



### Minnesota Business Leaders



*Powered by the U.S. Chamber of Commerce along with chambers, associations, and businesses to save the secret ballot*

## **Employee Free Choice Act (also known as the Card Check bill)**

### **Overview**

The Employee Free Choice Act, better known as Card Check, has the potential to dramatically reshape the economic and political landscape of our country. It strikes at the fundamental nature of our democracy: the right to a secret ballot.

Card Check is the top priority of a newly reenergized organized labor movement.

### **What is the Card Check Bill? How does it work?**

The principle purpose of the Card Check Bill is to make it easier for unions to organize. Under current law, if union organizers collect signatures from at least 30 percent of the employees in a bargaining unit, the federal National Labor Relations Board will hold an election to determine whether to certify the union. This process, established and refined through decades of experience, carefully balances the interests of employees, unions, and employers in order to ensure that workers can hear all sides and then make up their minds and vote in private, without intimidation or coercion. Today a majority of elections are held within 39 days and a majority of union elections are won by organized labor.

Because union density has dropped so low (to about 7.5 percent in the private sector), organized labor is seeking to change the rules and make it easier to organize. The card check bill would do just that – instead of determining whether a union would be certified through a federally-supervised secret ballot election, the union would be certified the moment it collected a majority of signed authorization cards. The Card Check Bill would therefore eliminate the campaign period and the legal requirements that regulate it, not to mention eliminating the ability of employees to make an informed decision in private. Instead, employee decisions on unionization would be made in front of union organizers greatly increasing the opportunity for coercion and pressure in the union organizing process.

A secondary, and less well known, purpose of the bill is to amend collective bargaining law so that when a union is recognized for the first time government arbitrators will set all the terms and



conditions of the union contract unless the union and the employer can meet unrealistic timelines. Today, the law requires that the parties bargain in good faith and recognizes that the union, representing workers, and the employer are in the best position to determine whether an agreement is acceptable and whether compromising on one goal in order to achieve another is acceptable. The Card Check Bill's mandatory interest arbitration provisions would remove any incentive for the employer or the union to adopt realistic bargaining positions, as each would be posturing for the arbitrator, and would give the arbitrator control of the most basic business decisions. It would also deny employees the right to vote on ratification of the contract.

Finally, the Card Check Bill would increase penalties for employers, but not for unions or others, who violate union organizing laws.

### **The Post Card Check Environment:**

If Card Check passes, a significant number of employers who haven't worried about union organization or have held it at bay, could see large segments of their workforce rapidly unionizing whether workers really want to or not. Small businesses which have not been attractive targets for union organizers in the past are likely to see rapid union penetration into their workforce.

Card Check goes beyond just adding members. With an increase in membership comes expanding revenue in the form of dues, an exponential increase in the resources that could be put into politics, and a much larger and more robust influence on Capitol Hill. Unions have an ambitious legislative agenda. Potential impacts could include:

- Petitioning the National Labor Relations Board to allow the creation of “mini-unions” – small cells of organized employees within workplaces that don't represent a majority of workers, but which can force employers to bargain with them on pay and benefits.
- Broad expansion of Family Medical Leave Act, including paid time off, paid sick leave and the application of FMLA even to the smallest employers.
- Passing legislation to resurrect the Clinton administration's rejected ergonomics regulation — imposing billions of dollars of new costs on businesses.
- Added mandates and funding to encourage aggressive enforcement by federal regulatory agencies such as OSHA.
- Expansion of the Americans with Disabilities Act and the Equal Pay Act to trigger more class action lawsuits against employers.
- Repeal of the existing statute of limitations and caps on damages for most employment discrimination lawsuits.

### **Legislative and Political Landscape:**

In 2007, Card Check passed the House of Representatives by a vote of 241-185. The bill had a slim majority of support in the Senate, but fell to a filibuster on a 51-48 vote. 60 votes are needed to end a filibuster (known as cloture).

The political dynamics have changed as a result of the 2008 elections. Card Check advocates have expanded their majority in the House and in the Senate.



Consideration by the House is expected early in 2009 followed by the Senate debate. Sixty votes is a significant but reachable goal for the bill's proponents. However, the bill's sponsors and organized labor have forgotten that there are people like you, who care about democratic values and who care about freedom in the workplace. The people who want to take away your secret ballots and take over your workplaces are already out on the field. We all need to make sure we're in the game as well.

*Minnesota Business Leaders is a coalition powered by the U.S. Chamber of Commerce along with chambers, associations, and businesses to save the secret ballot.*

