

Impact to Franchising from Legislation to Enhance Union Organizing Fact Sheet: HR 800, the Employee Free Choice Act

THE COALITION FOR A DEMOCRATIC WORKPLACE

The International Franchise Association (IFA) is a founding member of a broad-based employer group called the Coalition for a Democratic Workforce (CDW). The CDW's mission is to protect rights of workers and employers by stopping extremist groups and organized labor from abolishing private ballot elections in union organizing campaigns. For more information about CDW, visit our website at www.myprivateballot.com.

Experts agree this proposal is the most dramatic change in labor policy in decades. If enacted, it would be a tipping point for the future of the American workplace in favor of "Big Labor". This bill ends worker rights to privacy. It would eliminate the secret ballot election process which was designed to ensure fairness and protect employees *and* employers during union organizing campaigns.

BACKGROUND: From Supervised Elections to Expedited Collective Bargaining

Today, just over seven percent of the private-sector workforce is unionized. That's down from twenty percent as recently as the 1980s. To end the decline of union membership, DC-based union bosses are pushing Congress hard to enact H.R. 800 – the Employee Free Choice Act (EFCA) which would install a scheme known as "card-check" to organize employees.

Card-check organizing requires employers to recognize a collective bargaining unit when a simple majority of employees sign cards supporting unionization. Using card-check, signatures would be gathered in public by union organizers. Workers who sign – or refused to sign – cards would be exposed and vulnerable to threats and intimidation from union leaders, management, or both.

END OF FEDERALLY-SUPERVISED UNION ORGANIZING ELECTIONS

Current National Labor Relations Board (NLRB) regulations say that if thirty percent of employees present a petition or union cards to the employer, a secret ballot election may be requested. The process is supervised by the NLRB, and employees vote in private to determine whether or not to unionize. Generally, unions only present cards when they have received signatures from seventy-five percent of the bargaining unit, and prevail in elections about fifty percent of the time. Not surprisingly, card-check rules in Canada show that union win-rates can exceed ninety percent.

NEW COMPULSORY ARBITRATION RULES

H.R. 800 also imposes unprecedented binding arbitration requirements on employers once a union is recognized. The employer would have 120 days to agree to a contract. If no agreement is reached, a government arbiter will impose the terms of the contract, including wages, benefits and work rules.

IMPACT ON FRANCHISED BUSINESSES

Big Labor is demanding card-check legislation from Congress to quickly boost sagging membership, and Congress is responding in their favor. Franchised and service sector businesses are targets for intensive organizing efforts because these sectors have

strong employment growth and very low union representation. A “bargaining unit” is not defined in the legislation, and there is no requirement that workers who sign union cards must be full time. Even a single store in a franchised system could be determined to be a “collective bargaining unit”.

Some franchised businesses are particularly vulnerable due to the nature of their workforce (part-time, labor intensive, etc.). Unions would like to use the card-check process to efficiently target these workers. Unions define the size of the bargaining unit and will select the employee groups (e.g. pizza delivery drivers as in Florida) that are most likely to return a majority of signed cards.

Large employers are not the only targets of union activities. In fact, recent NLRB statistics show that the majority of union elections are in small or very small units. For the fiscal year ending September 30, 2005, the NLRB conducted 2,649 union representation elections. More than 20 percent involved bargaining units of fewer than 10 employees. A full 70 percent of these elections involved bargaining units of fewer than 50 employees.

DIRECT QUOTES

“D. Taylor, who heads the Culinary Workers Union's Local 226 in Las Vegas, has put chain operators on notice that their days of successfully resisting collective bargaining may be dwindling.” -*Nation's Restaurant News, August 15, 2005*

Targets “include...**health care, food production, and retail sales — industries where outsourcing and computerizing work are not lucrative options.**” -*Greg Robertson, Hunton and Williams Employment Law Update, Fall 2005*

LEGISLATIVE STATUS - 2007

U.S. HOUSE

For Congressional Democratic leaders, H.R. 800 (by George Miller, D-CA) is a top priority and was swiftly approved by the House. The final vote was 241-185, with 13 Republican members of the House supporting the measure and 2 Democrats voting no.

U.S. SENATE

Senator Edward Kennedy (D-MA), Chairman of the Senate Health Education Labor and Pension Committee, introduced S. 1041 on March 29, 2007. Passage in the Senate is less certain as a 60 vote threshold may apply.

WHITE HOUSE

Should card-check legislation reach his desk, President Bush announced he will veto it. A veto override is unlikely in either the House or the Senate.

OUTLOOK – A MARATHON, NOT A SPRINT

The campaign for card-check union organizing will last at least three or four more years. Unions and business groups view the issue as a driving factor in the 2008 campaign for Congress and the White House. The outcome of the 2008 elections will determine the political landscape in 2009 and define prospects for passage of this major threat to worker privacy rights.