, taxpayer-funded entity, even hired a law firm to rebuff the efforts of workers in its oversight offices to gain union representation by the International Federation of Professional and Technical Engineers (IFPTE), forcing the workers to conduct a vote by secret ballot later this week.*

*"The LSC's decision has prompted concerns on Capitol Hill that the government may be trying to impose a solution on private businesses that its own agencies and panels are reluctant to follow. ...*

*"Employees in LSC oversight offices, with the help of the IFPTE, appealed to LSC President Helaine Barnett in a July 20 letter, asking her to accept authorization cards signed by 'an overwhelming majority' of workers signaling their intent to unionize. Ms. Barnett dismissed the request in a July 28 letter, saying that 'authorization cards are often an unreliable indicator of support for a union,' according to a copy of the correspondence obtained by The Times. ...*

*"The preference of the LSC, which is legally structured as a nonprofit corporation, for using the secret-ballot election process complies with federal organizing requirements. Federal agency employees, unlike their counterparts in the private sector, aren't permitted to unionize voluntarily using authorization cards.*

*"'They have to go through the secret-ballot election,' said Sarah Whittle Spooner, legal counsel for the Federal Labor Relations Authority, which has jurisdiction over government agencies. 'There is no process for voluntarily organizing in the federal sector.'"*

Carpenter, "[Federal Program Rejects 'Card Check' Effort](#)," *The Washington Times*, 09.09.09

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As *The Times* notes, it would be extremely hypocritical for the government to force card check on private businesses yet protect government workers with secret ballot elections. But then again, this is not the [first instance](#) of government hypocrisy when it comes to the secret ballot.

This is yet [another reason](#) why the Employee Free Choice Act must be defeated. And it's also a reason why the [Secret Ballot Protection Act](#) must take its place so that all workers – both government and private – can have a reliable, safe, and proven way to organize.

September 10, 2009

## EFCA State Update: California

In the Golden State, card check bills have been sent to Gov. Arnold Schwarzenegger four times.

And four times, the "Govern-ator" has terminated them.

The latest veto came last week as Schwarzenegger said "hasta la vista, baby" to a proposal that targeted farm workers – and was very similar to the Employee Free Choice Act that's sitting in Congress. The *San Francisco Chronicle* has the details here:

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*"Gov. Arnold Schwarzenegger has vetoed a union-backed bill that would have required farmers to negotiate with a labor union if a majority of their employees signed membership agreements.*

*"It marks the fourth time the governor has rejected requiring farm owners to abide by what are known as card-check provisions. The bill he vetoed Wednesday, SB789 by State Senate President Pro Tem Darrell Steinberg, D-Sacramento, was similar to federal legislation for nonfarm employees that is the subject of an intense battle between business and labor forces in Congress. ...*

*"Business groups counter that card check would allow unions to pressure employees in private and would effectively eliminate union elections, even though workers would retain the right to demand an election.*

*"If there's an option, the union will take the route that's easiest, the signing of those cards, and that takes away the secret-ballot election," said Doug Mosebar, a Santa Barbara County rancher and president of the California Farm Bureau Federation. 'It's at the heart of the democratic process.'*

*"Schwarzenegger expressed a similar viewpoint in his veto message Wednesday.*

*"This process fundamentally alters an employee's right to a secret-ballot election that allows the employee to choose, in the privacy of the voting booth, whether or not to be represented,' the governor said."*

Egelko, "[Governor vetoes card check for farm workers](#)," *San Francisco Chronicle*, 09.04.09

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California is not the only state that has been trying to protect the secret ballot for workers. [Arizona](#) has put the issue on its 2010 ballot, and there's an effort to do the same in Missouri.

This says a lot about the popularity of the federal Employee Free Choice Act when states – with their host of fiscal and other problems – make an effort to quash the proposal before their

workers can fall victim to it. It's clear that protecting the privacy of workers is important to state leaders – important enough for actions that range from ballot referendums to pre-emptive state laws.

Clearly, states are making a statement. The question is: Will supporters of the Employee Free Choice Act listen?

September 11, 2009

## The Curious Case of EFCA

Supporters of the so-called Employee Free Choice Act are having a hard time getting their stories straight. Sen. Tom Harkin, the Iowa Democrat who has been leading negotiations for the bill, is the latest EFCA supporter to offer varying reasons for why the anti-worker plan hasn't received a vote in the Senate.

*The Hill* tries to sort it all out here:

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*"Sen. Tom Harkin (D-Iowa) said Thursday that he had the 60 Senate votes necessary in July to clear the card-check bill through the Senate.*

*"But when he called ailing Sen. Edward Kennedy's (D-Mass.) longtime doctor, he was told the lawmaker was too ill to travel to Washington and could not vote on the Employee Free Choice Act (EFCA), which would make it easier to organize unions and is a high legislative priority for labor unions.*

*"As of July — I can tell you this openly and I know the press is all here — but we had worked out a pretty good agreement. Labor was at the table,' Harkin told a crowd of activists organized by American Rights at Work, a labor advocacy group. The activists swarmed Capitol Hill on Thursday to lobby for the bill. ...*

*"It is unclear what the deal would have included, and Harkin declined to provide details after his remarks.*

*"I will not say, because it was closely held, it never leaked out and it still hasn't,' Harkin said. 'I took it off the front-burner and put it on the back-burner, so it is still on warm, OK?'*

Bogardus, "[Harkin: Kennedy's illness stalled card-check](#)," *The Hill*, 09.10.09

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But *The Hill* questions Harkin's vote count.

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*"Harkin's statement suggests he might have thought he had the votes after Sen. Al Franken (D-Minn.) was seated in July. That briefly gave Democrats 60 votes in the Senate.*

*"But even before Kennedy died, Democratic leaders could not count on all 60 votes. Kennedy's brain cancer kept him away from Washington most of the year, and Sen. Robert Byrd (D-W.Va.) has also suffered from ill health."*

Bogardus, "[Harkin: Kennedy's illness stalled card-check](#)," *The Hill*, 09.10.09

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Meanwhile, *CongressDaily* reports that Harkin has declared the bill nearly dead for this year:

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*"The leading Senate backer of the Employee Free Choice Act candidly told supporters today that the bill may be stalled for the rest of the year, even as he pledged to make it a top priority in the next session."*

*"I'll be honest with you. It may not happen this year," Senate Health, Education, Labor and Pensions Chairman Tom Harkin told about 300 supporters assembled by American Rights at Work, a coalition of students, civil rights advocates and other activists not affiliated with labor unions. ...*

*"Despite his dampening of expectations for the bill's prospects this year – which was met with groans of dismay by the crowd at today's rally – Harkin pledged to use his new post as chairman of the HELP Committee to pass the measure 'this session of Congress,' if not before the end of the year."*

Dann, "[Card-Check Rally Gets Sobering News](#)," *CongressDaily* (subscription required), 09.10.09

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Got that? But wait, there's more: Earlier this summer, Senator Majority Leader Harry Reid explained the decision not to vote on EFCA by saying, "[We have too many other things on our plate](#)."

And back in July, Harkin himself said "[nothing is happening](#)" on card check. That's July, when he supposedly had reached a compromise that could muster 60 votes. "Harkin and other senators and aides involved in discussions on the union organizing bill said the group has not met in two weeks and has no plans to talk again before the August recess," *CongressDaily* reported at the time.

Of course, July is also when *Roll Call* reported on Democrats developing a strategy "[for railroading the bill through the floor as quickly as possible](#)" once they were able to reach consensus.

It never happened. No matter when it appears on the Senate floor, the Employee Free Choice Act must not pass. Its ability to set aside a worker's right to a secret ballot is bad enough. But the act's power to force government contracts on business is just as bad – especially during these tough economic times.

These are just a [few reasons](#) why – despite their majority – Senate Democrats cannot get the votes they need for this bill. It's clearly terrible legislation. Indeed, it's clearer than the shifting statements of the act's supporters.

September 14, 2009

## Why Oppose EFCA? It's All About Jobs

Mike Weaver doesn't oppose unions. He opposes unemployment – and that's why he's against the Employee Free Choice Act.

In a Sunday essay for *The Indianapolis Star*, Weaver – president of Weaver Popcorn Co. in Noblesville, Ind. – criticized the act's ability to set aside the secret ballot for workers and instead use a "card check" system.

But he mainly opposes EFCA for this reason: "It's all about jobs." Weaver writes the act's ability to kill jobs would not be welcome – especially during this prolonged recession:

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*"Opposition to the one-sided provisions of EFCA is not based on any anti-union sentiments. Rather, it is based on anti-unemployment feelings. The negative impact this bill would have on the Hoosier economy cannot be overstated.*

*"According to a study by noted economist Dr. Anne Layne-Farrar, director of LECG Consulting, more than 5 million jobs would be lost in the years ahead if EFCA passes.*

*"Because of our state's reliance on manufacturing, Indiana would lose a disproportionate share of those jobs. ...*

*"An overwhelming number of Hoosiers already oppose all provisions of the bill, according to recent polls. They understand that too many Hoosiers are already out of work, and Indiana can't afford more lost jobs.*

*"To grow jobs, companies like Weaver Popcorn must make investments, including training, equipment, facilities, technology, and research and development. Those are made only when companies are confident they can make a return on their investments.*

*"Every day EFCA has life, that confidence is eroded, and companies delay important investment and hiring decisions that directly affect Hoosier job retention and growth."*

Weaver, "[Opposition is based on anti-employment provisions](#)," *The Indianapolis Star*, 09.13.09

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The latest unemployment figure for Indiana is 10.6 percent. Nationally, it is 9.7 percent. Just imagine what the Employee Free Choice Act can do to those numbers if it becomes law. Weaver and many other Americans can. Why can't EFCA supporters?

September 15, 2009

## Poll: Quebecers Want To Say "Adieu" To Card Check

More than seven out of 10 Quebecers want to amend their "card check" labor laws to protect the secret ballot in the workplace.

That's the finding of a poll of 1,000 Quebec citizens released last week and commissioned by the Montreal Economic Institute. Interestingly, the poll also found support for such a change is even higher among union workers at 80 percent. The institute provides more details here:

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*"The poll was commissioned to coincide with the publication by the Montreal Economic Institute (MEI) of a Research paper on the union certification process. The study was prepared by Marcel Boyer, senior economist at the MEI and emeritus professor of economics at the Université de Montréal.*

*"According to Mr. Boyer, Quebec needs to overhaul its legal framework in labour relations, first by making secret ballot voting mandatory when union certification is being sought. 'This reform would guarantee that workers could express their real opinion, and it would enable Quebec businesses to compete on a level playing field with firms elsewhere, helping to attract investment and promoting job creation,' he stated.*

*"MEI president Michel Kelly-Gagnon added that 'the poll results alone should lead us to ask some serious questions about the legitimacy of a union certification system based on the signing of membership cards.'"*

Statement, "[Union certification: Mandatory secret ballot voting would show more respect for workers' wishes](#)," Montreal Economic Institute, 09.10.09

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The poll also found that Quebecers prefer the secret ballot for actions besides unionizing: Nearly two-thirds of respondents agreed that a strike should be illegal if it has not been decided by secret ballot.

As the Employee Free Choice Act – which has a card check provision – is debated here in the United States, it would be wise for us to look at our northern neighbors and see how laws similar to EFCA actually have affected their economy. We already know that, in some cases, Canadians actually [want](#) the U.S. to adopt EFCA – if only so that we can lose our competitive edge in the global marketplace.

With unemployment hovering near 10 percent, huge deficits, and a weakened dollar, the United States has enough economic problems to worry about. The Employee Free Choice Act should not be added to that list.

September 16, 2009

## The "New" EFCA That Never Was

Arlen Specter made quite a splash yesterday with his declaration that a new version of the Employee Free Choice Act had garnered the 60 votes needed for passage in the Senate.



Yesterday, the newly Democratic lawmaker appeared before the AFL-CIO convention. He announced that a compromise on EFCA has been “pounded out” and would pass by year’s end – to great applause.

After his speech, Specter offered reporters some details of the “new” legislation: a deal that apparently key allies weren’t aware of, especially dropping the “card check” provision of the bill. *National Journal’s* CongressDaily sorts out the details here:

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*“After a key legislator described a pending compromise on card-check legislation Tuesday, backers scrambled to tamp down speculation that a deal on the labor reform bill has been finalized. ...*

*“‘There is no final deal in place,’ said incoming AFL-CIO President Richard Trumka. ‘We are going to keep fighting for labor law reform that will allow workers to join a union free from intimidation and harassment.’*

*“Senate Health, Education, Labor and Pensions Chairman Tom Harkin, an outspoken proponent of the union-backed bill, declined to discuss the details of a potential compromise.*

*“‘I’ve not discussed it publicly because it’s not quite ready [for me to] do so yet,’ Harkin said, adding that much work has been done to hammer out compromise language that both skittish Democrats and union leaders can swallow.*

*“Specter’s office emphasized late Tuesday that no formal legislative language has been completed, saying that the senator, who abruptly jumped from the Republican Party to Democratic ranks earlier this year, was simply expressing optimism that a deal may be reached.*

*“‘There’s no deal, so [there’s] no language to share,’ said a spokeswoman.*

*“Senate negotiators have not met to discuss the legislation since July.”*

Dann and Hunt, [“Senators Say Deal On Card-Check Measure Not Yet Final,”](#) *CongressDaily* (subscription required), 09.16.09

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Confusion and [infighting](#) among EFCA supporters is nothing new – just like the terrible ideas in the bill and yesterday’s phantom compromise. It was bad legislation when it was introduced in March, and it’s just as lousy today.

Even with some of the new features that have been floated by Specter and others in the media, EFCA can kill hundreds of thousands of jobs at a time when the country desperately needs them. Supporters’ claims that it can help our weakened economy are, like the claim of a compromise, an illusion.

September 17, 2009

## More on the New Old Card Check

By now, news of the card check compromise that [never was](#) has spread far and wide. Yet despite the [denials](#) of key backers in Congress, it may be worth exploring the details of this phantom proposal. While this alleged compromise may not be ripe today, workers and employers deserve to know what may be coming. An editorial in today's *Wall Street Journal* takes a look:

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*"Mr. Specter's revised bill would accomplish the same goals as the old 'card check' by slightly different means. He said a new proposal negotiated among a small group of Senators, yet to be unveiled, drops the provision to end the secret-ballot in union elections. In place of this proposal to automatically unionize if more than half the employees sign union cards, they are proposing an election within a week or so of a minority of employees petitioning for a union. This shotgun vote is intended to deny employees the kind of educated choice that comes with a proper discussion of the merits of unionization informed by both management and labor.*

*"The new old 'card check,' according to Mr. Specter, also gives unions unprecedented access to the workplace and meetings between employers and employees before a vote to unionize. Last we checked the Constitution, even in the age of Obama private companies haven't signed away their property rights.*

*"An equally problematic binding arbitration provision stays in. This idea would let a federal arbitrator impose a contract if the employer and a newly organized union aren't able to agree within three months. In other words, a government-sponsored agent would decide what salaries and benefits management will have to pay its employees. Throw in the expanded access to company property, and this so-called compromise bill may be worse than the original."*

Editorial, "[A Gift for Labor](#)," *Wall Street Journal*, 09.17.09

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Replacing one bad idea with another – or several – is not the definition of compromise. The proposal offered by Senator Specter still tramples workers' rights. It still unfairly tilts the playing field in favor of a special interest constituency. And it still puts government bureaucrats in charge of vital worker benefits and business operations.

Thankfully for workers, it also still does not have the votes to become law. Let's hope it stays that way.

September 18, 2009

## EFCA's Arkansas Problem

More evidence has surfaced to debunk [claims](#) about a compromise version of the Employee Free Choice Act passing the Senate.

Sen. Mark Pryor hasn't weighed in on the "new" version of EFCA. In fact, he hasn't said much about the old one either. *The Hill* catches up with the Arkansas Democrat here:

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*"Sen. Mark Pryor (D-Ark.) told The Hill on Thursday he remains 'stubbornly noncommittal' on so-called 'card-check' legislation, though he is hopeful for an eventual bill.*

*"Pryor, who is one of the most closely watched centrist Democrats on the contentious Employee Free Choice Act (EFCA), said that he's been working with a group of senators to craft a compromise on the union organizing bill.*

*"I've been working with a group to see if we can do some legislation, but we're still working. It's a work in progress," Pryor said."*

Rushing, "[Pryor 'stubbornly noncommittal' on card check](#)," *The Hill*, 09.17.09

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We would be "stubbornly noncommittal," about EFCA, too, if we were in Pryor's shoes. The bill has the ability to set aside the secret ballot, kill jobs during one of the worst recessions in America's history, and force government contracts on businesses. Those are just the highlights among a list of other terrible [features](#).

Perhaps that's why Arkansas' other senator, Blanche Lincoln, isn't noncommittal – she's outright opposed.

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*"Lincoln also reiterated her opposition to the Employee Free Choice Act in its current form. The New York Times on Wednesday quoted Sen. Arlen Specter, D-Penn., as saying Lincoln would vote to stop a filibuster of the bill.*

*"I don't know where he got that," Lincoln said today. 'I certainly haven't spoken with Sen. Specter, and I've made it clear that the Employee Free Choice Act, if it were to come up, that I could not support the procedural motion to move it forward.'"*

Lyon, "[Lincoln: Health care measure is work in progress](#)," *Arkansas News*, 09.17.09

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Pryor and Lincoln have been key figures in the EFCA debate and their relative silence about the future of EFCA legislation – new, old, compromise or otherwise – says much. No matter how many ways supporters dress it up, the Employee Free Choice act is bad legislation.

**September 21, 2009**

## **Secret Ballots and Human Rights**

Voters use a secret ballot. Workers who want to create a union use a secret ballot (for now). So do prisoners of war.

Most people probably aren't aware of it, but POWs do have a right to the secret ballot – something that workers would not have if the Employee Free Choice Act becomes law.

In addition to issues of treatment and medical care, POW voting rights are listed in the Third Geneva Convention of 1949. These accords clearly state that prisoners have the right to select representatives by secret ballot:

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*"In all places where there are prisoners of war, except in those where there are officers, **the prisoners shall freely elect by secret ballot**, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election."*

[Third Geneva Convention](#), Article 79, 08.12.49 (*emphasis added*)

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So think about it: The secret ballot is considered to be such a basic human right that it's even guaranteed in wartime. But U.S. workers on the home front would not be able to exercise that right if supporters of the Employee Free Choice Act, also known as "card check," have their way.

And lest anyone think workers are no longer vulnerable to losing *their* right to a secret ballot, the AFL-CIO's new president reiterated his support for the proposal in an [interview](#) with *The Wall Street Journal* that ran over the weekend: "Talk of a compromise on 'card check' isn't welcome either. 'We're still pushing for that,' says Mr. Trumka, referring to the provision that drops the secret ballot to unionize if more than half the employees sign cards to form a union in their workplace."

Add to that the act's "[disastrous](#)" [forced government contracts](#) feature and projected [job-killing abilities](#), and it's clear that it should not become law.

September 22, 2009

## How EFCA Disregards History

As a former Montana secretary of state, Bob Brown understands the history and importance of the secret ballot.

In a recent essay for the *Missoulian*, Brown said the secret ballot in America started during Reconstruction as a way to protect former slaves from "brutal harassment" at the polls while exercising their new right to vote. By the turn of the century, the practice had spread to both Northern and Southern states.

The secret ballot's ability to protect privacy was a reason why Brown refused to support mail-in ballots in Big Sky Country while in office. It is also why he is against the Employee Free Choice Act now. Brown explained his stance here:

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*"While mindful of the justifications for mail-only elections, I could never bring myself to support them. A domineering parent or spouse might vote for a whole family. Political special interest groups or even religious organizations might want to help you mark your ballot if all voters receive them in the mail, and the option of the safe haven of the voting booth is taken away.*

*"Now we see an additional threat to our tradition of the secret ballot which for over a century has protected our most vulnerable voters from coercion. Under the guise of the 'Employee Free Choice Act,' American workers could be denied the right to the secret ballot in deciding whether to unionize their work places. If the proposed act now before Congress becomes law, once a majority of the employees sign up, a work place could be organized. There can be no effective safeguard to assure that employees would not be pressured into signing the union card.*

*"Both labor and entrepreneurial leadership are necessary to make a profit. No enterprise can succeed without both. ...*

*"But a union should be able to make its case solidly enough that a worker will vote to organize without an organizer having to look over his shoulder. With a secret ballot, workers can freely vote their own honestly held beliefs. Without it they cannot. There is no place or justification anywhere in our system of free elections for citizens to lose their right to vote as they believe."*

Brown, "[Secret ballots mean free elections](#)," *Missoulian* (Montana), 09.08.09

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As Brown correctly notes, the history of the secret ballot has been a successful one. But the Employee Free Choice Act wants to toss aside this practice at the expense of a worker's privacy. Add EFCA's ability to harm an already weakened economy, and it's clear that the act should go down in the history books not as an attempt to help workers, but as a threat to their privacy and livelihoods.

**September 23, 2009**

## **Why Labor Bosses Are Desperate for Card Check**

A worker's privacy. An employer's freedom. The future of a wobbly U.S. economy.

These are just a few of the issues at stake in the debate over the Employee Free Choice Act, but there's one that particularly concerns the act's biggest supporters: power.

As Bloomberg News columnist Albert R. Hunt recently wrote in *The New York Times*, the future of Big Labor's storied clout in Washington also rides on EFCA's passage:

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*"If labor fails on the so-called Employee Free Choice Act, it would be a huge blow and it would likely produce internal and political recriminations. ...*

*"Some analysts wonder whether labor can be effective on both legislative and political matters when it is divided. Four years ago, seven unions, including the Service Employees, the Teamsters and the United Food and Commercial*

*Workers, broke from the AFL-CIO, which they said wasn't aggressive enough in organizing and on other matters. They formed the 'Change to Win' coalition.*

*"There are moves to get these factions back together so labor can present a more united front. A former Michigan congressman, David Bonior, has been tapped to try to reconcile some issues. It's a tough task.*

*"Originally, it was thought unity might occur after the current AFL-CIO president, John Sweeney, stepped down. Mr. Sweeney and Andy Stern, head of the Service Employees, are enemies. The federation, however, has tapped Mr. Trumka, former head of the mine workers, to succeed Mr. Sweeney this month; his relations with Mr. Hoffa and some other Change to Win leaders are also said to be bad."*

Hunt, "[Infighting Is Blunting Labor's Clout](#)," *The New York Times*, 09.06.09

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The squabbling among unions is their affair. But the Employee Free Choice Act is everybody's business because of its ability to set aside the secret ballot, kill jobs in an economy that needs them, and force government contracts on businesses. EFCA supporters should think about that instead of maintaining their pull on Capitol Hill.

**September 24, 2009**

## **Card Check's Unwanted Early Wake-Up Call**

The Employee Free Choice Act is probably not winning many supporters in Long Beach, Calif. – especially from tourists and business travelers who like a full night's sleep.

For more than two weeks, activists have been regularly protesting the local Hilton in an effort to organize the hotel's workers through the public sign-up process known as card check – the centerpiece of EFCA. Lately, they have resorted to 6 a.m. rallies featuring drums, sirens, and bullhorns that have become, as the hotel's general manager says, "pretty disruptive."

This prompted *Gazette Newspapers*, a community chain in Long Beach, to not only condemn the method of protest in a Wednesday editorial – but their preferred method of organizing as well:

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*"We have to go a step further and oppose the way Unite HERE wants to 'help' in deciding whether a hotel's workers want to unionize. The union wants each employee to check a 'yes' or a 'no' box on a ballot with their name on it — a de facto submission to join the union.*

*"The hotel managers say they are willing to let their employees vote on whether to unionize (in fact, they have no choice), but they want the election to be by secret ballot.*

*"Union organizers say that the secret ballot somehow allows the hotels to pressure employees to vote against the union. It is hard to understand how that pressure would work, since no one would know how an individual voted. And the National Labor Board stands ready to run an election with neither side involved.*

*"On the other hand, staring a union rep in the face, then checking a box that says you don't want to join their organization can be daunting to some. The simple fact that the powers that be would have the names of those who voted for and against the proposition casts a pall over any election. ...*

*"So here are a couple of recommendations — unsolicited, to be sure — for Unite HERE. First, drop the strident confrontation. Second, accept the results of a vote from the employees at the Hilton, the Hyatt and the rest.*

*"And let the employees there have a true choice through a secret ballot. It's the American way."*

Editorial, "[Counter-Productive Approach By Union](#)," *Gazette Newspapers* (Long Beach, Calif.), 09.23.09

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Yes, let the workers have a true choice with the secret ballot (chances are, organizers, you might actually [win](#)). And let's hope the Employee Free Choice Act doesn't become the law of the land. If it does, an entire nation of workers – not just those in Long Beach – will receive a wake-up call they did not want.

**September 25, 2009**

## **EFCA State Update: South Dakota**

You can add South Dakota to the growing list of states that are taking a stand against the Employee Free Choice Act.

Two state lawmakers said Thursday they will introduce a joint resolution preserving the secret ballot in South Dakota when the Legislature meets in January. If adopted, it will appear on the Mount Rushmore State's 2010 ballot. The *Argus Leader* has the details here:

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*"State Senate Majority Leader Dave Knudson, who also is running for governor, and House Majority Leader Bob Faehn of Watertown will introduce a bill in the next Legislature that would put the issue before state voters. The measure would amend the state constitution to require secret ballots in all political and labor organizing elections.*

*"The move is aimed at blunting the federal Employee Free Choice Act, which would let a majority of employees at a company organize a union by signing cards, a change from current practice that allows employers to mandate elections by secret ballot. ...*

*"Knudson argues that the card check bill takes away the right to privacy. 'It opens the door to potential intimidation and forced unionization,' he said."*

Harriman, "[Proposal targets union organizing](#)," *Argus Leader* (Sioux Falls, S.D.), 09.25.09

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If successful, South Dakota will join [Arizona](#) in allowing voters to protect the secret ballot. Missouri is also attempting to do the same. Meanwhile, in California, Gov. Arnold Schwarzenegger vetoed a card check law similar to EFCA [four times](#).

It's not often that so many states act on a single issue. Clearly, they see that the secret ballot is important to their citizens. Why can't EFCA supporters see this as well?

September 28, 2009

## Obama's Gold Medal for Irony

President Obama is on an important mission this week – and its success depends on the secret ballot.

The irony is worthy of a gold medal: After all, the Employee Free Choice Act, which Obama supports, sets aside the secret ballot for workers. *The Washington Post* gives the play by play here:

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*"President Obama has decided to travel to Copenhagen to support the Chicago bid team seeking the 2016 Summer Games, a development that many expect could swing the vote for Chicago in Friday's selection.*

*"President Obama and First Lady Michelle Obama symbolize the hope, opportunity and inspiration that makes Chicago great, and we are honored to have two of our city's most accomplished residents leading our delegation in Copenhagen," Chicago Mayor Richard M. Daley said in a statement.*

*"Madrid, Rio De Janeiro and Tokyo are also seeking the 2016 Summer Games. **The site will be chosen with a secret ballot of the 100-plus members of the International Olympic Committee.***

*"Since White House advisers expressed uncertainty three weeks ago about whether Obama would join a Chicago's delegation, the president has faced increasing pressure from his home town to attend."*

Shipley, "[Obama Will Travel to Copenhagen to Support Chicago's Bid for 2016 Games](#)," *The Washington Post* (emphasis added), 09.28.09

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There's a good reason why the committee selects cities by secret ballot. Partly because of the major economic boost that the Olympics usually bring, many world leaders such as Obama personally lobby the committee on behalf of their home cities. Former British Prime Minister Tony Blair, for example, successfully pitched the 2012 games for London – beating out a plea from then-Sen. Hillary Clinton and others for New York.

Imagine the pressure committee members would face if they selected cities by the rules of the Employee Free Choice Act – and had their votes made public. In theory, the world leaders could retaliate if their city was not chosen.

But that will never happen, thanks to the protection the secret ballot provides. Workers who make an equally important economic decision about forming a union deserve the same



protection, from union organizers and management alike. Here's hoping that President Obama is successful in Copenhagen – and that the Employee Free Choice Act fails miserably in Congress.

September 29, 2009

## Beware of EFCA – Even Without Card Check

Even if Democrats eventually decide to jettison the unpopular card check component that sets aside the secret ballot for workers, the Employee Free Choice Act is still dangerous.

That's what a group of Hoosier business executives wrote in a Sunday essay for *The Star Press* in Muncie, Ind.:

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*"Some have talked about removing the secret ballot provision of S560, but the other provisions are equally damaging: expedited elections with new rules favoring unions only, mandatory binding arbitration and a one-sided increase in penalties.*

*"This means that unions could continue to engage in all union organizing activities without increased penalties, but those on employers who violate the act could include fines of up to \$20,000 for repeat violations, among other things. In other words, unions could use the threat of increased fines as an organizing tactic and file unfair labor practices against businesses.*

*"Businesses would have to legally defend themselves against the complaints or face fines up to \$20,000 per incidence. The legal fees could be enormous and could literally force some businesses to fail or accept a union."*

Budd et al., "[It's time to stand up for Hoosier jobs](#)," *The Star Press* (Muncie, Ind.), 09.27.09

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Their essay concludes by saying that "every day this bill has life, employers are delaying investment and hiring decisions." The effect of that delay will likely be seen Friday, when the latest unemployment figures are slated to be released. Chances are, they won't be good – and the Employee Free Choice Act isn't even law yet.

Unfortunately, if Senate Democrats get their [way](#), EFCA may be brought to a vote before the end of the year. "I'm pushing for it," Sen. Tom Harkin, chairman of the Health, Education, Labor and Pensions (HELP) Committee, told the liberal Bill Press Radio Show. "I think it's something that we have to do."

Just think how bad the economy will be if EFCA does pass.

September 30, 2009

## Secret Ballots Abroad: New Zealand

The secret ballot is important not only to people in the United States. It's important around the world, too.

In New Zealand, National MP Tau Henare, a former union organizer, recently proposed a bill to make use of the secret ballot the official law in the island nation near Australia. *The New Zealand Herald* gives details of Henare's measure here:

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*"Unions will be legally bound to hold a secret ballot for their members to approve a strike under a measure National MP Tau Henare has proposed to stop worker intimidation. ...*

*"He said unions had nothing to fear from the measure, as many took a secret ballot for strike already. He was simply hoping to codify this in law.*

*"He said a 'hands-up' vote made it all too easy to get people to vote a simple way.*

*"You can intimidate pretty easily like that. You don't have to get in their face or stand over them. Just being there can do it."*

Gower, "[Bill offers veil of secrecy for votes on strike action](#)," *The New Zealand Herald*, 09.25.09

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It's too bad that many major American unions don't respect the secret ballot as much as their Kiwi counterparts. Their support of the Employee Free Choice Act is proof of that: It sets aside the secret ballot for union organizing in favor of the public majority sign-up, a method that promotes the intimidation that Henare is trying to prevent.

But Henare isn't the only legislator trying to preserve the secret ballot. Many U.S. lawmakers are trying to protect the secret ballot as well. You can read more about it [here](#).

**October 1, 2009**

## **EFCA Forecast: Cloudy With High Pressure System**

Predicting the fate of the Employee Free Choice Act has been difficult lately for the act's supporters.

Senate Democrats were once quite confident the act could pass and become law. After all, on paper, they had the 60 votes needed to stop a filibuster of the job-killing bill. Indeed, EFCA's chances seemed sunny.

But then clouds began to appear on the horizon: It turned out that several Democrats had misgivings about the bill – enough to jeopardize the once easy win. And EFCA supporters have been trying to win them back ever since.

*The Hill* gives us the latest EFCA forecast in an interview with Ohio Sen. Sherrod Brown, an EFCA supporter who's trying to work out a compromise:

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*"In an interview with The Hill, Brown said he's not happy with some of the changes, but that he's working hard to lobby his Democratic colleagues — and even a few Republicans — to accept the compromise. He said he is not sure if*

*the new version would have the 60 Senate votes necessary to beat back a filibuster.*

*"I don't know," Brown said. 'It's not clear to me that we have everybody's vote yet.'*

*"But Brown expressed confidence that Congress will at some point move the union bill — if not this year, then next — saying senators have made progress on negotiating a new version of the bill.*

*"I think this is going to happen at some point," Brown said. 'There is a decent chance it will happen this year.'"*

Bogardus, "[Key Dems confident card-check will pass](#)," *The Hill*, 10.01.09

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So let's see: A key EFCA negotiator who is "not happy" with the compromise bill doesn't know if he has enough supporters yet, but says there is a "decent chance" a vote will happen this year – maybe.

That's not exactly fair legislative weather, but it's just as well: The Employee Free Choice Act has been a looming thunderstorm over the country's economy from the start. No amount of dressing up, compromise, or backroom dealing will make it any better. The act takes away jobs at a time when the country desperately needs them, forces government contracts on businesses, and sets aside the secret ballot for workers. It deserves to be scrapped.

**October 2, 2009**

## **The Right Time For EFCA? How About "Never"?**

The national unemployment rate ticked up to 9.8 percent in September as the U.S. continued to struggle with the worst economic downturn in decades.

The job loss is worse than experts had predicted; *The New York Times* has the grim economic details here:

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*"The American economy shed another 263,000 jobs in September and the unemployment rate rose to 9.8 percent, reinforcing a broad assumption that many more months of lean times lie ahead for working people.*

*"The latest snapshot of the nation's job market released by the Labor Department on Friday amplified the notion that the recession has probably ended, as a technical matter. Though the job market continued to worsen, the pace of deterioration remained markedly slower than earlier in the year, when roughly 700,000 jobs a month were disappearing.*

*"Yet the report added to the sentiment that the economic expansion, which is probably under way, will be weak and tentative, with scarce paychecks and anxiety remaining prominent features of American life well into next year."*

Goodman, "[Jobs Report Highlights Uncertainty of U.S. Recovery](#)," *The New York Times*, 10.02.09

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A jobless recovery is not a recovery for American workers. Clearly, enactment of job-killing policies on top of an unsuccessful stimulus would be like pouring salt on the wound of our struggling economy.

Now imagine if the Employee Free Choice Act, with its ability to kill jobs and force government contracts, were law right now – or even a few months from now.

The unemployment rate, already well on its way toward double digits, would only climb higher as businesses close their doors or lay off workers. Hopes of job creation would grow dim as American competitiveness and productivity fall.

With the public still reeling from this morning's news of worse-than-expected economic news, now is not the time to pass EFCA. In fact, there is no good time to pass an act that would have such a destructive impact on an economy. EFCA should be eliminated once and for all.

October 5, 2009

## A Portrait of EFCA's Bipartisan Opposition

If you believe its supporters, the Employee Free Choice Act should have been a done deal a long time ago.

With presidential support and Democrats controlling large majorities in both chambers of Congress, it would be easy to assume EFCA was on its way to enactment in the opening days of the 111<sup>th</sup> Congress.

But fortunately for American workers, opposition to EFCA is not the purely partisan matter its proponents would have you believe. As *The Economist* noted last week in a profile of Arkansas Sen. Blanche Lincoln, even some Democrats are wary about the bill's effects on the economy:

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*"The Democrats' plans for energy and labour depend a lot on whether Mrs Lincoln sides with her own party; and she has a habit of bucking it.*

*"For example, she is one of only a couple of Democrats to oppose the Employee Free Choice Act, a bill the party's union allies crave more than anything else. They want the power to unionise firms without a secret ballot, simply by persuading a majority of workers to sign a card. Employers fear that union heavies would visit workers at home and pressure them into signing. Arlen Specter, a senator who recently defected to the Democrats, has floated a compromise which would preserve the secret ballot. He thought this would win over Mrs Lincoln, but it didn't. The bill still says that, if a union and an employer fail quickly to agree on a contract, a government-appointed arbitrator can impose terms. That would be 'unbelievably difficult for small businesses,' says Mrs Lincoln. She hears from hospitals in Arkansas worried that, if they have 40 nurses and 21 opt to form a union, they would have only a few weeks to agree on a new contract, despite having no idea what the health-care system will look like next year."*

Article, "[Blanche Lincoln's balance](#)," *The Economist*, 10.01.09

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Bipartisan opposition to this anti-worker plan shows what a bad idea the Employee Free Choice Act is in the first place. When members of both parties are united in their opposition to a plan that would kill jobs and deprive workers of their rights, it's time to kill the bill once and for all.

October 6, 2009

## Breaking Down A Bad Bill

If you want to know why the Employee Free Choice Act slipped into a legislative coma, ask Peter D. Conrad.

Conrad wrote an [essay](#) for *The Metropolitan Corporate Counsel* explaining in detail how the act, which began with great promise thanks to presidential support and a Democratic-led Congress, has become mercifully inert for U.S. workers.

The reasons range from a strong bipartisan defense of the secret ballot to the health care reform debate to the untimely passing of Sen. Ted Kennedy.

Conrad, a New York labor lawyer, also examined some of the rumored compromises to the EFCA bill, such as "quickie" elections, and found that they are just as bad as the original bill:

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*"In addition to 'quickie' elections, the compromise bill reportedly would give unions access to the employer's property to address employees during working time to counter the effects of 'captive audience' speeches. It would strengthen the NLRB's enforcement authority by empowering the agency to award triple back pay. And, we understand that it would provide for 'last best offer arbitration' of contract disputes when parties are unable to reach agreement on their own, so-called 'baseball arbitration,' although there also has been talk that the arbitration of contract terms would be limited to situations where the employer has refused to bargain in good faith with the union, i.e., 'remedial arbitration.' This offers little if any comfort to employers and the battle over arbitration is certain to continue. It is unacceptable in any form."*

Conrad, "[Fast Track Elections Likely To Replace Card-Check In EFCA Compromise Bill](#)," *Metropolitan Corporate Counsel*, 10.04.09

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With proponents of the legislation still aggressively pursuing these flawed "compromises," Conrad has declared EFCA a "moving target" in the legislative process and not completely halted. He is right to remain cautious. His warnings about the flaws inherent in these alleged "compromises" explain why the Employee Free Choice Act should not pass in any form – there can be no compromise when it comes to workers' rights and the future of the U.S. economy. The stakes are simply too high.

October 7, 2009

## EFCA's (Equally) Evil Twin?

The perils of the so-called Employee Free Choice Act are well known: it's a [job killer](#) that tramples [workers' rights](#) and threatens [small businesses](#).

Equally well known are the motives behind the act: special interest union leaders are [spending millions](#) to change the way workers organize, a move that would dramatically increase their size and political clout.

But while EFCA watchers have kept their sights set on Congress, it seems a parallel scheme is afoot in an obscure federal agency that oversees labor relations for air and railway workers. The *Wall Street Journal* has the details:

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*"The latest looming political favor features the National Mediation Board, the federal agency established in 1934 under the Railway Labor Act to oversee labor relations in the air and rail industries. A department of the AFL-CIO last month sent a letter demanding that the board tear up longstanding rules requiring that a majority of all airline or rail workers vote in favor of union representation to win union certification.*

*"The AFL-CIO instead wants a 'minority rule,' requiring only a majority of the employees who actually vote. Under current rules, if an airline has 10,000 nonunion flight attendants, 5,001 must vote yes to unionize. Under the union proposal if only 2,000 of 10,000 vote, and 1,001 vote yes, all 10,000 become subject to unionization. ...*

*"The union says it merely wants an election governed by the same rules that apply to nontransport industries under the National Labor Relations Act. But the Railway Labor Act was written because the government viewed transportation as economically vital, and one of the law's purposes is to avoid damaging strikes. Every Mediation Board since 1934 has upheld the majority rule, on grounds that 'certification based upon majority participation promotes harmonious labor relations. A union without majority support cannot be as effective in negotiations as a union selected by a process which assures that a majority of employees desire representation.'*

*"The Railway Labor Act also offers no direct way for workers to decertify a union once it is in place, which is why the law provides the initial safeguard of a majority vote. The Supreme Court has twice upheld the majority rule, and the Mediation Board has four times rejected requests to change it, as recently as last year. The majority rule has been used in more than 1,850 elections, and unions have won more than 65% of the time. At least one Board (under the Carter Presidency, note) bluntly said that only Congress could change the voting rules."*

Editorial, "[Flying the Union Skies](#)," *The Wall Street Journal*, 10.07.09

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The resemblance to EFCA is striking. In both cases, unions currently [win a majority of elections](#) – but claim the system is broken and needs to be tilted in their favor to fix it. Workers

lose their right to be heard – potentially forced to organize without an opportunity to ever [cast a vote](#). Looks like EFCA's doppelganger is just as dangerous as the original.

October 8, 2009

## PLAs Offer Preview of EFCA

Although the Employee Free Choice Act has (thankfully) not become law yet, some workers – including those in New Hampshire – are already getting a taste of the act's damaging effects, courtesy of federal Project Labor Agreements.

Project Labor Agreements were mostly banned during the Bush administration because of concerns that they drove up federal contracting costs while discriminating against potential bidders. These agreements remain popular among backers of EFCA and have been revived by President Obama. *The Washington Times* reports on the latest PLA here:

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*"Mr. Obama issued an executive order in the first weeks of his presidency that would make the requirement, known as a 'project labor agreement' or PLA, the norm for all government contracts on large-scale construction jobs. The order is under review and a final rule is not expected for months, but that did not stop the Labor Department from rushing to use a PLA to build its new Job Corps Center in Manchester, N.H.*

*"The PLA executive order replaced a Bush administration order that discouraged the use of such agreements.*

*"It was one in a series of early policy moves by Mr. Obama that has dramatically improved the unions' fortunes, though the president has not delivered on labor's top legislative priority, the so-called 'card-check' bill that would make it easier to organize workplaces.*

*"Critics say imposing the union-friendly rules on the New Hampshire job - the first federal construction contract with such stipulations since President Clinton was in office - will drive up costs, delay the project and force most of the workers to pay union dues and pension contributions for which they likely will never receive benefits.*

*"North Branch Construction, a Concord, N.H.-based general contractor and member of the business group Associated Builders and Contractors (ABC), filed a bid protest this week with the Government Accountability Office, claiming the PLA 'unduly restricts competition.'*

*"PLAs are special-interest handouts that deny taxpayers the accountability they deserve from government contracts,' said Ken Holmes, president of North Branch Construction."*

Miller, ["Obama puts union strings on federal jobs,"](#) *The Washington Times*, 10.07.09

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No accountability. Workers forced to pay for union benefits that they might not have asked for. Restricts competition. Special interest handout. This sounds a lot like the Employee Free Choice Act – and it's not even a law yet. Looks like EFCA may have more than one (equally) [evil twin](#).

October 9, 2009

## Ten More Reasons EFCA Must Fail

Over the summer, we offered [10 reasons](#) why the Employee Free Choice Act should fail. It was a good list, but incomplete.

You see, EFCA has the potential to wreak such havoc on our economy and workers' rights that it's not difficult to find yet *another* 10 reasons why it should fail:

10. Substituting one [bad idea](#) for another is not a "compromise."
9. A key EFCA negotiator is "[not happy](#)" with the "compromise" bill.
8. States from [coast](#) to [coast](#) have rejected it.
7. It's an act only a labor boss could [love](#).
6. Lawmakers from both [sides](#) of the aisle are against it.
5. It has an equally [evil twin](#).
4. It has another equally [evil twin](#).
3. Even EFCA supporters seem [confused](#) about what's in the bill.
2. A federal agency has already declared a key feature of EFCA "[unreliable](#)."
1. The [unemployment rate](#) is already too high, and EFCA would only make it worse.

October 13, 2009

## More Reasons EFCA Must Fail No. 10: Substituting One Bad Idea for Another Is Not a "Compromise"

Kicking off the [countdown](#) of 10 more reasons the so-called Employee Free Choice Act must fail is a look at why – when it comes to jobs and workers' rights – there can be no compromise.

With EFCA seemingly stalled in the Senate, supporters have been suggesting "compromises" to the bill – including dropping its dreaded "card check" provision. But as several observers have pointed out, these "compromises" aren't any better than the original bill itself.

Take a group of Indiana business executives who recently wrote an essay about the attempts to rescue this sinking bill:

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*"Some have talked about removing the secret ballot provision of S560, but the other provisions are equally damaging: expedited elections with new rules*



*favoring unions only, mandatory binding arbitration and a one-sided increase in penalties.*

*"This means that unions could continue to engage in all union organizing activities without increased penalties, but those on employers who violate the act could include fines of up to \$20,000 for repeat violations, among other things. In other words, unions could use the threat of increased fines as an organizing tactic and file unfair labor practices against businesses.*

*"Businesses would have to legally defend themselves against the complaints or face fines up to \$20,000 per incidence. The legal fees could be enormous and could literally force some businesses to fail or accept a union."*

Budd et al., "[It's time to stand up for Hoosier jobs](#)," *The Star Press* (Muncie, Ind.), 09.27.09

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Their concerns echo those set forth by other wary EFCA watchers. For example, that "EFCA's mandatory first-contract arbitration provision is [unrealistic, vague and unfair](#)." Or that it would "[slash the time for an organizing vote](#) from a median 38 days to only five or 10 days after 30 percent of workers request a union."

No matter how many ways supporters disguise it, the Employee Free Choice Act is a bad idea. And trading one bad idea for another is not a "compromise." It's desperate. It's time for EFCA to go under for good.

October 14, 2009

## **More Reasons EFCA Must Fail No. 9: A Key EFCA Negotiator Is "Not Happy" With the "Compromise" Bill**

Sen. Sherrod Brown is not happy with a "compromise" version of the Employee Free Choice Act – and he's one of the act's key negotiators.

This says a lot about EFCA's so-called compromise even though details haven't been officially announced yet. The Ohio Democrat admitted his dissatisfaction with EFCA – and the bill's chances – to *The Hill* recently here:

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*"In an interview with The Hill, Brown said he's not happy with some of the changes, but that he's working hard to lobby his Democratic colleagues — and even a few Republicans — to accept the compromise. He said he is not sure if the new version would have the 60 Senate votes necessary to beat back a filibuster.*

*"I don't know," Brown said. 'It's not clear to me that we have everybody's vote yet.'*

*"But Brown expressed confidence that Congress will at some point move the union bill — if not this year, then next — saying senators have made progress on negotiating a new version of the bill.*

*"I think this is going to happen at some point," Brown said. "There is a decent chance it will happen this year."*

Bogardus, "[Key Dems confident card-check will pass](#)," *The Hill*, 10.01.09

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Brown's misery with EFCA has a lot of company. The truth is, most people aren't happy with the Employee Free Choice Act – compromise version or not. Republicans are against it. So are some [Democrats](#). Many [states](#) are working on laws to block it. Plenty of [business owners](#) don't want it – as well as some [union members](#).

It's time to admit that EFCA is a special interest favor, and not meant for the nation's general benefit. Indeed, experts say the act, if passed, could burden an already weakened economy by contributing to [job losses](#), among other problems. Let's end the unhappiness and drop the bill once and for all.

October 15, 2009

## **More Reasons EFCA Must Fail No. 8: States From Coast to Coast Have Rejected It**

Don't even think about installing card check in California. Or for that matter, just about anywhere else.

States from coast to coast have been actively working to thwart the Employee Free Choice Act or state versions of the bill that's now sitting in Congress.

One of the more recent blows happened in the Golden State. Gov. Arnold Schwarzenegger vetoed – *for the fourth time* – a card check proposal for unionizing farm workers that was very similar to EFCA. Here's what the *San Francisco Chronicle* had to say about the latest termination of this undemocratic process by "The Govern-ator":

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*"Gov. Arnold Schwarzenegger has vetoed a union-backed bill that would have required farmers to negotiate with a labor union if a majority of their employees signed membership agreements.*

*"It marks the fourth time the governor has rejected requiring farm owners to abide by what are known as card-check provisions. The bill he vetoed Wednesday, SB789 by State Senate President Pro Tem Darrell Steinberg, D-Sacramento, was similar to federal legislation for nonfarm employees that is the subject of an intense battle between business and labor forces in Congress. ...*

*"Business groups counter that card check would allow unions to pressure employees in private and would effectively eliminate union elections, even though workers would retain the right to demand an election.*

*"If there's an option, the union will take the route that's easiest, the signing of those cards, and that takes away the secret-ballot election," said Doug Mosebar, a Santa Barbara County rancher and president of the California Farm Bureau Federation. "It's at the heart of the democratic process."*

*"Schwarzenegger expressed a similar viewpoint in his veto message Wednesday.*

*"This process fundamentally alters an employee's right to a secret-ballot election that allows the employee to choose, in the privacy of the voting booth, whether or not to be represented,' the governor said."*

Egelko, "[Governor vetoes card check for farm workers](#)," *San Francisco Chronicle*, 9.04.09

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Other states have been working to protect the secret ballot, too. In [Arizona](#), voters will have a chance to decide the issue in a 2010 referendum by, ironically, voting by secret ballot. Meanwhile, [South Dakota](#) lawmakers are offering a proposal that would allow voters to do the same in the Mount Rushmore State.

But opposition to EFCA is more than just protecting the secret ballot. There's the act's [forced government contracts](#) provision, for example. In [Michigan](#), they already have a similar law on the books – and the results have been so terrible that even one of the law's original supporters has backed away from it.

[Newspaper editorial boards](#) have joined the fight against EFCA, too. In Virginia, Lynchburg's *News & Advance* tried to pin down key Democrats in Congress about where they stand on workers' right to a secret ballot: "Do you support the right of an American worker to decide, in secret and in private, whether he wants to be represented by a labor union on the job?," the newspaper asked. "Yes or no? And no dodging the question."

In Florida, the *Sun-Sentinel* echoed widespread concerns about how card check would impact workers, noting that the practice "would open the door for a lot of coercion and intimidation, in the workplace, in homes. Theoretically, a union could gain certification without every employee, or management, knowing about it."

The United States is a huge country, with more than 300 million people living in it. Yet somehow, citizens in states from north to south and east to west agree on one thing: The Employee Free Choice Act is no good and should not become law.

October 16, 2009

## **More Reasons EFCA Must Fail No. 7: It's An Act Only A Labor Boss Could Love**

As we pointed out yesterday, there's plenty of [opposition](#) to the Employee Free Choice Act. So who has been pressuring lawmakers to keep it alive in Congress?

Mostly, the heads of some of the nation's largest labor unions. They have a lot riding on EFCA, especially their future as a major force in Washington. Bloomberg News columnist Albert R. Hunt laid it all out recently in *The New York Times* here:

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*"If labor fails on the so-called Employee Free Choice Act, it would be a huge blow and it would likely produce internal and political recriminations. ...*

*"Some analysts wonder whether labor can be effective on both legislative and political matters when it is divided. Four years ago, seven unions, including*

*the Service Employees, the Teamsters and the United Food and Commercial Workers, broke from the AFL-CIO, which they said wasn't aggressive enough in organizing and on other matters. They formed the 'Change to Win' coalition.*

*"There are moves to get these factions back together so labor can present a more united front. A former Michigan congressman, David Bonior, has been tapped to try to reconcile some issues. It's a tough task.*

*"Originally, it was thought unity might occur after the current AFL-CIO president, John Sweeney, stepped down. Mr. Sweeney and Andy Stern, head of the Service Employees, are enemies. The federation, however, has tapped Mr. Trumka, former head of the mine workers, to succeed Mr. Sweeney this month; his relations with Mr. Hoffa and some other Change to Win leaders are also said to be bad."*

Hunt, "[Infighting Is Blunting Labor's Clout](#)," *The New York Times*, 09.06.09

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The [turf wars](#) of unions are their business. But EFCA's impact on an already weakened economy makes their business everybody's concern. That's why EFCA opposition has been both broad and bipartisan – and why its supporters in Congress should drop it once and for all.

October 19, 2009

## **More Reasons EFCA Must Fail No. 6: Lawmakers From Both Sides of the Aisle Are Against It**

Picking up where we left off last week with the list of [10 more reasons](#) the so-called Employee Free Choice Act must fail is an obvious indicator of legislative doom: The act has drawn the ire of elected officials on *both sides* of the political divide. Although the act's supporters don't highlight this fact, it's not just Republicans opposing EFCA. More than a few Democrats oppose the job-killing bill as well.

One of those Democrats is Blanche Lincoln of Arkansas. She's been against the act because she's wary of its effects on the economy, as *The Economist* noted in a recent profile here:

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*"The Democrats' plans for energy and labour depend a lot on whether Mrs Lincoln sides with her own party; and she has a habit of bucking it.*

*"For example, she is one of only a couple of Democrats to oppose the Employee Free Choice Act, a bill the party's union allies crave more than anything else. They want the power to unionise firms without a secret ballot, simply by persuading a majority of workers to sign a card. Employers fear that union heavies would visit workers at home and pressure them into signing. Arlen Specter, a senator who recently defected to the Democrats, has floated a compromise which would preserve the secret ballot. He thought this would win over Mrs Lincoln, but it didn't. The bill still says that, if a union and an employer fail quickly to agree on a contract, a government-appointed arbitrator can*

*impose terms. That would be 'unbelievably difficult for small businesses,' says Mrs Lincoln. She hears from hospitals in Arkansas worried that, if they have 40 nurses and 21 opt to form a union, they would have only a few weeks to agree on a new contract, despite having no idea what the health-care system will look like next year."*

*"[Blanche Lincoln's balance](#)," The Economist, 10.01.09*

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Other Democrats that have kept EFCA mercifully mired include Arkansas' other senator, Mark Pryor. He has remained "[stubbornly noncommittal](#)" about EFCA, which is definitely not an "aye" vote that supporters need. Then there's Nebraska Sen. Ben Nelson, who has called attempts to make a compromise on this ill-conceived legislation "[a fool's errand](#)."

All this bipartisan opposition shows just how terrible the act really is and it's just one more reason why EFCA must fail.

**October 20, 2009**

## **More Reasons EFCA Must Fail No. 5: It Has An Equally Evil Twin**

It seems there's more than one way to meddle with organizing elections at the expense of workers.

While most of Capitol Hill's attention has been on the misleadingly named Employee Free Choice Act – with its ability to [kill jobs](#), set aside [the secret ballot](#), and crush [small businesses](#) – there's another attempt to rig organizing elections underway in a little-known federal agency. *The Wall Street Journal* uncovers the details here:

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*"The latest looming political favor features the National Mediation Board, the federal agency established in 1934 under the Railway Labor Act to oversee labor relations in the air and rail industries. A department of the AFL-CIO last month sent a letter demanding that the board tear up longstanding rules requiring that a majority of all airline or rail workers vote in favor of union representation to win union certification.*

*"The AFL-CIO instead wants a 'minority rule,' requiring only a majority of the employees who actually vote. Under current rules, if an airline has 10,000 nonunion flight attendants, 5,001 must vote yes to unionize. Under the union proposal if only 2,000 of 10,000 vote, and 1,001 vote yes, all 10,000 become subject to unionization. ...*

*"The union says it merely wants an election governed by the same rules that apply to nontransport industries under the National Labor Relations Act. But the Railway Labor Act was written because the government viewed transportation as economically vital, and one of the law's purposes is to avoid damaging strikes. Every Mediation Board since 1934 has upheld the majority rule, on grounds that 'certification based upon majority participation promotes harmonious labor relations. A union without majority support cannot be as*

*effective in negotiations as a union selected by a process which assures that a majority of employees desire representation.'*

*"The Railway Labor Act also offers no direct way for workers to decertify a union once it is in place, which is why the law provides the initial safeguard of a majority vote. The Supreme Court has twice upheld the majority rule, and the Mediation Board has four times rejected requests to change it, as recently as last year. The majority rule has been used in more than 1,850 elections, and unions have won more than 65% of the time. At least one Board (under the Carter Presidency, note) bluntly said that only Congress could change the voting rules."*

Editorial, "[Flying the Union Skies](#)," *The Wall Street Journal*, 10.07.09

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What's going on at the National Mediation Board is a clone of what's going on in Congress with EFCA: a time-honored and successful method of organizing is threatened by a new approach that disregards the rights of workers – and even common sense.

These shenanigans come to us courtesy of [special interest union leaders](#), who want to increase their numbers and their political clout – at the expense of just about everybody else. It's just [one more reason](#) why this and EFCA must fail.

October 21, 2009

## **More Reasons EFCA Must Fail No. 4: It Has *Another* Equally Evil Twin**

Call it "Attack of the EFCA Clones."

Like a flying saucer in a science fiction movie, the Employee Free Choice Act has been hovering over the Capitol for months. Thanks to [bipartisan opposition](#), though, it hasn't attacked the U.S. economy yet.

But [measures similar to EFCA](#) are staging economic assaults that are equally troubling.

Take federal Project Labor Agreements. Popular among EFCA backers, they were mostly banned during the Bush administration because of concerns that they drove up federal contracting costs while discriminating against potential bidders. However, President Obama has revived PLAs and they are already underway in New Hampshire, as *The Washington Times* reports here:

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*"Mr. Obama issued an executive order in the first weeks of his presidency that would make the requirement, known as a 'project labor agreement' or PLA, the norm for all government contracts on large-scale construction jobs. The order is under review and a final rule is not expected for months, but that did not stop the Labor Department from rushing to use a PLA to build its new Job Corps Center in Manchester, N.H.*

*"The PLA executive order replaced a Bush administration order that discouraged the use of such agreements.*

*"It was one in a series of early policy moves by Mr. Obama that has dramatically improved the unions' fortunes, though the president has not delivered on labor's top legislative priority, the so-called 'card-check' bill that would make it easier to organize workplaces.*

*"Critics say imposing the union-friendly rules on the New Hampshire job - the first federal construction contract with such stipulations since President Clinton was in office - will drive up costs, delay the project and force most of the workers to pay union dues and pension contributions for which they likely will never receive benefits.*

*"North Branch Construction, a Concord, N.H.-based general contractor and member of the business group Associated Builders and Contractors (ABC), filed a bid protest this week with the Government Accountability Office, claiming the PLA 'unduly restricts competition.'*

*"PLAs are special-interest handouts that deny taxpayers the accountability they deserve from government contracts,' said Ken Holmes, president of North Branch Construction."*

Miller, "[Obama puts union strings on federal jobs](#)," *The Washington Times*, 10.07.09

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PLAs offer just a taste of what working life will be like if the Employee Free Choice Act becomes law, and it's just [one more reason](#) why both proposals should fail.

October 22, 2009

## **More Reasons EFCA Must Fail No. 3: Even EFCA Supporters Seem Confused About What's In the Bill**

There's a compromise version of the Employee Free Choice Act that's almost ready ... or is it?

In a speech before the AFL-CIO last month, Sen. Arlen Specter said an EFCA deal had been "pounded out" and it would pass before year's end.

The newly Democratic lawmaker received great applause from the crowd in response to this surprising announcement. He also received a great many questions from reporters and even some fellow EFCA supporters about what exactly he meant. *National Journal's* CongressDaily tried to clear up the confusion here:

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*"After a key legislator described a pending compromise on card-check legislation Tuesday, backers scrambled to tamp down speculation that a deal on the labor reform bill has been finalized. ...*

*"Senate Health, Education, Labor and Pensions Chairman Tom Harkin, an outspoken proponent of the union-backed bill, declined to discuss the details of a potential compromise.*

*"I've not discussed it publicly because it's not quite ready [for me to] do so yet," Harkin said, adding that much work has been done to hammer out compromise language that both skittish Democrats and union leaders can swallow.*

*"Specter's office emphasized late Tuesday that no formal legislative language has been completed, saying that the senator, who abruptly jumped from the Republican Party to Democratic ranks earlier this year, was simply expressing optimism that a deal may be reached.*

*"There's no deal, so [there's] no language to share," said a spokeswoman.*

*"Senate negotiators have not met to discuss the legislation since July."*

Dann and Hunt, "[Senators Say Deal On Card-Check Measure Not Yet Final](#)," *CongressDaily* (subscription required), 09.16.09

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Specter's comments are just the latest in a long line of murky pronouncements about the act's prospects in Congress and details of closed-door negotiations on alternative plans for the bill.

For example, Sen. Sherrod Brown, a key EFCA negotiator, has been described as "[not happy](#)" with the compromise version – and unsure if it will gain the votes needed for passage.

It was not so long ago that Senate Majority Harry Reid declared that EFCA will not get a vote because "[we have too many other things on our plate](#)." This was roughly a month after *Roll Call* reported that Reid and other Senate Democrats were looking for ways to [railroad the bill](#) through the chamber as fast as possible to avoid debate and opposition.

Sen. Tom Harkin, another key EFCA dealmaker, has declined to provide details of EFCA's progress but has [said](#) he "took it off the front-burner and put it on the back-burner, so it is still on warm, OK?"

Hot, cold, warm, whatever. The Employee Free Choice Act has been a terrible bill from the start, with its ability to kill jobs in an already down economy, force government contracts on struggling small businesses, and set aside a worker's right to a secret ballot. It's a mess, plain and simple, and the best way to clean it up is to not pass it in the first place.

**October 23, 2009**

## **More Reasons EFCA Must Fail No. 2: A Federal Agency Has Already Declared A Key Feature of EFCA "Unreliable"**

Although the Employee Free Choice Act has been tied up for months in Congress, we already have an idea what one federal agency thinks about "card check," a key part of the legislation.

Its verdict? "Unreliable."



In September, *The Washington Times* reported that the Legal Services Corp., which provides grants to legal-aid groups that help the poor, determined the card check method of organizing to be flawed. Indeed, when some of its own workers wanted to organize that way, it flatly rejected the attempt. *The Times* picks up the story here:

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*"The Legal Services Corp., a congressionally chartered, taxpayer-funded entity, even hired a law firm to rebuff the efforts of workers in its oversight offices to gain union representation by the International Federation of Professional and Technical Engineers (IFPTE), forcing the workers to conduct a vote by secret ballot later this week.*

*"The LSC's decision has prompted concerns on Capitol Hill that the government may be trying to impose a solution on private businesses that its own agencies and panels are reluctant to follow. ...*

*"Employees in LSC oversight offices, with the help of the IFPTE, appealed to LSC President Helaine Barnett in a July 20 letter, asking her to accept authorization cards signed by 'an overwhelming majority' of workers signaling their intent to unionize. Ms. Barnett dismissed the request in a July 28 letter, saying that 'authorization cards are often an unreliable indicator of support for a union,' according to a copy of the correspondence obtained by *The Times*. ...*

*"The preference of the LSC, which is legally structured as a nonprofit corporation, for using the secret-ballot election process complies with federal organizing requirements. Federal agency employees, unlike their counterparts in the private sector, aren't permitted to unionize voluntarily using authorization cards.*

*"They have to go through the secret-ballot election,' said Sarah Whittle Spooner, legal counsel for the Federal Labor Relations Authority, which has jurisdiction over government agencies. 'There is no process for voluntarily organizing in the federal sector.'"*

Carpenter, "[Federal Program Rejects 'Card Check' Effort](#)," *The Washington Times*, 09.09.09

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As the newspaper noted, it would be stunningly hypocritical for the government to force private businesses to accept card check drives through EFCA while protecting secret ballot organizing methods for its own workers. This is why lawmakers proposed the [Secret Ballot Protection Act](#). That way, all workers – both private and public – can have a proven and reliable way to organize.

But the government has been hypocritical on the secret ballot [before](#). And it's [another reason](#) why the Employee Free Choice Act must be defeated.

October 26, 2009

## More Reasons EFCA Must Fail No. 1: The Unemployment Rate Is Already Too High, And EFCA Would Make It Worse

With recent figures at 9.4 percent, 9.7 percent, and 9.8 percent, how high will the national unemployment rate go?

It's a question that should give supporters of the so-called Employee Free Choice Act pause. Here are some grim details of the September unemployment figures, courtesy of *The New York Times*:

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*"During the technology boom of the late 1990s, Mr. Lamirande, 62, worked for I.B.M., where he drew a salary of about \$130,000. After a layoff seven years ago, he has earned about \$70,000 a year as a technology consultant working on contract.*

*"Since the spring, he and his wife have lived on her modest salary as a public school teacher and on hardship withdrawals from his retirement account. He has searched nationwide for his next contract, willing to relocate.*

*"I've got to go where the opportunities are,' he said. 'The problem is, there aren't many opportunities.'*

*"The latest jobs report lent credence to that contention. The unemployment rate continued to inch toward double digits, a level last seen in June 1983. The so-called underemployment rate (which includes people whose hours have been cut, and those working part-time for lack of full-time positions, along with the jobless) reached 17 percent, the highest level since the government began tracking it in 1994."*

Goodman, "[Jobs Report Highlights Shaky U.S. Recovery](#)," *The New York Times*, 10.02.09

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And still supporters want to pass EFCA, a proposal that [experts say](#) will kill even more jobs at a time when they are already scarce. The next round of unemployment figures are scheduled to be released Nov. 6. Will this be the month the national unemployment rate crosses into double-digit territory? Don't count on EFCA to help turn things around. This job-killing legislation would only make things worse.

October 27, 2009

## Want More Jobs? Scrap EFCA.

There are four ways for Congress and President Obama to create more jobs in America – and one of them is to "renounce" the Employee Free Choice Act.

That's what University of Chicago economics professor Steven J. Davis says in a recent essay for *Forbes* magazine.

Davis writes that instead of extending unemployment benefits or pursuing other policies that would drive up the deficit, lawmakers should work on budget-friendly proposals to get the economy moving again.

Davis offered four ideas to accomplish this, including rolling back costly health insurance mandates and experimenting with back-to-work programs while assessing their results.

Notably, his recipe for recovery singled out one "grossly misnamed" proposal before Congress that he believes ought to be scrapped: the Employee Free Choice Act. He elaborates here:

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*"The Free Choice Act would eliminate the secret ballot requirement. Instead, union certification would require only that a majority of workers sign cards supplied by the union. This 'card check' process is rife with potential for strong-arm tactics and intimidation by union supporters. Sign here or else!*

*"It's unclear whether the Free Choice Act and card-check provision will become law. Fears that the act might become law are enough to chill investment by firms that could be targets of card-check union certification. To allay these fears and remove the chill from investment, President Obama and congressional leaders should forcefully renounce the act now. If they won't, moderate Democrats should step forward and publicly announce their opposition to the act. By taking this step, they would help restore business confidence and set the stage for more job-creating investments."*

Davis, "[Getting Back To Work](#)," *Forbes*, 10.14.09

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The Labor Department is scheduled to release the latest unemployment figures next week. Currently, the national jobless rate stands at 9.8 percent – and many expect it to go even higher. If they're serious about reversing that trend, the Democratic majority can start by dropping EFCA altogether.

**October 28, 2009**

## **Standing Up for the Secret Ballot**

A recent MediaNews Group editorial that appeared in California's *Contra Costa Times* praised Sen. Dianne Feinstein for her reluctance to support the Employee Free Choice Act, whose card check provision is a "slap in the face to democratic principles."

The newspaper chain makes an effective case against legislation to do away with secret ballot unionizing elections. Its arguments echo the concerns of Republicans who have proposed an alternative to EFCA that would permanently guarantee all workers access to a secret ballot in workplace organizing elections. As the editorial notes:

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*"Secret ballot elections are not mandated now. However, employers can, and usually do, require them. Under card check, employers no longer would be able to demand an election, which means they are likely to be rare."*

*"Without an election, union organizers would be able to persuade workers, one by one, to sign a card. Once 50 percent plus one worker in a business or division of a business signed, the union would automatically be recognized.*

*"It is upsetting that legislation to eliminate one of the fundamental rights of American workers, a secure secret-ballot vote, has gained so much strength. ...*

*"The privacy of the voting booth is the one place where no worker needs to feel intimidated by employers or union organizers."*

Editorial, "[Feinstein Right To Back Away From Bad Labor Bill](#)," *Contra Costa Times* (Calif.), 10.20.09

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Republicans have argued for years that the only way to truly ensure workers are free from intimidation or public pressure when voting on whether to form a union is to guarantee access to a secret ballot election.

That's where the [Secret Ballot Protection Act](#) comes in. Introduced earlier this year, the bill assures workers that no one – not union organizers, not co-workers or management – will know how they voted.

The editorial noted that Feinstein, D-Calif., is often a "reliable supporter" of unions, so her wariness to back a proposal so heavily favored by Big Labor speaks volumes.

There are [many, many](#) reasons why EFCA should not pass, but this editorial does raise a good point: If a "reliable supporter" such as Feinstein is not backing it, why should anybody else? Especially when a commonsense alternative exists to protect workers' rights – rather than denying them.

**October 29, 2009**

## **Secret Ballots Abroad: Canada**

They tried mail-in ballots and even considered voting by Internet. But in the end, residents of a small Canadian city wanted to go back to the best method of voting: secret ballot.

City elders in Clarington, Ontario, voted to restore the secret-ballot method for the 2010 local elections after hearing from a number of residents concerned about the "unsupervised" nature of both mail-in and online voting. Here's what some residents told the local paper about those voting methods:

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*"Any method of remote voting is flawed," said Bowmanville resident Louis Bertrand. 'Mail and phone have problems and the Internet is worse.'*

*Remote versions allow for the possibility of 'loss of confidentiality,' he said. They allow for the 'potential for coercion, vote selling or voter solicitation by a candidate.' ...*

*"It's an intractable problem that you have to be able to trust the process and also be able to say that this person is the person who actually cast the vote and nobody was standing over the (voter's) shoulder, coercing the vote," he*

*said. And in homes where several voters share a computer, 'it's very difficult to have a secret ballot.'*

*"The mail-in version, said local resident Brian Mountford, is the 'most wide open to manipulations.'"*

Stone, "[Clarington to move back to traditional voting methods](#)," *Clarington This Week*, 10.28.09

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It's a lesson supporters of the so-called Employee Free Choice Act have stubbornly refused to learn. At first, their bill would have set aside the secret ballot and replaced it with a public sign-up process in organizing elections – leaving workers open to the intimidation that Clarington residents feared.

Then, after the American people totally [rejected](#) EFCA's "card check" voting method, they floated the [mail-in ballot](#) as an alternative. As many Clarington residents noted, using the mail can also lead to intimidation and even fraud.

In the end, there's really no other method of voting – for a union or a government – that people like more than the secret ballot. Other [Canadians](#) besides those in Clarington prefer it. [New Zealanders](#) like it, too. And so do people in the United States, which is just another reason why EFCA must be scrapped for good.

**October 30, 2009**

## **Pro-EFCA Ad Strikes Out**

It's the bottom of the ninth inning for supporters of the Employee Free Choice Act – and they are getting desperate.

With only a few weeks left in the legislative season, the AFL-CIO swung for the fences this week by co-sponsoring a full-page pro-EFCA ad in three Capitol Hill newspapers. It featured the ad's other co-sponsor, another notable labor union.

Was that union the Teamsters? The International Brotherhood of Electrical Workers? The Service Employees International Union?

Try the Major League Baseball Players Association.

The ad features 12 ballplayers in baseball card-like poses with the tagline: "A level playing field is as important in the workplace as it is in baseball."

Right. First off, the field is not completely level because of the pitcher's mound. But seriously, when it comes to workplaces, it's safe to say that members of this particular union, like [Hollywood actors](#), are a little different than most workers on the shop floor.

For one thing, a ballplayer's work doesn't last all year. Heck, most of their workdays don't even last eight hours – unless a game goes into extra innings. That's assuming the weather's nice, of course. Remember, if it rains hard enough, members of this union get the day off.

Also, many players have endorsement deals for sports drinks, sneakers, and the like, allowing them to live a lifestyle that's far beyond the typical American worker.

If EFCA passes, *these* are the people who will suffer the most – not "the boys of summer."

They will be the ones facing the threat of intimidation at the workplace through the “card check” system – not ballplayers, who at worst have to deal with unruly fans after blowing a key play.

Typical workers – you know, the type *without* multi-million dollar contracts and throngs of adoring fans – will also face the possibility of being [laid off](#).

The AFL-CIO and the players’ union probably think they hit a home run with this ad. But in reality, it will be workers who strike out if EFCA passes.

November 2, 2009

## **“Mr. President, Mr. Stern Is Here To See You ... *Again.*”**

The White House released some of its visitor logs last week and one name on them shouldn’t surprise anyone who has been following the mercifully mired Employee Free Choice Act.

The No. 1 visitor is Andrew Stern, a big-time union chief and major EFCA [stakeholder](#). *The Wall Street Journal* fills us in on Stern’s visits to 1600 Pennsylvania Ave. here:

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*“Andrew Stern, the president of the Service Employees International Union, visited the White House 22 times between Inauguration Day and July 31, meeting with President Barack Obama seven times and leading all visitors recorded during that period in a White House visitor log released Friday.*

*“The White House released an incomplete log of visitors in the opening months of the presidency, offering a glimpse of power and influence in the new Democratic administration.”*

Weisman and McKinnon, [“Presidential Visitor List Is Released,”](#) *The Wall Street Journal*, 10.31.09

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The logs don’t reveal what Stern discussed with President Obama and White House aides, but it’s safe to say that the Employee Free Choice Act – ostensibly organized labor’s top legislative priority – probably came up a couple times. Stern’s [stake](#) in the legislation is great. Indeed, some have said that the future of Big Labor’s political [clout](#) in Washington rides on EFCA.

So do future dynamics of the U.S. economy, which is why the act has been stuck on Capitol Hill for months.

It’s been stuck, among other [reasons](#), because both [Democratic and Republican](#) lawmakers know that EFCA is the last thing the recovering economy needs right now. And many won’t make a move on something that sets aside a worker’s right to a secret ballot – the method of voting that gave lawmakers their current jobs. So Stern visits the White House again and again. But he could visit a thousand times, and it still wouldn’t hide the fact that EFCA is a job-killer that strips workers of their rights and has no business ever becoming law.

November 3, 2009

## Just When You Thought It Was Safe To Go To the Polls

How many ways are there to interfere with a union election?

While the Employee Free Choice Act has been receiving most of the attention, few realize there are *other* [proposals](#) out there that also would affect workers' rights at the ballot box.

The latest attack occurred Monday at the National Mediation Board on a 75-year-old [election rule](#) that covers thousands of airline and railway workers. *The Wall Street Journal* has the story here:

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*"Under an interpretation of the Railway Labor Act dating to 1934, aviation and rail workers who don't vote on whether to create a union are counted as 'no' votes. That means a union cannot be approved without a full majority of all employees voting yes.*

*"Under the National Labor Relations Act governing other industries, a union can be created as long as a majority of all votes cast are in favor of collective bargaining. In such elections, nonvotes don't count.*

*"Under the proposal made public Monday, which is subject to a 60-day comment period, the NMB would tally votes for air and rail workers in the same way as those other industries. 'Few if any' democratic elections treat nonvotes as no votes, the NMB said in the proposal. ...*

*"In a letter Monday to more than a dozen Republican senators, NMB board member Elizabeth Dougherty said the process used by her two colleagues to draft the proposal was 'flawed' and that she had been frozen out of deliberations.*

*"Making this change would be an unprecedented event in the history of the NMB, which has always followed a policy of making major rule changes with consensus,' Ms. Dougherty said in a dissenting opinion included in the agency's proposal."*

Esterl and Trottman, "[New Rule to Benefit Rail, Plane Unions](#)," *The Wall Street Journal*, 11.03.09

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So let's see: A semi-obscure government labor board makes a controversial ruling that changes longstanding union election rules without a fair hearing beforehand. The result of this decision could mean that a minority of prospective union members could decide the future for the majority of workers.

This sounds like the perfect companion to EFCA, where secret ballots are [tossed aside](#) and public intimidation in organizing elections reigns. Neither is good for workers and both should be scrapped.

November 4, 2009

## EFCA State Update: Colorado

If the Employee Free Choice Act becomes law and sets aside the secret ballot for workers, voters in Colorado will have a chance to set it back.

The Centennial State's Supreme Court recently declared the three – count 'em, *three* – ballot initiatives to protect the secret ballot are fair under state law. The *Daily Camera* praised this decision and weighed in on the debate here:

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*"The misnamed Employee Free Choice Act, which would effectively end secret voting by employees in union elections, potentially faces a hurdle in Colorado.*

*"On Tuesday, the Colorado Supreme Court said three initiatives that would protect the secret ballots are fair under current state election law. The tentative measures would potentially be put to Colorado voters should Congress pass the Employee Free Choice Act; they would retain secret ballots in union voting here.*

...

*"Secret ballots should be protected, and even treasured, by those who want individuals to retain their right to make their own choices.*

*"If we had our druthers, an act that increases punishment for illegal employer action, which retains the employee's right to vote in secret, would be in the works. But as it stands, Coloradans may get the chance to protect those votes here, and that's good news for our workers."*

Stutzman, "[Protect Secret Ballots](#)," *Daily Camera* (Boulder, CO), 10.14.09

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Colorado is just the latest [state](#) to take action against EFCA. Clearly, secret ballot elections are important to many people in many different places. Why can't EFCA supporters see this?

November 5, 2009

## EFCA State Update: South Carolina

You can add South Carolina to the [growing list](#) of states that are acting against the Employee Free Choice Act.

In an essay for *The State*, state Senate Majority Leader Harvey Peeler announced that he plans to introduce a bill that would protect a worker's privacy at the ballot box in the Palmetto State:

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*"In this increasingly tough financial climate, the last thing we need is for Congress to pass a bill making life even tougher for small-business owners,*



*especially in a state such as South Carolina, where small businesses employ most of the private-sector workforce.*

*"That's why Greenville's Rep. Eric Bedingfield and I decided to author legislation that would protect a worker's right to a secret ballot when deciding whether to unionize in our state.*

*"The bill calls for a question to be placed on the 2010 general election ballot that, if approved by voters, would guarantee that a worker's right to a secret ballot is protected in the same way as our votes for president, Congress or the Legislature. As majority leader in the state Senate, I have made this bill a top priority for the 2010 session.*

*"The card check proposal in Congress would stack the deck in the unions' favor and hurt small businesses and their employees."*

Peeler, "[Boeing Proves Need to Stop Card-Check](#)," *The State*, 11.05.09

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North, south, east, and west, states are making it clear that workers' privacy at the ballot box is non-negotiable. Yet somehow, the special interests behind EFCA don't seem to grasp that simple fact. And unfortunately for workers and the state leaders fighting on their behalf, there's no guarantee states would be able to trump the anti-worker federal mandate known as "card check." That's why EFCA must be defeated in Congress once and for all.

**November 6, 2009**

## **EFCA and Unemployment**

It's a record, but definitely not one to be proud of.

The Labor Department released the latest unemployment figures today, and they have crossed into double-digit territory for the first time since 1983. Now more than one out of every 10 workers is unemployed, as *The Washington Post* notes here:

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*"More than one in 10 members of the American workforce were unable to get a job in October, the Labor Department said Friday, the first time in nearly three decades that the unemployment rate has soared into double digits.*

*"The unemployment rate rose to 10.2 percent, department said, up from 9.8 percent in September, the highest level since 1983. Employers also continued slashing jobs, though at a slower rate than September, showing that even though the economy is expanding, the job market remains dismal.*

*"The crossing of that symbolic 10 percent barrier is likely to weigh on both the psychology of American consumers and the urgency of efforts in Washington to prop up the job market."*

Irwin, "[Unemployment rate jumps to 10.2 percent: highest since 1983](#)," *The Washington Post*, 11.06.09

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[One way](#) to help “prop up” the job market is to scrap any plans of passing the Employee Free Choice Act. It makes absolutely no sense to unleash a job killer whose effects would just add to today’s dismal figures (190,000 jobs were lost in October alone).

Add to that the act’s power to force government contracts, plus its possible effect on America’s ability to compete in world markets, and you will have prolonged economic suffering, if not disaster.

In good economic times, EFCA was a bad idea. Now, it could be a dangerous one. It’s time to scrap EFCA for good.

November 9, 2009

## Card Check: Signature Job Killing Agenda Item

As congressional Democrats trip over themselves to find new and innovative ways to entrench more power in Washington, Americans are reminded of those big government agenda items that are already proving hazardous to the economy. At the top of the list, the mere threat of the grossly misnamed Employee Free Choice Act is already [stifling job creation](#) even though Speaker Pelosi and her union allies have not yet found a way to turn that bad dream into a reality.

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*“If Democrats really want to create jobs and save themselves from a debacle in 2010, their best policy option is to stop creating so much investment uncertainty and additional barriers to business hiring.*

*“Stop trying to raise business costs by making it easier to unionize via ‘card check.’ Stop trying to raise energy costs with a cap-and-tax bill. Stop adding to the deficit and future tax burden with a 12% increase in domestic spending for 2010.*

*“Above all, stop trying to ram through Congress on a partisan vote a health-care bill that imposes a 5.4-percentage-point income tax ‘surcharge’ on anyone making more than \$500,000 a year. The Joint Tax Committee reports that one-third of this \$460.5 billion tax increase will be paid by small business job creators who file their taxes under the individual income tax code. Amid a 10.2% jobless rate, the highest in 26 years, this tax increase is the definition of insanity.*

*“The sooner Democrats stop what they’re doing, the faster the private job market will recover on its own.”*

Editorial, [“Washington and the Jobs Market,”](#) Wall Street Journal, 11.07.09

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While most Americans and [some in Washington](#) are opposed to the big government job-killing agenda, it is clear that their voices are being ignored. Uncertainty in the economy – driven by threats to freedom and prosperity like card check, cap-and-tax, and a government takeover of the American health care system – continues to keep businesses on the sidelines unsure of how the rules will change next. As long as our nation’s job creators are hesitant to get back in the game, more Americans will continue to lose.

November 10, 2009

## CEO to Dems: Stop Killing the Economy With Card Check!

Like many business owners large and small, Michael Regan is worried about the future – especially if that future includes the Employee Free Choice Act.

In a blog post for *Logistics Management*, Michael Regan, CEO of TranzAct Technologies Inc., noted that unemployment is at a record 10.2 percent nationally because “our political leadership has created uncertainty about the future” and, when faced with that uncertainty, business owners “hunker down and minimize risk.”

That’s why, if EFCA does become law, Regan sees it as one of many threats to the fragile (and currently jobless) recovery:

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*“Whether you know it or not, business owners are looking to survive. To that end, within my small circle, eight entrepreneurs have postponed hiring 100 people and 20 other entrepreneurs have eliminated over 1000 jobs. This scenario, played out on a national scale, is why the unemployment rate is over 10%.*

*“And things may get worse! With EFCA, health care legislation, or legislation which aggressively raises taxes, the U.S. economy can collapse. This so-called recovery is extraordinarily fragile. So for the sake of America: Stop attacking small businesses and please, please, please - Stop Killing the Economy!”*

Regan, “[Mr. President – Stop Killing the Economy](#),” *Logistics Management*, 11.06.09

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EFCA alone would make business owners nervous with its ability to force them into government contracts and increase the cost and complexity of employment. But when added to other [job-killing aspects](#) of the Democratic legislative agenda, it’s plain to see why business owners are not hiring.

EFCA makes little economic sense – in a good economy or bad. It’s time to end it once and for all.

November 12, 2009

## Baby Steps to Card Check

Frustrated that Washington Democrats have not made good on their promise to pass the job killing, misnamed Employee Free Choice Act, union leadership is putting the pressure on states to carry their agenda. A recent report in the Wall Street Journal highlights how unions are taking a local approach in the same spirit of their national plans to undermine workers’ right to a secret ballot:

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*"Both sides see the Oregon law as a local variation of the Employee Free Choice Act, also known as card check, which allows unions to organize workers by getting them to sign cards, often without an employer's knowledge.*

*"Patrick Semmens, with The National Right to Work Legal Defense Foundation, which opposes efforts to expand unionization, said Oregon's law is similar to card check because both limit an employer's access to workers during union organizing. The Oregon law is 'a step toward card check,' he said.*

*"In Washington state, Democrats dropped efforts this year to push the Worker Privacy Act, which would ban mandatory meetings about unionization efforts, after an internal state AFL-CIO email was leaked to lawmakers, saying unions wouldn't contribute to state politicians until the bill -- the unions' top priority -- was passed. Democrats said the email raised legal and ethical questions."*

Kris Maher, ["Unions Push Issues in State Capitals,"](#) *Wall Street Journal*, 11.11.09

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As card check remains unpopular with many Americans, union leadership has had to spend more time [knocking on doors](#) asking for support. Their efforts will be a hard sale as local citizens [continue to register](#) their disapproval.

Nevertheless, we can expect that this "top priority" will remain at the top of the Democrats' to-do list – further haunting our nation's already troubled economy. Even after 190,000 more Americans lost their jobs last month, employers are still met with uncertainty thanks to card check supporters who continue to pursue a job-killing agenda.

**November 13, 2009**

## **EFCA State Update: Missouri**

As we wrote [yesterday](#), unions are pushing for laws similar to the Employee Free Choice Act in many states because their job-killing agenda is going nowhere on Capitol Hill.

But in Missouri, supporters of the secret ballot are pushing back.

The *St. Louis Post-Dispatch* reported Thursday that a group trying to protect the privacy of workers in the Show-Me State survived a legal challenge to their effort:

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*"A group seeking to change Missouri law so that employees can only form unions on secret ballots has survived a legal challenge to their proposed ballot initiative.*

*"Cole County Circuit Court Judge Richard Callahan ruled today against a union-backed lawsuit that would have kept the initiative off the November 2010 ballot. Callahan ruled that Secretary of State Robin Carnahan fairly determined the wording for the ballot initiative.*

*"The initiative would restate current state law reaffirming the right to a secret ballot in local, state and federal elections. It would also require that when employees vote to form unions that they do so in secret ballot."*

Missouri ... [South Carolina](#) ... [South Dakota](#) ... [Arizona](#) ... [California](#) ... the list of states acting against EFCA-like laws is growing. Clearly, protecting workers' privacy – and their jobs – is important to them. And just as clearly, EFCA supporters don't seem to get this. State efforts to protect the private ballot are welcome – but they're no substitute for defeating EFCA once and for all.

November 16, 2009

## As California Goes, So Goes EFCA?

Worker intimidation is just one of [many, many](#) reasons why the Employee Free Choice Act should not become law.

But, as *Wall Street Journal* editorial board member Matthew Kaminski recently reported, this practice is allegedly underway already as two unions duke it out in California.

On one side is the Service Employees International Union, a big time EFCA booster whose president, Andy Stern, is a [frequent White House visitor](#). On the other side is a rival labor outfit, the National Union of Healthcare Workers.

Kaminski gives the blow-by-blow account here:

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*"Now these upstarts charge that the UHW threatened workers with deportation and tampered with secret ballots to narrowly win a pivotal election last summer in Fresno, Calif. The NUHW allegations, contained in a complaint filed last Friday and previously not made public, take the battle to a new level.*

*"The June vote was in a 'decertification' election—in which some 10,000 home-care workers were asked to choose between the UHW that already represented them or the NUHW. Old labor hands say they've never seen a decertification vote like this.*

*"The SEIU shipped in 950 or so staff and spent an estimated \$10 million on mailings, advertising, phone banks, door-to-door canvassing and the like. The NUHW doesn't have this kind of firepower. At a rally for staff in late May, David Regan, an SEIU executive vice president who took over the UHW in January, roared that, 'We gotta give a butt-whipping they will never forget.' When the secret ballots were mailed in and counted, the SEIU won that vote by a sliver, 2,938 to 2,705.*

*"The NUHW immediately called for a re-run of the election, challenging voting irregularities. The two unions have traded accusations since. But now, Carlos Martinez, an immigrant from El Salvador who was on the SEIU's staff during the campaign, has come forward—so he says—to blow the whistle on his employer. Mr. Martinez went door-to-door canvassing the home-care workers during the 15-day election. Like him, many of them are native Spanish speakers; some are illiterate.*

*"Speaking in an interview over a sandwich at a hotel in the Bay Area late last month, Mr. Martinez says he was instructed by superiors to tell the workers that if they voted against the SEIU, they could lose their medical benefits, see their green cards or citizenship revoked and possibly be deported. He says he and other staffers were also told to pressure voters to spoil ballots that had been filled out for the NUHW. In other instances he filled ballots out for them. He says he even took some to the post office, as did other SEIU campaign workers.*

*"All of these actions, if true, are a violation of state or federal laws governing union elections. In all, he adds, he visited 550 homes. 'We scared people. We took the secret ballot away from these people,' he says. 'It was wrong.'"*

Kaminski, "[California Labor Wars](#)" *The Wall Street Journal*, 11.11.09

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If worker intimidation is the name of the game in union disputes today, imagine what could happen across the country if EFCA becomes law. It's bad enough that EFCA could [harm](#) a recovering economy. But threatening workers nationwide makes it even worse. That's why lawmakers should scrap EFCA and pass [this proposal](#) instead.

November 17, 2009

## Here's A "Good Idea" for Obama: Kill EFCA

President Obama is looking for a few good ideas.

Specifically, he's looking for suggestions about jobs during a forum on economic growth planned for next month. *The Washington Post* has the details here:

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*"With the nation's unemployment rate at its highest level in 26 years, President Obama plans to bring together CEOs, small business owners and financial experts to sound out ideas for continuing to expand the economy and create jobs.*

*"During these difficult economic times, we have a responsibility to consider all good ideas to encourage and accelerate job creation in this country," Obama said in a statement."*

Fletcher, "[White House announces a jobs summit on Dec. 3](#)," *The Washington Post*, 11.16.09

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If Obama truly wants "good ideas" on job creation, here's a suggestion: Kill the Employee Free Choice Act.

Experts have [concluded](#) that the act can kill 600,000 jobs at a time when the country desperately needs them. It forces government contracts on small businesses, making it harder for them to succeed in, as Obama himself says, "difficult economic times." And it sets aside the secret ballot. This could intimidate or coerce workers into joining a union, causing tension at a workplace that might already be tense because of the [hard economy](#).

EFCA is nothing more than [special interest legislation](#) that serves [labor bosses](#) – and hardly anybody else. Killing it once and for all would not only be a good idea, but [a good step](#) toward economic recovery.

November 18, 2009

## EFCA State Update: Nevada

It seems many Nevadans do not want to gamble with their privacy at the workplace under the Employee Free Choice Act.

The *Las Vegas Sun* reported Tuesday that efforts are under way in the Silver State to amend its constitution to require the secret ballot for union elections – something that's set aside under EFCA. The *Sun* shines a light on the subject here:

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*"An initiative petition has been filed to amend the Nevada Constitution to require employees to vote secretly when deciding whether to be represented by a union.*

*"The petition, filed with the Secretary of State's Office by a group called Save Our Secret Ballot, would require 97,002 signatures to qualify for the 2010 ballot. ...*

*"The petition says, 'The right of individuals to vote by secret ballot is fundamental. Where local, state or federal law requires election for public office or ballot measures, or requires designations or authorization for employee representation, the right of individuals to vote by secret ballot shall be guaranteed.'"*

Ryan, "[Petition seeks amendment requiring secret vote in union elections](#)," *Las Vegas Sun*, 11.17.09

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Nevada joins a growing number of states acting against EFCA – and no wonder. With its ability to intimidate workers through the "card check" system, EFCA would not be popular among citizens who are accustomed to a private vote in local, state, and federal elections.

Also, with a record 10.2 percent national [unemployment rate](#) (and higher in many states), EFCA's ability to [kill 600,000 jobs](#) is not a welcome development, either.

From [coast](#) to [coast](#), it's clear that many states consider EFCA a bad idea – so bad, in fact, that they are doing everything in their power to stop it. Unfortunately, state efforts may not be enough to shield workers from the act's devastating consequences of card check and forced government contracts. It's time for EFCA supporters to admit the obvious and scrap their terrible bill.

November 19, 2009

## EFCA Supporter Admits Act's Chances Are Slim

It's starting to sink in.

A major supporter of the Employee Free Choice Act admitted Wednesday that [serious bipartisan opposition](#) to the bill has made its passage on Capitol Hill unlikely this year – and maybe the next.

The *Las Vegas Sun*, which also reported on Nevada's [attempts to block EFCA](#), has the details here:

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*"John Wilhelm, president of Unite Here, the international hotel and casino workers union, told attendees at the Global Gaming Expo on Wednesday that the Employee Free Choice Act has dim legislative prospects — and that unions shouldn't rely on it as a fix-all solution to labor's decades-long membership slide.*

*"There is no possibility it comes up in the Senate this year,' said Wilhelm, also the onetime leader of the Culinary Union. 'Whether it comes up next year is open to question, and whether it gets 60 votes in the Senate is open to question.'*

*"He added: 'I support it. But I don't regard it as a magic bullet.'*

*"The comments are in stark contrast to those of AFL-CIO President Richard Trumka, who has pledged to get 'card check' legislation, along with health care reform, passed this year. But with Congress bogged down in the health care debate, labor law reform looks increasingly unlikely — at least in the short term."*

Mishak, ["Union leader says 'card check' is on Senate's back burner,"](#) *Las Vegas Sun*, 11.19.09

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The [confusion](#) among EFCA supporters is nothing new. But it's about time that they get organized enough to accept the obvious: The act is a bad idea – really, really bad during these [tough economic times](#) – and should be scrapped.

**November 20, 2009**

## **EFCA By Any Other Name Is Just As Bad**

Now they are getting desperate.

In an attempt to save their [dying bill](#), supporters of the Employee Free Choice Act are trying to introduce new words in the debate. The Service Employees International Union offered details of its substitution strategy in a confidential memo, and *Politico* lists the new lingo here:

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*"The memo reflects the fact that unions and organized labor aren't universally popular, and that Americans sympathize with – especially – small business.*

*"'Anti-union,' for instance, is out, replaced by 'Anti-worker.'*

*"'Our union' and 'labor' become 'workers' and 'working people.'*



*"'Employers' become 'big corporations' or 'corporate CEOs.'*

*"An SEIU spokeswoman, Christy Setzer, didn't challenge the authenticity of the memo."*

Smith, "[SEIU Memo: 'Unions,' 'Employers,' out: 'Workers,' 'Corporations' in,](#)" *Politico*, 11.18.09

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A concerted effort to change the language of the debate is a sure sign the pro-EFCA forces can smell defeat. They can change words all they like – even changing “anti-union” to “anti-rainbows and puppy dogs.” Lawmakers from [both sides of the aisle](#) know that this bill invades a worker’s privacy, can kill 600,000 jobs, and force government contracts on small businesses.

It's time to have the last word on EFCA and that word is “no.”

**November 23, 2009**

## **EFCA and Health Care Reform**

If at first your bill doesn't succeed on Capitol Hill, try hiding your agenda in another one.

That seems to be the new strategy for supporters of the Employee Free Choice Act as their bill [slowly dies](#) on Capitol Hill. Instead of pushing for EFCA's passage, they are now secretly slipping key special-interest items into the massive health care reform legislation.

Houston labor lawyer A. Kevin Troutman noted these sneaky moves in a recent essay for the *Houston Chronicle* and offers details here:

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*"When the public recognized that the Employee Free Choice Act (the card check bill) was not a good idea, labor leaders turned to some old-fashioned misdirection tactics. While higher-profile aspects of health care reform drew attention, pro-union legislators slipped a variety of big benefits for labor into the proposed legislation. Quietly tucked among the proposals' thousands of pages, these provisions have avoided much scrutiny.*

*"One provision epitomizes the nature of this ploy. According to research firms, unions are woefully short of funds to pay their retirees' anticipated insurance claims. Thus, under the House resolution, union leaders who have mismanaged these plans for their members could receive up to \$10 billion in taxpayer-funded bailout money, innocuously referred to as a 'reinsurance program.'*

*"Unfortunately, this is just the tip of the proverbial iceberg.*

*"Under the proposed public option, Secretary of Health and Human Services Kathleen Sebelius would wield tremendous discretionary authority to regulate participating health care workers. She and various federal panels, where the unions would have guaranteed seats, would take the lead in recommending health care policy. Thus, labor would have considerable influence over decisions affecting most doctors, nurses and patients.*

*"The House resolution establishes a scenario that would effectively exclude non-union employers from eligibility to work on program-funded contracts. It also requires participating health care providers to pay wages and benefits that have been collectively bargained or that union-friendly appointees determine are competitive. This is plainly a move toward coerced unionization. With guaranteed seats at the table, unions are poised to control many newly formed oversight posts and/or committees, formed in connection with new employer mandates and cooperative health care associations.*

*"Yet another provision would establish lucrative state training partnerships that contain little or no opportunities for non-union employee organizations. Provisions in Senate proposals would exempt union-negotiated health care plans from taxes on 'Cadillac' health plans."*

Troutman, ["Goodies for labor tucked away in health bill,"](#) *Houston Chronicle*, 11.13.09

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It says a lot about how beneficial their ideas are when EFCA supporters have to hide them in proposed legislation that's thousands of pages long. There are [many, many](#) reasons why EFCA should not become law. Now some of those reasons can be added to the health care debate as well.

**November 24, 2009**

## **Las Vegas Newspaper Goes All In On Secret Ballot**

If it makes the statewide ballot, an initiative to protect workers' privacy in Nevada would be a good bet.

That's what the *Las Vegas Review-Journal* says in a recent editorial backing the measure, which is designed to prevent the "card check" provision of the proposed Employee Free Choice Act. The newspaper counts its chips here:

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*"Paperwork was filed this week with the secretary of state's office to circulate petitions that match those put forward in other states by the group Save Our Secret Ballot. The initiative is intended to head off any revival of the card check legislation, which would essentially end secret ballot elections in union organization drives.*

*"Secret ballots, of course, shield voters from coercion and retaliation. That's why the Save Our Secret Ballot initiative is worthy of the public's support. Caesars Palace and Wynn Las Vegas dealers had no trouble unionizing with secret-ballot elections in recent years, after all.*

*"If the initiative's backers are able to collect the 97,002 valid voter signatures needed to qualify for the 2010 ballot, it would be a heavy favorite to pass next year and again in 2012."*

Editorial, ["Secret Ballots,"](#) *Las Vegas Review-Journal*, 11.19.09

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The *Review-Journal* joins newspapers from [coast](#) to [coast](#) in the fight against EFCA. Even though passing the state proposals might not be enough to shield workers from the act's devastating consequences of card check and forced government contracts, it's noteworthy that so many states, from [South Carolina](#) to [California](#), are taking action anyway. It's time for EFCA supporters to admit the obvious and scrap their terrible bill.

November 25, 2009

## What's Worse Than a Sore Loser? A Sore Winner.

The arguments for the so-called Employee Free Choice Act have always been dubious. The act's supporters claim workers face unfair pressure in workplace organizing elections. Their solution? A public sign-up process notorious for subjecting workers to intimidation, coercion, and the threat of retribution. Talk about unfair pressure.

EFCA's backers also claim current workplace organizing rules are somehow rigged against unions, preventing them from winning elections. The claim seems a little suspicious, and we're not the only ones who think so. *The Washington Examiner* culls new data to put this assertion to the test here:

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*"From the BNA Daily Labor Report:*

*"Unions participated in fewer resolved representation elections conducted by the National Labor Relations Board during the first half of 2009 than the same period in 2008, but the percentage of elections won by unions increased substantially, according to NLRB data analyzed by BNA PLUS, BNA's research division.*

*'Unions won 73.1 percent of 588 private sector elections held during the first half of 2009, up from 66.5 percent of 813 elections held during the same period in 2008. The BNA PLUS survey only tracks elections conducted by NLRB, not organizing outside of NLRB processes.'*

*"That's one heck of a winning percentage. The Truth about the Employees Free Choice Act blog puts this into perspective:*

*"In fact, no [baseball] team has ever won 118 games (the toll needed to hit the 73 percent threshold for a 162-game season) in the nation's pastime.*

*'And union officials still want to rig the rules to avoid letting employees vote in elections that Big Labor won 73 percent of the time?'"*

Hemingway, ["Unions need card check because winning 73 percent of the time isn't enough,"](#)  
*Washington Examiner, 11.24.09*

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EFCA is trying to solve a problem that doesn't exist with a solution that would harm the very workers it claims to protect. What gives?

November 30, 2009

## Card Check: A Lifeline for Union Leadership?

With a decline in union membership over the last several decades, big labor is scrambling to attract more workers. It appears that conventional means of garnering support have failed. So, now union leadership is turning to the misnamed Employee Free Choice Act in an effort to change the rules in their favor.

The editorial board over at *The Intelligencer & Wheeling News-Register* reports that the motivation behind the union leadership's push is more about growing their ranks than protecting their rights:

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*"According to The Associated Press, the percentage of West Virginia workers represented by unions dropped to 14.7 in 2007. That compared to 28.3 percent in 1983..."*

*"...It isn't that the unions have not been trying to rebuild. They have - but often, workers see no benefit in handing over substantial portions of their paychecks to union leaders, to be used for political campaigns with which many union members do not agree."*

*"Having failed to win by playing by the existing rules, unions now want to change labor laws. High on their priority list is the so-called 'card check bill.' If enacted, it would eliminate some secret-ballot guarantees potential union members now enjoy."*

Editor, "[Vote Against 'Card Check'](#)," *The Intelligencer & Wheeling News-Register*, 11.30.09

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Union leadership must be particularly worried. Why else would they be pushing an agenda that faces [bipartisan opposition across](#) the United States and will [cost jobs](#)?

December 1, 2009

## Democrats Plot "Compromise" on Workers' Rights

With December upon us, the first session of the 111<sup>th</sup> Congress is rapidly coming to a close. Interestingly, one of the year's first legislative priorities among Democrats and their special interest allies remains unfinished business in these last weeks of the year. The so-called Employee Free Choice Act (better known as "card check" legislation) was supposed to be a shoo-in for enactment. That is, until the American people had their say. Kevin Mooney has the details in a piece posted today by *The American Spectator*:

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*"With public opinion heavily weighted against the 'card check' provision of the Employee Free Choice Act (EFCA), key Democratic senators have signaled their interest in offering up a compromise to mollify moderates in their own party. ..."*

*"Under card check, the National Labor Relations Board (NLRB) would be required to certify a union without a secret ballot election once labor representatives obtained signatures from 51 percent of a company's workforce.*

*"In practice this means workers would no longer have the opportunity to debate the merits of a particular union and to cast their votes in private. Moreover, union bosses would be in control of the cards and would know who signed for and against representation. ..."*

Mooney, "[Beyond Card Check](#)," *The American Spectator*, 12.01.09

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No wonder workers have rejected card check. Replacing private ballots with a public sign-up process is bound to make workers feel vulnerable to intimidation, coercion, and the threat of retribution. Unfortunately, the compromises now making the rounds among Democratic backers of EFCA are no better – and workers have reason to remain wary of the future:

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*"The compromise being considered on Capitol Hill calls for workforce representation elections to be held 10 days after 30 percent of workers sign cards in favor of organizing. Although the card check phrase would be dropped, the legislation would be still very weighted against business, Greg Mourad, director of legislation for NRTW, has observed. ..."*

*"So far, labor bosses have received little return on their campaign investments in the way of new legislation. Once Democratic leaders clear the deck with healthcare, they will be expected to reintroduce card check, but under a different name."*

Mooney, "[Beyond Card Check](#)," *The American Spectator*, 12.01.09

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Workers beware. It seems the end of 2009 will not be the end of EFCA. Dress it up, strip it down, or change its name – EFCA was, is, and will always be an attack on workers' rights that ought to be defeated once and for all.

**December 2, 2009**

## **Union Organizer: "Card Check" = Strong Arm Tactic**

It makes sense that businesses and a majority of the American people might not be in favor of changing union organizing rules to strip away a worker's right to a secret ballot election. But what does it say about the Employee Free Choice Act when a former union organizer – someone whose job it was to grow union membership – thinks this policy is an affront to employees?

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*"As a former union organizer who never lost an election, but organized the old fashioned way with hard work, this is a joke."*

*"Anyone familiar with an organizing campaign not only knows the pressure co-workers can put on employees in and out of the workplace to get them to sign cards, but also realizes that all employees who sign cards in public will not vote for the union in private.*

*"This Employee Free Choice Act sounds good in name only, but will only allow strong arm tactics to prevail instead of an objective vote."*

Wayne Pankratz, "[What happened to quality representation?](#)" *Wisconsin Rapids Tribune*, 11.28.2009

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Workers do not need policies that merely *sound* good – particularly when they hide a scheme aimed at taking away their workplace rights. Moreover, with 10.2 percent unemployment, the American people do not need an agenda that will [cause further damage](#) to our troubled economy. Perhaps EFCA supporters should follow the advice of one who organized unions and put this bad idea to bed.

**December 3, 2009**

## **EFCA vs. Jobs**

As President Obama huddles at a White House jobs summit "packed with business leaders and economists [supportive of White House policies](#)," it might be instructive to consider the economic consequences of the so-called Employee Free Choice Act. After all, the legislation remains a top priority for union bosses – some of whom will be attending today's White House gathering.

Consider an op-ed penned for the *Huffington Post* by Service Employees International Union (SEIU) Secretary-Treasurer Anna Burger outlining a jobs agenda. On Burger's to-do list:

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*"We must pass the Employee Free Choice Act to once again protect workers' freedom to form unions and allow them to share in the prosperity of a new 21st century economy."*

Burger, "[It's Time to Get to Work on Jobs](#)," *Huffington Post*, 12.02.09

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There's just one problem. EFCA itself would be a significant hurdle for the job creation the President and his allies at the summit claim to be pursuing. Consider a study released earlier this year by economist Dr. Anne Layne-Farrar:

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*"[T]he unintended consequences of passing EFCA are likely to be significant. Increased unemployment and reduced labor supply are very high prices to pay during any time, but especially during a recession."*

Layne-Farrar, "[An Empirical Assessment of the Employee Free Choice Act: The Economic Implications](#)," March 2009

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If the President and his like-minded economic advisors are serious about getting the economy back on track, they can start by disavowing EFCA and any mutation of the legislation that could be coming in the future. With card check hanging over workers and employers like an economic guillotine, the threat of the law alone is enough to [chill](#) the economic recovery America so desperately needs.

December 4, 2009

## You Want Jobs? "Take 'card check' off the table"

With much fanfare, the Obama Administration held a "jobs summit" yesterday in an all but direct acknowledgement that their massive \$787 billion so-called "stimulus" package had not produced the jobs they had promised. The White House invited a friendly audience to discuss how the government can help jumpstart the job market. Union leaders – [regular visitors to the White House](#) – were in attendance, and no doubt the Employee Free Choice Act was on their minds.

Whether or not EFCA was discussed, the fact the job-killing "card check" bill still remains in the Democrat playbook has many businesses and entrepreneurs on alert. In an open letter to President Obama today, Gary Shapiro, President and CEO of the Consumer Electronics Association, provided some candid advice to the president on how to ease the concerns of America's business community and bring job growth back. High up on that list was to "take 'card check' off the table:"

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*Entrepreneurial companies are less likely to hire people if they face a secret unionization movement. Unions are looking backward - rather than focusing on creating next-generation jobs. They are seeking to swell their ranks through anti-democratic and bureaucratic maneuvering. Union membership is falling because workers in an innovation economy need the flexibility to adapt their jobs to address market demands. Unions kill innovation.*

Gary Shapiro, "[An Open Letter to President Obama on the Jobs Summit](#)," *The Huffington Post*, 12.04.09

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It remains to be seen whether the Obama Administration and their congressional allies will heed the advice of America's job creators. With unprecedented deficit spending, an intrusive government takeover of health care, and cap and tax also on the docket, businesses may be forced to wait and see when the next tax hike or burdensome mandate comes around. In the meantime, more Americans will have to continue to ask "where are the jobs."

December 7, 2009

## A Backdoor to Card Check

Union bosses and their allies in Washington have made it clear that they want to expand their powers to grow union membership – even if it means undermining a worker's right to a secret ballot. It is not entirely clear how they plan to accomplish this misguided priority in the face of strong bipartisan opposition to the so-called Employee Free Choice Act on Capitol Hill. One particularly frightening scenario is to sidestep Congress altogether.

As Philip Klein points out in the latest issue of *The American Spectator*, the Obama Administration could attempt to get its way by going around Congress and through our nation's massive regulatory structure. All you need are the right people in the right positions of power to make this union dream a reality:

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*"Even more worrisome for the American business community is President Obama's attempt to pack the National Labor Relations Board with union lawyers who would make rulings that would achieve many of the same results as labor-friendly legislation. The most obvious example of such legislation is the Orwellian-named Employee Free Choice Act (EFCA)...To this date, Republicans have succeeded in preventing EFCA from becoming law, but the bill's legislative fate may not even matter if Obama gets several controversial nominees to the labor panel confirmed.*

*"Currently, there are only two members on the five-member NLRB -- one is a Republican and the other a Democrat. To tilt the balance of the board, Obama tapped two union lawyers (Craig Becker and Mark Pearce). He also appointed a Republican Senate staffer, Brian E. Hayes, in hopes it would dissuade Republican senators from blocking the other two.*

*"Becker, a longtime labor activist...wrote a law review article arguing that the major aims of EFCA could be achieved through rulings by the regulatory body to which Obama has appointed him."*

Philip Klein, "[All the President's Regulators](#)," *The American Spectator*, December 2009 – January 2010 Issue

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It sure seems convenient for union leadership to have friends on the inside who can make their wishes come true without bothering to get the approval of Congress or the American people. Unfortunately, this backdoor to enacting "card check" would still spell trouble for our economy and cost jobs at a time when millions of Americans are out of work. Rather than getting clever with its approach to achieving EFCA standards, the Administration should abandon this item on its job-killing agenda.

**December 8, 2009**

## **Union Elections & Worker Choice**

Supporters of the so-called Employee Free Choice Act have argued in favor of scrapping current workplace election rules in order to give – as their bill name implies – a "choice" to workers.

Given that the public sign-up process known as "card check" is notorious for subjecting workers to the threat of intimidation, coercion, and retribution, the claim has always been dubious at best. Yet there's another type of worker choice that EFCA supporters conveniently ignore.

Although most people think of union election procedures in the context of workers deciding whether to form a union in the first place, it's worth asking what kind of options workers have when they want to leave one union to join another. Clearly, it's a question of worker choice – and once again, an *election* with a private ballot is what's protecting that choice:



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*"A federal labor board decision this week has given a major victory to a breakaway union vying with the giant Service Employees International Union to represent tens of thousands of California healthcare workers.*

*"On Tuesday, the National Labor Relations Board called for elections to determine who has the right to represent some 2,300 Kaiser healthcare workers employed at various sites in Southern California.*

*"An SEIU affiliate currently represents the workers, but the breakaway group filed a petition in February challenging the SEIU. The balloting, likely to be held in January, will give employees a chance to choose between the two unions."*

McDonnell, "[Labor Board OKs Challenge to SEIU](#)," *Los Angeles Times*, 12.04.09

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Ironically, EFCA supporters think so too. Remember the [letter](#) written by 16 House Democrats to Mexican officials back in 2001?

"We understand that the secret ballot is allowed for, but not required by Mexican labor law. However, we feel that the secret ballot is absolutely necessary in order to ensure workers are not intimidated into voting for a union they may otherwise not choose."

Democrats have argued rather clumsily that their advocacy of the secret ballot was not about forming a union, but choosing between two rival labor organizations. They're right – and it proves the point just as well. If we want to protect workers' right to freely choose how and whether to be represented by a union in the workplace, the best way to do so is through a secret ballot.

**December 9, 2009**

## **EFCA: Down But Not Out**

As President Obama and Democrats try to spend their way out of this recession, they are ignoring the consequences of their job-killing agenda, including the uncertainty it fosters in an already troubled economy. In a blog post for FOXBusiness, Brian Sullivan reports on signs the Administration may be finally, grudgingly leaning toward some pro-growth policy initiatives on top of the tax, borrow, and spend policies that have characterized their agenda to date. This follows the White House's recent jobs summit, which was a tacit acknowledgement that their \$787 billion "stimulus" package had not delivered.

Unfortunately, America's job creators are not yet convinced that Washington Democrats will pursue an agenda that supports them rather than one which taxes their success and dictates their behavior.

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*"...[T]he President and Democrats in Congress continue to try and force through cost increasing measures such as fines for lack of mandatory health insurance, carbon taxes and even an easing of job-killing unionization rules.*

*"The good news for companies is that it looks like carbon taxes and card check have been pushed back until next year or shelved permanently. It is also good news that the President seems to finally be coming to grips with what most in the business community already know about economic growth: lower taxes good, higher taxes bad.*

*"But the bad news is that there are simply too many mixed messages from Washington on what cost increases small businesses will face for most of them to do any real hiring."*

Brian Sullivan, "[Obama's Mixed Message for Small Business](#)," *FOXBusiness*, 12.08.09

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Workers and employers may take some small comfort in the fact that the President and his allies on Capitol Hill have not yet found time and support to pass "card check" – a bill that will undermine workers' right to a secret ballot. But no doubt, with the [urging of powerful special interests](#), the economy and America's workforce are not in the clear.

After all, just today congressional Democrats lined up to vote on a tax on investment capital which will once again take more money out of the economy at a time when businesses need that money to grow and create jobs. Additionally, the Majority has signaled no willingness to hit the reset button on other job-killing agenda items like a massive government takeover of health care with its own tax hikes and mandates. As long as they persist in fomenting uncertainty, the Administration and congressional Democrats will stand in the way of our nation's job creators.

**December 10, 2009**

## **EFCA Would Hinder Workplace Innovation**

Americans know how to pull together during tough times to help out a neighbor in need. Just look to the Wyoming school district of West Michigan. Hearing that some of their co-workers would be laid off due to a lack of funds, several of the school district's employees offered to take a cut to their own paychecks in order to free up some money.

Unfortunately, as Michael D. Van Beek of the Mackinac Center for Public Policy reports, those good intentions and innovative generosity are being rejected:

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*"A group of employees in the Wyoming school district in West Michigan tried this very thing recently. Unfortunately for them (and the 57 employees who stand to lose their jobs), it looks like their plan will fall flat. The unions that exclusively represent these employees are working to nix the idea..."*

*"Under the Wyoming teachers' collective bargaining agreement, only specific pre-tax payroll deductions are permitted...Permission is not granted...for deductions to go to the school district which could then be used to save some of the jobs the district needs to cut from its budget."*

*"This is a great example of how collective bargaining agreements hinder school districts from finding creative ways to reduce their costs. Because these contracts lock in the costs of employee compensation, school districts are left*

*with only a few options to deal with their overspending: lay off employees, cut programs or dip into their fund balances."*

Michael D. Van Beek, "[Unions Nix Job-Saving Plan](#)," *Mackinac Center for Public Policy*, 12.02.09

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It is one thing for employers and employees to forge agreements about what steps can be taken to tighten budgets while keeping workers on the payroll. But imagine if such agreements were passed down from on high – say from the top of Capitol Hill or the winding maze of the federal bureaucracy where government functionaries could impose a binding arbitration agreement without the knowledge or experience of the workers and employers involved.

Well, that's exactly what supporters of the Employee Free Choice Act have in mind. Under EFCA, the federal government would have the authority to step in to the mix and dictate to employers and their employees the terms of their agreement. At a time when companies need more flexibility to weigh their options in this tough economy, EFCA would only stifle innovative thought.

**December 11, 2009**

## **Who's Doing the Scaring?**

Earlier this week, President Obama unveiled a unique approach to economic recovery – accuse political foes of "scaring" away the jobs and look to the power of positive thinking to bring them back.

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*"Today's meeting with Congressional leadership at the White House was intended to be a demonstration of bipartisanship as officials look to stimulate the economy. To President Obama, bipartisanship came in the form of a request to GOP lawmakers to quit knocking what he feels is an economy that is in recovery.*

*"One of the things he told my Republican friends, is stop trying to frighten the American people," Senate Majority Leader Harry Reid told reporters after the meeting. 'He said it would help a lot if people would talk more positively about what is going on.'"*

Memoli, "[Obama To GOP: Stop Scaring American People](#)," *RealClearPolitics Politics Nation blog*, 12.09.09

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For the 15.4 million Americans without jobs, talking more positively about the economy isn't going to do the trick. We need meaningful policies to jumpstart job creation.

Although, the President might not be entirely off base when he talks about how economic fears have slowed the recovery. A letter to the editor published yesterday by the *Philadelphia Daily News* sheds light on exactly what is "scaring" away the jobs:

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*"Member companies tell us that a big reason behind the reluctance of business to spend and hire is uncertainty about future costs. Job creators are clearly holding back until they see the outcome of numerous policy debates at the state and federal levels - including health care, climate change, cap-and-trade and union card check - all of which could place detrimental cost burdens on the employer community and significantly impede job creators' ability to run their businesses."*

Barr, "[Scaring business jobless](#)," *Philadelphia Daily News*, 12.10.09

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House Republican Leader John Boehner (R-OH) summed up the dynamic in an opinion piece published today by *The Washington Post*:

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*"The president also accused Republicans of 'scaring' the American people, but the truth is that double-digit unemployment is scaring people and his job-killing agenda is making it worse.*

*"American families and small businesses face daunting economic challenges. Instead of receiving relief from Washington, they have watched with anxiety this year as the government has focused on implementing a takeover of health care, a 'cap-and-trade' national energy tax, 'card check' legislation for union membership and more tax increases.*

*"I used to run a small business. I know what it takes to meet a payroll and a bottom line. Employers will continue to hold off on hiring as long as Washington pursues these job-killing policies and piles more debt on our children and grandchildren."*

Boehner, "[A better plan for jobs](#)," *The Washington Post*, 12.11.09

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There's a reason the anti-worker card check scheme is mentioned among the list of "scary" policies threatening job creation. The plan denies workers the right to vote privately on whether they wish to join a particular union and threatens workers and employers with a new binding arbitration system that would put government bureaucrats in charge of work rules, wages, and benefits.

If the President wants to ease Americans' economic fears, he should begin by abandoning card check and the other anti-job policies that are preventing the recovery we so desperately need.

**December 14, 2009**

## **Will Democrats Go All-In on EFCA?**

The clock is winding down on the Obama Administration's first year in office, and they have yet to pass the infamous Employee Free Choice Act – a measure that has proven unpopular with the American public, but that remains a top priority of the Administration's staunch cheerleaders (not to mention financial backers), the union bosses. Apparently, the President and

his liberal allies just cannot get enough of their own members to stomach another vote on an unpopular, [job-killing](#) policy.

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*But the president faces a conundrum. To get EFCA passed, he must lean on some of the same politically imperiled moderate Democratic Senators he's pressuring now to approve a health care overhaul — and whose votes may be needed for climate change legislation as well.*

Keith Koffler, "[The Rose Garden: Card Check Promises a Gut Check in 2010](#)," *Roll Call*, 12.14.09

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Perhaps it's no surprise that things are getting tough for a Democrat-controlled Washington trying to pass an out-of-touch, big government agenda that is increasingly unpopular with the American people. What to do?

On the one hand, the Democrats could finally stop betting on their job destroying trifecta of card check, a national energy tax, and a government takeover of health care. On the other hand, they could just double down and hope for some luck next year.

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*Labor officials have been in intensive discussions with Senate Democratic leaders about the issue. According to one labor source, union presidents will huddle with Majority Leader Harry Reid (D-Nev.) on Wednesday, and card check, along with the health care bill now on the Senate floor, will be on the agenda.*

*Democratic aides seem unsure of the timing for the bill, despite the expectations of labor sources.*

*There will be an "awful busy start to next year," a senior Democratic leadership aide said. The unions "have a long list of ideas that they want," he said.*

Keith Koffler, "[The Rose Garden: Card Check Promises a Gut Check in 2010](#)," *Roll Call*, 12.14.09

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With the Democrats' gamble still unclear, it looks like the big labor bosses will have to keep up the pressure by holding [closed door meetings](#) to press their agenda with anyone who will listen. Hopefully for the American economy and the millions of our neighbors who are looking for jobs, card check will remain a bad bet and not a reality.

**December 15, 2009**

## **EFCA: Big Labor's New Year's Resolution**

It's that time of year again when people begin to make their New Year's resolutions – promising to hit the gym, eat better, or read more. For union bosses, their number one resolution will no doubt be getting Congress to finally pass their misnamed Employee Free Choice Act.

Admittedly, it has been a tough [sale](#) so far. With their failed "stimulus" package, a push for a job-killing national energy tax, and the latest government takeover of health care,

congressional Democrats have not found the time to tack on another bad economic policy like "card check." But all may not be lost for the special interests behind this anti-worker scheme. As today's *Politico* reports, come 2010, labor union leaders will make a second push to enact their signature cause.

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*It's not been the year that labor had hoped for when it helped Democrats seize control of both Congress and the White House in 2008.*

*The top labor legislative priority, a measure easing union organizing rules, hasn't seen so much as a committee vote after negotiations over modified language took a back seat to passage of health care reform...*

*[L]abor's top priority — passage of the Employee Free Choice Act — was in trouble almost the moment the Democrats were sworn in, stalled by the unexpectedly long effort to fill their filibuster-proof Senate roster...*

*Backers of the bill are hoping it will re-emerge as a congressional priority once health care moves from center stage. But even then, it's unclear whether Sen. Tom Harkin (D-Iowa) has been able to hash out language acceptable to the moderates and conservatives in his caucus — a task made all the more difficult by the looming midterm elections.*

*Still, labor advocates remain hopeful.*

Jeanne Cummings, "[For labor, there's always next year](#)," *Politico*, 12.15.09

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While hope may spring eternal for those advocating for EFCA, Americans struggling in this troubled economy can only hope that this bad idea is boxed-up and [put away](#) with the holiday decorations.

**December 16, 2009**

## **EFCA: If it's too risky for an election year, isn't it just plain too risky?**

Previewing next year's legislative calendar, Speaker Nancy Pelosi has informed her members that she will try to protect them during an election year by limiting the number of controversial bills brought to a vote. Perhaps the Speaker is referring to those big government policies that the American people have rejected — like a national energy tax, massive deficit spending, and a government takeover of health care.

There's at least one bill we know made the cut as potentially too risky for Democrats trying to keep their jobs in an election year: the Employee Free Choice Act.

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*Speaker Nancy Pelosi (D-Calif.) has privately told her politically vulnerable Democratic members that they will not vote on controversial bills in 2010 unless the Senate acts first...*

*Pelosi's promise could dim the prospects for other White House priorities as well, including the Employee Free Choice Act (EFCA) — known as "card check"...*

*"There's not going to be a ton of stuff legislatively next year either way," a House leadership aide said. "But on EFCA — even though the House has demonstrated its ability to pass it...the Senate is definitely going to have to act first."*

*The House passed EFCA during the last Congress, but members who voted on that bill were well-aware it had no chance to be signed into law by President George W. Bush.*

Jared Allen, "[Speaker Pelosi to shield vulnerable members from controversial votes](#)," *The Hill*, 12.16.09

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If EFCA is a bad idea for members of Congress trying to hold on to their jobs, it's an even worse idea for workers trying to do the same. No wonder the only time Democrats can push it through is when they know it won't become law.

But despite its risks, we should not count EFCA out just yet. With the special interest lobby knocking on doors in Washington, it remains [unclear](#) whether American workers will lose their right to a secret ballot in 2010.

December 17, 2009

## **EFCA: Part of a "toxic political environment"**

It is [no secret](#) that the Democrats' big government agenda is sending a shockwave of uncertainty throughout our economy. Rather than getting back to doing what they do best — like growing their enterprises and hiring new workers — America's employers are sitting on the sidelines because the Administration and its congressional allies have offered few incentives for job creation. In fact, they have offered a whole host of job-killing opportunities. There's the national energy tax, a government takeover of health care, and a mounting debt that will plague future generations and lead to higher taxes. It seems that almost everything coming out of Washington these days spells disaster for businesses.

Armstrong Williams writing over at *The Hill's Pundit Blog* is the latest to shine the light on how the Democrats' agenda — including the looming threat of the Employee Free Choice Act — is stifling job creation.

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*The demand for bank loans by small and medium-sized businesses has also declined because of the toxic political environment in Washington. Small and medium-sized businesses are reluctant to invest borrowed money in risky projects and hire additional employees given the political overhang. This overhang includes: a 10 percent increase in income taxes in 2010; a significant but unknown increase in healthcare costs; the prospect of unionization through card-check; an expected increase in energy costs through cap-and-trade and the Copenhagen conference; increased financial regulation; and anti-banking and -business rhetoric from both the White House and Congress.*

Armstrong Williams, "[Make Wall Street Washington's partner](#)," *The Hill*, 12.15.09

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With all of that hanging over their heads, one can imagine why job creators are nervously waiting for it all to collapse down upon them in the form of new taxes and new mandates. This holiday season, Washington Democrats should give America's entrepreneurs the gift of certainty by scrapping these "toxic" items from their to-do list. That's a gift that will keep on giving for years to come.

December 18, 2009

## Nevadans Share No Holiday Cheer for Card Check

More news from the people of Nevada who [continue](#) to roundly reject big labor's number one priority – the Employee Free Choice Act. In a report in the *Las Vegas Sun*, a new poll shows a majority of Nevadans would rather keep their right to a secret ballot.

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*New polling out today shows little support in Nevada for key provisions of the Employee Free Choice Act, the labor-led legislation that would make it easier for workers to form unions -- an issue that may return to the congressional agenda in the new year.*

*The poll showed 57 percent of respondents oppose changing the way unions are organized and 64 percent oppose allowing mandatory arbitration to settle organizational disputes between workers and managers, as is proposed under the bill.*

*The poll also showed more voters would be less likely to support political candidates who support such changes.*

Lisa Mascaro, "[Poll shows support weak for 'card check' legislation](#)," *Las Vegas Sun*, 12.17.09

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Not exactly the kind of news union leaders and their allies in Congress will want to hear. It may be fair to say that the [writing is clearly on the wall](#) now that stripping workers' of their rights and handing over arbitration authority to bureaucrats is a lose-lose proposition for America's workforce and Washington politicians.

But we will have to wait and see what the [New Year](#) brings. Union bosses may not yet be ready to relinquish this key component of their [special interest influence](#).