

COALITION FOR A DEMOCRATIC WORKPLACE

February 26, 2015

Dear Chairman Alexander:

On behalf of millions of job creators concerned with mounting threats to the basic tenets of free enterprise, the Coalition for a Democratic Workplace (CDW) thanks you for introducing S. J. Res. 8, which provides for congressional disapproval and nullification of the National Labor Relations Board's (NLRB or Board) rule related to representation election procedures. This "ambush" election rule is nothing more than the Board's attempt to placate organized labor by effectively denying employees' access to critical information about unions, trampling on employee privacy rights and stripping employers of free speech and dues process rights. As such, the rule poses a threat to both employees and employers alike. We support S. J. Res. 8 and urge the Senate to approve it.

CDW is a broad-based coalition of more than 600 organizations united in opposition to the tenets of the misnamed "Employee Free Choice Act" (EFCA) and alternatives that pose a similar threat to workers, businesses, and the American economy. In recent years, the NLRB has attempted to enact many EFCA-like policies that threaten jobs and our economy through administrative rulings and regulations. In response, much of CDW's focus has been directed toward the NLRB.

On December 12, 2014, the Board published the final ambush election rule, which is designed to artificially speed up the existing union representation election process. The rule, which goes into effect on April 14, 2015, will shorten the time between the union filing a petition for election and NLRB holding of an election from the current median time of 38 days to as few as 14 days. This reduced timeframe effectively limits employers' ability to communicate with employees prior to a representation election and encourages the kind of "back door" organizing that unions sought to achieve through EFCA. In addition, in order to meet the new truncated election period, the rule deprives employers of many due process rights. It also requires employers to provide, within two business days of the election agreement or decision directing an election, employees' personal telephone numbers and e-mail addresses. Employees would not have the opportunity or the right to prevent the release of this information to the union and would not have the ability to determine which contact information would be handed over to the paid union organizers. This mandatory release of employee information invites harassment and intimidation and opens the door to identify theft and other privacy concerns. The changes made by the rule are similar to those the NLRB attempted to push through in a 2011 rule, which was struck down by a federal court on procedural grounds shortly after it was implemented.

In many cases, employers, particularly small ones, will not have enough time under the rule's timeframe to secure legal counsel, let alone an opportunity to speak with employees about union representation or respond to promises union organizers may have made to secure union support, even though many of those promises may be completely unrealistic. Given that union organizers typically lobby employees for months outside the workplace without an employer's knowledge, these "ambush" elections would often

result in employees' receiving only half the story. Employees would hear promises of raises and benefits that unions have no way of guaranteeing, without an opportunity for the employer to explain its position and address the possible inaccuracies put forward by the union.

The NLRB's own statistics reveal that for the last 10 years the median time from petition to election was 38 days, with nearly 95% of elections occurring within 56 days in 2013 and 95.7% percent within 56 days in 2014. There is no indication that Congress intended a shorter election time frame; indeed, based on the legislative history of the 1959 amendments to the National Labor Relations Act, it is clear Congress believed that an election period of at least 30 days was necessary to adequately assure employees the "fullest freedom" in exercising their right to choose whether they wish to be represented by a union. As then-Senator John F. Kennedy Jr. explained at the time, a 30-day period before any election was a necessary "safeguard against rushing employees into an election where they are unfamiliar with the issues." Senator Kennedy stated "there should be at least a 30-day interval between the request for an election and the holding of the election" and he opposed an amendment that failed to provide "at least 30 days in which both parties can present their viewpoints."

The current election timeframe is not only reasonable, but permit employees time to hear from both the union and the employer and make an informed decision, which would not be possible under the ambush election rule. In fact, in other situations involving important employment decisions, Congress requires that employees be given at least 45 days to review relevant information in order to make a "knowing and voluntary" decision. (This is required under the Older Workers Benefit Protection Act when employees evaluate whether to sign an age discrimination release in the context of a program offered to a group or class of employees).

For these reasons, we thank you for introducing S. J. Res. 8 and urge the Senate to immediately adopt this much-needed resolution. If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of employers, U.S. workers they have hired or would like to hire, and consumers.

Sincerely,

ACCA- The Indoor Environment & Energy Efficiency Association
Aeronautical Repair Station Association
Agricultural Retailers Association
Alabama Restaurant & Hospitality Alliance
Alaska Hotel & Lodging Association
American Apparel & Footwear Association
American Bakers Association
American Council of Engineering Companies
American Fire Sprinkler Association
American Foundry Society
American Home Furnishings Alliance
American Horticulture Industry Association (AmericanHort)
American Hospital Association

American Hotel & Lodging Association
American International Automobile Dealers Association
American Moving and Storage Association
American Pipeline Contractors Association
American Rental Association
American Seniors Housing Association
American Society of Employers
American Staffing Association
American Supply Association
American Truck Dealers
American Trucking Associations
American Wholesale Marketers Association
Arizona Lodging & Tourism Association
Arkansas Hospitality Association
Arkansas State Chamber of Commerce
Asian American Hotel Owners Association
Assisted Living Federation of America
Associated Builders and Contractors
Associated Builders and Contractors- Carolina Chapter
Associated Builders and Contractors- Central Florida Chapter
Associated Builders and Contractors- Delaware Chapter
Associated Builders and Contractors- Eastern PA Chapter
Associated Builders and Contractors- Florida East Coast Chapter
Associated Builders and Contractors- Greater Houston Chapter
Associated Builders and Contractors- Hawaii Chapter
Associated Builders and Contractors- Indiana/Kentucky Chapter
Associated Builders and Contractors- Inland Pacific Chapter
Associated Builders and Contractors- Iowa Chapter
Associated Builders and Contractors- Keystone Chapter
Associated Builders and Contractors- Michigan Chapter
Associated Builders and Contractors- Mississippi 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- Southern California Chapter
Associated Builders and Contractors- South Texas Chapter
Associated Builders and Contractors--Southeast Texas Chapter
Associated Builders and Contractors- Virginia Chapter
Associated Equipment Distributors
Associated General Contractors
Associated Industries of Arkansas
Association For Manufacturing Technology
Association of Equipment Manufacturers

Auto Care Association
California Delivery Association
California Hotel & Lodging Association
CAWA - Representing the Automotive Parts Industry
Cement Employers Association
Coalition of Franchisee Associations
Colorado Association of Commerce & Industry
Colorado Hotel & Lodging Association
Connecticut Lodging Association
Consumer Electronics Association
Farm Equipment Manufacturers Association
Federation of American Hospitals
Florida Independent Concrete and Associated Products
Florida Restaurant & Lodging Association
Food Marketing Institute
Forging Industry Association
Foundry Association of Michigan
Franchise Business Services (representing Buffalo Wild Wings® franchisees)
Georgia Hotel & Lodging Association
Global Cold Chain Alliance
Hawaii Lodging & Tourism Association
Heating, Air-Conditioning & Refrigeration Distributors International (HARDI)
HR Policy Association
Illinois Chamber of Commerce
Illinois Hotel & Lodging Association
Independent Electrical Contractors
Independent Office Products and Furniture Dealers Association
Indiana Cast Metals Association
Indiana Chamber of Commerce
Indiana Restaurant & Lodging Association
Industrial Fasteners Institute
Industrial Supply Association
International Foodservice Distributors Association
International Franchise Association
International Warehouse Logistics Association
Louisiana Hotel & Lodging Association
Maine Innkeepers Association
Maryland Hotel & Lodging Association
Massachusetts Lodging Association
Metals Service Center Institute
Michigan Lodging and Tourism Association

Mid-America Lumbermens Association
Minnesota Grocers Association
Minnesota Lodging Association
Montana Lodging & Hospitality Association
Motor & Equipment Manufacturers Association
National Apartment Association
National Association of Chemical Distributors
National Association of Electrical Distributors
National Association of Home Builders
National Association of Manufacturers
National Association of Truckstop Operators
National Association of Wholesaler-Distributors
National Automobile Dealers Association
National Club Association
National Council of Chain Restaurants
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
National Mining Association
National Multifamily Housing Council
National Pest Management Association
National Precast Concrete Association
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National Stone, Sand and Gravel Association
National Tooling and Machining Association
Nebraska Chamber of Commerce & Industry
Nebraska Hotel & Motel Association
Nevada Hotel & Lodging Association
New Hampshire Lodging & Restaurant Association
New York Hospitality & Tourism Association
North American Die Casting Association
North American Equipment Dealers Association
Northeastern Retail Lumber Association
North Carolina Restaurant & Lodging Association
Ohio Hotel & Lodging Association
Ohio Manufacturers' Association
Oklahoma Hotel & Lodging Association

Oregon Restaurant & Lodging Association
Outdoor Power Equipment and Engine Service Association
Pennsylvania Foundry Association
Pennsylvania Restaurant & Lodging Association
Precision Machined Products Association
Precision Metalforming Association
Printing Industries of America
Retail Industry Leaders Association
Rhode Island Hospitality Association
Snack Food Association
Society for Human Resource Management
Society of American Florists
South Carolina Restaurant & Lodging Association
SPI: The Plastics Industry Trade Association
Tennessee Hospitality Association
Texas Cast Metals Association
Texas Hotel & Lodging Association
Textile Rental Services Association
Truck Renting & Leasing Association
U.S. Chamber of Commerce
United Motorcoach Association
Utah Hotel & Lodging Association
Vermont Chamber of Commerce
Virginia Hospitality & Travel Association
Washington Lodging Association
West Virginia Hospitality & Travel Association
Western Equipment Dealers Association
Window and Door Manufacturers Association
Wisconsin Cast Metals Association
Wisconsin Hotel & Lodging Association
World Millwork Alliance
Wyoming Lodging & Restaurant Association