

The Job Destruction Act Of 2009

A fair number of Americans may by now have heard about the “Employee Free Choice Act” (EFCA), also known as “card-check” legislation. A recent Gallup poll reflects that 53 per cent of those polled favored the proposed law – but the generally left-leaning Gallup organization conveniently neglected to mention that the law would eliminate secret ballots in union elections. The poll question was, “*Generally speaking, would you favor or oppose a new law that would make it easier for labor unions to organize workers?*” If the poll question had instead been, “*Would you favor a law that eliminates your right to a secret ballot in union elections?*” the results would certainly have been different.

If passed, the legislation would allow labor unions to bypass secret ballots for organizing elections. Under current law, organizers contact workers at companies they are trying to organize and, if they can get 30 per cent or more of the employees to sign a card saying they may be interested in joining the union (hence the term “card check”), an employee vote is scheduled. The cards themselves are not secret, but the final vote is by secret ballot. If more than 50 per cent of the workers vote to join the union, the union wins the right to organize them. Under current rules, the unions win fewer than 60 per cent of their elections. That is because employees, with the privacy of a secret ballot, often vote “*NO*” – even though they may have been pressured to sign the card by two 300-pound former football linebackers who are now “business agents” for the local union.

The EFCA allows the unions to skip the secret ballot step. If the union gets more than 50 per cent of the workers to sign a card expressing interest, the union is “in” and it need not bother holding a secret ballot election. That is why the unions are fighting for the EFCA – it makes it far easier to organize a company. More companies organized means more union members. More union members means millions more in union dues coming in each month. Most Democrats support the EFCA because it keeps organized labor happy – and organized labor gives those Democrats tens of millions of dollars in campaign contributions.

Anyone with more intelligence than that of a ham sandwich knows what will happen if this law passes. Workers who do not want to join the union will be pressured to sign the cards by union organizers and adamant co-workers. Reluctant workers will be harassed at work, at lunch, at the bowling alley, at the bar, and even at home. The pressure will not stop until more than half the workers sign the cards. The unions will win almost all their “free elections.”

It gets even worse. After the union has “won” the right to represent the workers, the new law calls for a limited amount of time for the union and the employer to negotiate the collective bargaining agreement. If agreement has not been reached by that deadline, both parties must submit to binding arbitration. Who then gets to decide what’s in the final labor contract? The federal government, of course... which means bureaucrats from the Obama administration. Rest assured, none of those bureaucrats will be rabid capitalists,

and many will likely be rabid Marxists or former “community activists” from ACORN. (Arguably, Marxist and ACORN mean the same thing.)

At this point one needs only a little more imagination than the afore-mentioned ham sandwich to know what the unions will ask for in their new contracts. The labor unions will obviously demand the highest wages imaginable and the most outrageous fringe benefits and working conditions – knowing full well that the employer will not be able to agree to the demands. It will be in the best interests of the union not to agree to a contract, intentionally missing the deadline in order to force the arbitration process. Obama’s newly-hired henchmen (whose employment resumes are probably being collected by organized labor even now) will be more than happy to rule in favor of the union – which donated generously to the Obama presidential campaign.

As an example, Company A currently pays its workers \$12.00 per hour. The union demands \$30.00 per hour. The employer argues it can only afford \$16.00. The union refuses to accept the \$16.00 offer. The dispute goes to the federal government, where an anti-business arbitrator hired by the Obama administration gets to pick a number out of a hat. That number certainly won’t be \$30.00, but the odds are pretty good that the amount will be closer to \$30.00 than to \$12.00.

And what if there is still a dispute? Well, that will eventually end up on the desk of Obama’s Secretary of Labor, one Hilda Solis, a former California Congresswoman who is as far-left as one can get without actually dipping one’s toes in the Sea of China. Solis, by the way, paid \$6,400 to settle tax liens against her husband’s business the day before her nomination was to be considered by a Senate committee. The tax liens resulted partly from unpaid county health and safety permit fees, yet as Secretary of Labor Solis is also responsible for health and safety in the American workplace. (One may hope she takes that topic more seriously than her husband.) Solis, who happens to be Hispanic, advocates reducing (if not completely eliminating) restrictions on illegal immigrants. Solis supports the EFCA – yet she was upset that the election of the head of the Congressional Hispanic Caucus was not held by secret ballot. (Solis joins the ever-growing group of “*Do as I say, not as I do*” Obama appointees.)

The EFCA legislation never got far in past years because former President Bush, knowing it would destroy jobs and cause businesses to fail left and right, promised to veto the bill if it came to his desk. Obama, who owes organized labor big-time for its tens of millions of dollars in campaign contributions and television ads, has of course promised to sign the bill.

If the EFCA becomes law the resulting forced unionization of thousands of currently non-union companies will, at the very least, cause affected businesses to raise prices. At the worst, it will force more companies out of business or prompt them to move their operations overseas. Even liberal former Senator George McGovern opposes the bill. McGovern calls it a “*disturbing and undemocratic overreach, not in the interest of either management or labor,*” and says the concept runs “*counter to ideals that were once at the core of the labor movement.*”

Some Democrats now find themselves in a difficult situation. If Democrats now vote *against* the bill, they will alienate organized labor – which gives them generous campaign donations. If Democrats vote *for* the bill, they will be directly responsible for the resulting higher prices and unemployment – for which they will rightly be blamed by Republicans in campaign commercials. The Democrats will also alienate voters who overwhelmingly support the right to a secret ballot. (Statistics show that roughly one-third of the workers who originally agree to a union organizing vote end up voting *against* the union... when protected by a secret ballot.)

To the average reasonable person the existing process probably seems fair. The union makes its case, and the employer makes its case. The employees discuss the pros and cons of joining the union and, after a vote by secret ballot, the majority rules. If the union wins, its collective bargaining power can be used to get the employer to improve wages, benefits, working conditions, and safety rules. On the other hand, the union can go overboard with its demands, forcing the employer into bankruptcy because it can't compete with non-union or foreign competitors. One can reasonably argue that the current woes of General Motors, Ford, and Chrysler are a direct result of their having given far too much in wages and benefits to their employees, to the point where they simply can no longer compete effectively.

The labor unions try to make the case that union membership has been declining over the last few decades because the deck is stacked against them and in favor of the employers. The ridiculousness of that argument is seen when one examines the current rules of the “game:”

The employees being lobbied to join the union generally hear only the union's side of the story. The unions can spend all the time they want telling the employees how bad their working conditions are, how they are being cheated out of higher wages, why life will be so much better for them if they join the union, and how miserable their futures will be if they don't vote to unionize. Needless to say, the union representatives don't tell the workers about frequent dues increases, the impact of long strikes, union corruption, or being laid-off by an employer driven to bankruptcy by unreasonable union demands. The union scenario is always rosy.

The management of the business, on the other hand, has its hands tied. The company is not allowed to warn the employees that a union win might cause lay-offs, plant closings, outsourcings, or other negative results. The company is prohibited from talking about the possible bad news the union future may hold.

The employer is not allowed to promise wage or benefit increases in exchange for rejecting union membership – even though the union is enticing the workers with promises of increases wages and benefits. (The employer cannot say, “*Listen, just tell the union to take a hike and you'll all get a \$3.00 per hour raise.*”)

The employer is not allowed to ask the workers about their gripes, or to offer to address those concerns. The union, meanwhile, is free to talk to all the workers about any issues it chooses.

The employer cannot ask workers if they support unionization, while the union not only asks the workers if they want to join, it pressures the workers to do so. (And that pressure will most certainly increase if they are denied the right to a secret ballot.)

The employer can talk to employees only during working hours, and what he can say is severely restricted. Aside from being prevented from lobbying the employees while they are working, the union can pretty much approach them at any time – even at their homes.

The employer has no control over when the election takes place. If the union believes it doesn't have enough votes to win, it can simply spend a few more weeks drumming up support and pressuring any worker who may be "on the fence" – until he cracks under the pressure.

Wal-Mart, with its headquarters in Arkansas, is the largest employer in the state. If the EFCA passes, of course, Wal-Mart may cease to be the largest employer in the state. Investment advisors have already downgraded Wal-Mart stock from a "buy" to a "hold" status, knowing that the company will be negatively affected if the EFCA passes. And the two Democrat Senators from Arkansas are in the unenviable position of having to choose between voting for the legislation (prompting job losses in their state that lead to them losing their next general election) or voting against the bill (prompting the unions to work for their defeat in their next Democrat primary). They are no doubt hoping the bill never comes up for a vote.

In Pennsylvania, Republican Senator Arlen Specter already angered his base with his vote in support of the Democrats' pork-filled \$787 billion "stimulus" bill. Specter now also risks turning the unions against him if he votes against the EFCA. (He has so far said he will not support the bill as it is currently written.)

It will be no great loss for the nation if two Democrat Senators and one liberal Republican Senator lose their jobs in Washington, D.C. But it will certainly be a great loss for the nation if the EFCA passes. Passage of that legislation will cause countless thousands of businesses to fail or move overseas. Those that manage to stay in business will be able to do so only by raising the prices of their products to pay for the increased wages and benefits demanded by the unions.

The federal government is already increasing the national debt in trillion dollar increments to bail out banks, investment firms, and the automakers. It cannot subsidize every business in America. And at a time when most people may consider themselves fortunate to have a job, passing legislation that places additional burdens on American businesses is a recipe for disaster. Responsibility for that disaster will fall solely on the shoulders of Obama and the Democrats. And any employee considering supporting the "*Employee Free Choice Act*" – which is more appropriately called the "*Job Destruction*

Act of 2009” – should first ask the question, “Are you better off employed at \$15.00 per hour or unemployed at \$20.00 per hour?”

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