[Little-Noticed Feature Of 'Card Check' Bill Gives Unions Edge In Binding Arbitration]

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By now, many people know that the so-called Employee Free Choice Act — also known as "card check" — would strip workers of the protection of a secret-ballot vote in union organizing elections.

This inherently undemocratic proposal would make it cheap and easy for unions to corral new members — and the union dues that come with them.

What most people don't realize is that the card check bill would also give the federal government the power to set wages, benefits and work rules for employers in a wide variety of industries throughout the economy.

Under this bill, once a union is formed, employers would be under a strict deadline to reach an agreement on all of the union's demands. If no agreement is reached after just 120 days, the matter would go to a federal arbitration panel, which would then write and hand down the union contract. That contract would bind both parties for two years with the same force as if it had been agreed to through full and fair negotiations.

For the first time, a federal authority would set private-sector wages, specific work rules and other workplace restrictions, including forcing employees into underfunded and unsustainable pension plans.

This one provision would overturn more than seven decades of American labor law, all built on the principle that the government's proper role is to ensure fairness and protect workers — not to dictate outcomes.

The practical result of this radical change would be to incentivize unions to take extreme positions in collective bargaining and then stonewall, expecting the government arbitration panel to at least "split the difference" on their list of demands. Once the government has stepped in, the employer would lose all control of the workplace.

This would also create an opportunity for unions to force provisions into contracts that they could never get at the bargaining table, such as productivity-killing work rules, union approval of restructuring and restrictions on the use of new technologies at the workplace.

In addition to employers losing in this scheme, workers lose too. Under current law, workers often get the chance to vote on their contract — and they sometimes reject the deal.

But when government bureaucrats are dictating the contract, melding together widely divergent positions taken by labor and management, it doesn't matter what the workers want — the Employee Free Choice Act denies them a chance to vote.

Unions say that radical action is necessary because employers and unions don't always reach a first contract despite prolonged bargaining.

However, this possibility was understood when the National Labor Relations Act was enacted 72 years ago. The U.S. Supreme Court reaffirmed that the government has no role as blunt instrument of coercion principle in 1970, noting:

" . . . it was recognized from the beginning that agreement might in some cases be impossible, and it was never intended that the Government would in such cases step in, become a party to the negotiations and impose its own views of a desirable settlement."

The process isn't perfect, but the reason it works is that neither side holds all the cards, there are rules of fair play, no side is compelled to accept terms that could result in its demise, and the government acts only as referee, not dictator.

Perhaps some of those rules could be strengthened and the government could be a better referee. But the card check bill sets a time limit for the process and then transforms the government from referee to dictator.

Seventy-five percent of respondents in a recent poll said negotiating is the preferred method for developing contracts, rather than allowing government arbitrators to impose a contract.

It's not labor law reform to permit government arbitrators who don't know the business or the employees or the market to write labor contracts — it's a prescription for disaster.

Donohue is president and CEO of the U.S. Chamber of Commerce

The Employee Free Choice Act - the "Card Check" Bill
http://www.uschamber.com/issues/index/labor/cardchecksecrbal.htm

Union Recognition - Secret Ballot Elections and Card Check Schemes

The "Employee Free Choice Act"--better known as the **Card Check** bill--is a proposed law that would change how unions are allowed to organize workers in the United States. Big labor unions like the AFL-CIO, SEIU, and the Change to Win Coalition spent heavily during the 2009 election, and are pushing Congress to approve this law. Union membership has been declining--currently about 7.5 percent in the private sector--and they hope this law will change the rules and reverse that trend.

The U.S. Chamber strongly opposes this legislation. There are three problems with Card Check:

1. Eliminating the Private Ballot

Card Check would effectively eliminate private voting.

Under the existing law today, workers have a chance to vote for or against unionization in a private-ballot election that is federally supervised. Under Card Check, if more than 50% of workers at a facility sign a card, the government would have to certify the union, and **a private ballot election would be prohibited--even if workers want one.**

By forcing workers to sign a card in public--instead of vote in private--Card Check opens the door to intimidation and coercion. **Over 70% of voters agree that a private election is better than card check.**

2. Government Arbitration and Control

Card Check could put government regulators in charge of private business decisions.

Once a union is certified, the business and union would only have 120 days to reach agreement, before facing the prospect of being forced into binding arbitration. This means a panel of government arbitrators who may have no understanding of the business could impose a two year contract deciding all workplace terms--**without any vote by the company or its employees.**

By placing government regulators in charge of a two-year decision, business flexibility is limited--at a time in our history when it is needed most. **A recent poll found that 75% of voters believe government arbitrators should not decide the conditions of a union contract.**

3. Harsh New Penalties for Businesses

Card Check would unfairly punish businesses.

Card Check would impose harsh new penalties on businesses--but not on unions--for violations during the union recognition process. This is unfair, and potentially disastrous for small or medium businesses, who are not familiar with unionizing campaigns or the National Labor Relations Act. If Card Check passes, many of these businesses would be facing unionization for the first time.

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