

COALITION FOR A DEMOCRATIC WORKPLACE

June 25, 2013

Dear Chairman Kline and Ranking Member Miller:

On behalf of the millions of American businesses concerned with the rights of their employees, the fragile economy, and the need for balance in federal regulation, the Coalition for a Democratic Workplace (CDW) urges your support of the Secret Ballot Protection Act (H.R. 2346) and the Representation Fairness Restoration Act (H.R. 2347), and asks that Congress immediately pass both of these much-needed pieces of legislation.

CDW is a broad-based coalition of over 600 organizations united in opposition to the tenets of the so-called “Employee Free Choice Act” (EFCA) and alternatives that pose a similar threat to workers, businesses, and the American economy. In recent years, the National Labor Relations Board (NLRB) has attempted to enact many EFCA-like policies through administrative rulings and regulations. In response, much of CDW’s focus has been directed toward the NLRB.

Secret ballot elections have been a key right of workers and an integral part of labor relations since the earliest days of the National Labor Relations Act (NLRA). For over seventy years, employees have largely decided whether or not to join a union through a secret ballot election—known as a representation election—overseen by the NLRB. Recently, however, unions and their allies in government have launched an all out attack on secret ballots and workers’ privacy in workplace elections, pushing a biased and inferior process called “card check,” which allows a union to organize if a majority of workers simply sign a card. Under such a system, workers’ votes are made public to the employer, union organizers and co-workers, subjecting them to intimidation and coercion.

A union-dominated NLRB has attempted to erode employee access to fair and secret ballot elections through administrative decisions and rules. For example, in the 2011 decision *Lamons Gasket Company, 357 NLRB No. 72 (2011)*, the NLRB abolished the employee’s right to demand an election within 45 days of their employer agreeing to recognize a union based solely on a card check. Without this right, employees might be barred from challenging the union’s status as their *exclusive* bargaining representative for up to four years.

The Secret Ballot Protection Act would stop this erosion of employee access to secret ballots and ensure that employees are afforded the protection of a government-supervised anonymous voting procedure in all future union representation elections.

Also in 2011, the NLRB issued its decision in *Specialty Healthcare and Rehabilitation Center of Mobile and United Steelworkers, District 9, 357 NLRB No. 83 (2011)*. The Board’s decision radically changed the standard for determining an appropriate bargaining unit for all of the estimated six million workplaces covered by the NLRA, allowing unions to gerrymander elections and organize into “micro-unions.”

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Micro-unions make it easier for unions to organize by permitting them to form smaller bargaining units that often exclude those similarly situated employees who oppose unionization. This effectively disenfranchises those employees.

Prior to the *Specialty Healthcare* decision, bargaining units had to include employees who share a “community of interest.” Smaller units were only permissible where the employees in the proposed unit had interests that were “sufficiently distinct from those of other employees to warrant the establishment of a separate unit.” This prevented swarms of small, “fractured units,” of similarly situated employees.

Under the *Specialty Healthcare* ruling businesses face the possibility of having to manage multiple, small units of similarly situated employees with increased chances of work stoppages, as well as potentially different pay scales, benefits, work rules and bargaining schedules. Micro-unions greatly limit an employer's ability to cross-train and meet customer and client demands via lean, flexible staffing because employees will no longer be able to perform work assigned to other units. Accordingly, employees suffer from reduced job opportunities, as promotions and transfers will be hindered by organizational unit barriers.

We are already seeing the creation of these micro-units around the country. For example, in New York City, NLRB regional office has allowed a collective bargaining unit of just the salespeople in the women's shoe departments on specific floors of a retail establishment. Similarly, in a suburb of Boston, another NLRB regional office has found employees in the fragrance and cosmetics department of a large department store to be an appropriate unit under *Specialty Healthcare*, despite the same regional office deeming the “appropriate unit” to be all employees in the store just a few years ago.

The Representation Fairness Restoration Act would reverse the recent decision in *Specialty Healthcare* and re-instate the standard for determining bargaining units that has been in place for over half a century.

Again, we urge you to support passage of the Secret Ballot Protection Act (H.R. 2346) and the Representation Fairness Restoration Act (H.R. 2347). If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of employers, the U.S. workers they have hired or would like to hire, and the economy.

Sincerely,

The Coalition for a Democratic Workplace

and the following 148 local, state and national organizations:

60 Plus Association
Aeronautical Repair Station Association

Agricultural Retailers Association
AIADA, American International Automobile Dealers Association
Air Conditioning Contractors of America
Air Conditioning Trade Association (ACTA)
Alliance for Worker Freedom
American Apparel & Footwear Association
American Bakers Association
American Council of Engineering Companies
American Fire Sprinkler Association
American Foundry Society
American Hotel & Lodging Association
American Meat Institute
American Nursery & Landscape Association
American Pipeline Contractors Association
American Rental Association
American Seniors Housing Association
American Supply Association
American Trucking Associations
American Wholesale Marketers Association
Americans for Tax Reform
AMT – The Association For Manufacturing Technology
Asian American Hotel Owners Association
Assisted Living Federation of America
Associated Builders and Contractors, Central Florida Chapter
Associated Builders and Contractors, Central Pennsylvania Chapter
Associated Builders and Contractors, Connecticut Chapter
Associated Builders and Contractors, Delaware Chapter
Associated Builders and Contractors, Eastern Pennsylvania Chapter
Associated Builders and Contractors, Florida East Coast Chapter
Associated Builders and Contractors, Georgia Chapter
Associated Builders and Contractors, Greater Houston Chapter
Associated Builders and Contractors, Hawaii Chapter
Associated Builders and Contractors, Inc.
Associated Builders and Contractors, Indiana Chapter
Associated Builders and Contractors, Inland Pacific Chapter
Associated Builders and Contractors, Iowa Chapter
Associated Builders and Contractors, Kentuckiana Chapter
Associated Builders and Contractors, Keystone Chapter
Associated Builders and Contractors, Massachusetts Chapter
Associated Builders and Contractors, Michigan Chapter
Associated Builders and Contractors, Mississippi Chapter
Associated Builders and Contractors, North Florida Chapter

Associated Builders and Contractors, Oklahoma Chapter
Associated Builders and Contractors, Pelican Chapter
Associated Builders and Contractors, Rhode Island Chapter
Associated Builders and Contractors, Rocky Mountain Chapter
Associated Builders and Contractors, South Texas Chapter
Associated Builders and Contractors, Southeast Texas Chapter
Associated Builders and Contractors, Texas Gulf Coast Chapter
Associated Builders and Contractors, Western Michigan Chapter
Associated Products Association
Association of Equipment Manufacturers
Association of Washington Business
Automotive Aftermarket Industry Association
Building Owners and Managers Association (BOMA) International
California Automotive Wholesalers Association
California Delivery Association
Capital Associated Industries, Inc. (CAI)
Center for Individual Freedom
Center for the Defense of Free Enterprise Action Fund
Coalition of Franchisee Associations
Colorado Association of Commerce and Industry
Connecticut Business & Industry Association
Consumer Electronics Association
Electronic Security Association (ESA)
Fairfax County Chamber of Commerce
Farm Equipment Manufacturers Association
Florida Independent Concrete
Food Marketing Institute
Forging Industry Association
Global Cold Chain Alliance (GCCA)
Greater Reading Chamber of Commerce & Industry
Heating, Air-conditioning & Refrigeration Distributors International (HARDI)
HR Policy Association
ICPI, the Interlocking Concrete Pavement Institute
INDA, Association of the Nonwoven Fabrics Industry
Independent Electrical Contractors
Industrial Fasteners Institute
International Council of Shopping Centers
International Foodservice Distributors Association
International Franchise Association
International Sign Association

International Warehouse Logistics Association
Kitchen Cabinet Manufacturers Association
Little Rock Regional Chamber of Commerce
Metals Service Center Institute
Minnesota Grocers Association
Modular Building Institute
Modular Building Systems Association
Montana Chamber of Commerce
Motor & Equipment Manufacturers Association
NAHAD – The Association for Hose & Accessories Distribution
National Apartment Association
National Association of Electrical Distributors
National Association of Home Builders
National Association of Manufacturers
National Association of Mutual Insurance Companies
National Association of Wholesaler-Distributors
National Club Association
National Council of Chain Restaurants
National Council of Investigation & Security Services
National Council of Textile Organizations
National Federation of Independent Business
National Franchisee Association
National Grocers Association
National Lumber and Building Material Dealers Association
National Marine Distributors Association (NMDA)
National Mining Association
National Multi Housing Council
National Pest Management Association
National Ready Mixed Concrete Association (NRMCA)
National Retail Federation
National Roofing Contractors Association
National School Transportation Association
National Stone, Sand & Gravel Association
National Systems Contractors Association (NSCA)
National Tank Truck Carriers, Inc.
National Tooling and Machining Association
Nevada Manufacturers Association
New Jersey Motor Truck Association
North American Die Casting Association
North American Equipment Dealers Association
OFA, The Association of Horticultural Professionals
Ohio Chamber of Commerce

Outdoor Power Equipment and Engine Service Association (OPEESA)
Plumbing-Heating-Cooling Contractors Association of California (CAPHCC)
Precision Machined Products Association
Precision Metalforming Association
Printing Industries of America
Public Service Research Council
Retail Industry Leaders Association
Secondary Materials and Recycled Textiles Association
Snack Food Association
Society of American Florists
SPI: The Plastics Industry Trade Association
Textile Rental Services Association
The Manufacturer & Business Association
Truck Renting and Leasing Association
U.S. Chamber of Commerce
United Motorcoach Association
Virginia Chamber of Commerce
Virginia Trucking Association
Western Electrical Contractors Association (WECA)
WV Oil Marketers and Grocers Association (OMEGA WV)
WV Trucking Association (WVTA)
WV Wholesalers Association (WVWA)