

COALITION FOR A DEMOCRATIC WORKPLACE

May 25, 2011

Dear Senators Alexander, Graham and DeMint:

On behalf of millions of job creators concerned with increasing threats to the basic tenets of free enterprise, we write in support of S. 964, the Job Protection Act.

The Coalition for a Democratic Workplace, a group of more than 500 organizations, has been united in its opposition to the so-called “Employee Free Choice Act” (EFCA) and EFCA alternatives that pose a similar threat to workers, businesses and the U.S. economy. Thanks to you and other elected officials who stood firm against this damaging legislation, the threat of EFCA is less immediate in this Congress.

Politically powerful labor unions, other EFCA supporters, and their allies in government are not backing down, however. Having failed to achieve their goals through legislation, they are now manipulating the National Labor Relations Board (NLRB) to promote “card check,” a key component of EFCA, and other radical anti-business policies. The NLRB’s actions are fueling economic uncertainty and have serious negative ramifications for millions of employers, U.S. workers they have hired or would like to hire, and consumers.

In the last year alone, the NLRB has sought to:

- erode the right of employees to seek a federally supervised secret ballot election;
- permit continued and more severe union intimidation of employees;
- force employers to post a biased “notice of rights” that omits key information about workers’ rights to withhold payment of any union dues spent on politics and to refuse to pay for a union’s unwanted services in the 22 states with right to work laws; and
- grant unprecedented access to union agents onto employers’ private property, even where a union’s intent is not to organize the company, but simply do it harm.

One case pending before the NLRB that may have a particularly negative impact on the economy is *Specialty Healthcare*. In that case, NLRB is considering reversing 50 years of established law and allowing “micro-unions.” This would 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, effectively disenfranchising them. Under current law, bargaining units must include employees that share a community of interest. Smaller units are only permissible where the employees in the proposed unit have interests that are “*sufficiently distinct* from those of other employees to warrant the establishment of a separate unit.” This prevents proliferation of small “fractured units.”

If the NLRB decides in *Specialty Healthcare* to permit micro-unions and fractured units, businesses would be required to manage multiple small units of similarly situated employees with increased chances of work stoppages, and potentially different pay scales, benefits, work

rules and bargaining schedules. This would greatly limit an employer's ability to cross train and meet customer and client demands via lean, flexible staffing as employees could not perform work assigned to another units. Employees also would suffer from reduced job opportunities as promotions and transfers would be hindered by organizational unit barriers. The potential negative impact of the *Specialty Healthcare* case to workers, businesses and our economy is dramatic.

Indications are the NLRB is planning other actions that will be equally damaging to workers, businesses and our economy. For example, the agency has requested information from venders about remote electronic voting, presumably as an alternative to secret ballot elections. Yet, electronic voting provides none of the privacy protections of a secret ballot election, and is essentially card check by another name.

Individual NLRB members also have indicated they wish to dramatically shorten election time frames from targeted 42 days and the current median of 38 days. This effort is nothing more than a thinly veiled attempt by the NLRB to limit information workers may receive about the disadvantages of unions generally and about possible problems with the specific union attempting to organize their place of employment. Prior to the union filing an election petition, workers may have heard only from the union, as employers often are not even aware of the union's campaign and, thus, are unable to respond to the union's statements and promises. The current 38 to 42 day time frame allows workers to hear from both their employer and the union.

The most recent outrageous action of the NLRB, which is the impetus of the Job Protection Act, is unprecedented attempt by the agency's Acting General Counsel to mandate where and how one company—Boeing—can operate and expand its business and what the company may tell the public and its employees about costs related to collective bargaining. The federal government must not be allowed to tell business where it can or cannot create jobs or to prevent a company from making accurate statements about costs that it incurs. We view this threat to one employer as a key test for the business environment of all employers.

The Job Protection Act addresses this most recent action by the NLRB and would guarantee that businesses and entrepreneurs have the ability to decide where to conduct their business and to discuss with workers and the public various costs associated with unionization. We applaud your leadership in introducing legislation to prevent the NLRB's unprecedented intrusion on free enterprise. The Job Protection Act will encourage investment in our nation and its workforce.

We thank you for introducing the Job Protection Act and encourage Members of Congress to use every tool available to them to stop this rogue agency from implementing policies to appease a single special interest at the expense of workers, businesses and our economy.

National Organizations (81)

60 Plus Association

Aeronautical Repair Station Association

Aluminum Association

American Bakers Association
American Concrete Pressure Pipe Association
American Fire Sprinkler Association
American Foundry Society
American Hotel and Lodging Association
American International Automobile Dealers Association
American Pipeline Contractors Association
American Rental Association
American Resort Development Association
American Seniors Housing Association
American Supply Association
American Trucking Associations
Americans for Prosperity
Asian American Hotel Owners Association
Assisted Living Federation of America
Associated Builders and Contractors, Inc.
Associated Equipment Distributors
Associated General Contractors of America
Association of Equipment Manufacturers
Association of Millwork Distributors
Automotive Aftermarket Industry Association
Brick Industry Association
Center for the Defense of Free Enterprise Action Fund
Consumer Electronics Association
Con-way Inc.
Environmental Industry Associations
Federation of American Hospitals
Food Marketing Institute
Forging Industry Association
Heating, Airconditioning & Refrigeration Distributors International (HARDI)
HR Policy Association
Independent Electrical Contractors
Industrial Fasteners Institute
Interlocking Concrete Pavement Institute
International Association of Refrigerated Warehouses
International Council of Shopping Centers
International Foodservice Distributors Association
International Franchise Association
International Sign Association
International Warehouse Logistics Association
Kitchen Cabinet Manufacturers Association

Metals Service Center Institute
National Association of Chemical Distributors
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Club Association
National Council of Chain Restaurants
National Council of Farmer Cooperatives
National Council of Textile Organizations
National Federation of Independent Business
National Grocers Association
National Lumber and Building Material Dealers Association
National Mining Association
National Ready Mixed Concrete Association
National Retail Federation
National Roofing Contractors Association
National School Transportation Association
National Small Business Association
National Solid Wastes Management Association
National Stone, Sand & Gravel Association
National Systems Contractors Association
National Tooling and Machining Association
North American Die Casting Association
North American Equipment Dealers Association
NUCA, Representing Utility and Excavation Contractors
Petroleum Marketers Association of America
Precision Machined Products Association
Precision Metalforming Association
Printing Industries of America
Public Service Research Council
Retail Industry Leaders Association
Snack Food Association
Society for Human Resource Management
SPI: The Plastics Industry Trade Association
Steel Equipment Specialists LLC
Steel Manufacturers Association
Truck Renting and Leasing Association
U.S. Chamber of Commerce
United Fresh Produce Association
United Motorcoach Association

State and Local Organizations (120)

Arkansas State Chamber of Commerce
Associated Builders and Contractors, Inc. Central Florida Chapter
Associated Builders and Contractors, Inc. Central Ohio Chapter
Associated Builders and Contractors, Inc. Central Pennsylvania Chapter
Associated Builders and Contractors, Inc. Central Texas Chapter
Associated Builders and Contractors, Inc. Cornhusker Chapter
Associated Builders and Contractors, Inc. Delaware Chapter
Associated Builders and Contractors, Inc. East Tennessee Chapter
Associated Builders and Contractors, Inc. Eastern Pennsylvania Chapter
Associated Builders and Contractors, Inc. Empire State Chapter
Associated Builders and Contractors, Inc. Florida East Coast Chapter
Associated Builders and Contractors, Inc. Florida First Coast Chapter
Associated Builders and Contractors, Inc. Florida Gulf Coast Chapter
Associated Builders and Contractors, Inc. Georgia Chapter
Associated Builders and Contractors, Inc. Greater Houston Chapter
Associated Builders and Contractors, Inc. Heart of America Chapter
Associated Builders and Contractors, Inc. Indiana Chapter
Associated Builders and Contractors, Inc. Inland Pacific Chapter
Associated Builders and Contractors, Inc. Keystone Chapter
Associated Builders and Contractors, Inc. Los Angeles/Ventura Chapter
Associated Builders and Contractors, Inc. Michigan Chapter
Associated Builders and Contractors, Inc. Mid-Tennessee Chapter
Associated Builders and Contractors, Inc. Mississippi Chapter
Associated Builders and Contractors, Inc. Nevada Chapter
Associated Builders and Contractors, Inc. North Alabama Chapter
Associated Builders and Contractors, Inc. Ohio Valley Chapter
Associated Builders and Contractors, Inc. Pelican Chapter
Associated Builders and Contractors, Inc. Rhode Island Chapter
Associated Builders and Contractors, Inc. Rocky Mountain Chapter
Associated Builders and Contractors, Inc. South Texas Chapter
Associated Builders and Contractors, Inc. Southeast Texas Chapter
Associated Builders and Contractors, Inc. Virginia Chapter
Associated Builders and Contractors, Inc. Western Michigan Chapter
Associated Builders and Contractors, Inc. Western Washington Chapter
Associated Industries of Arkansas
Associated Industries of Massachusetts
CA/NV/AZ Automotive Wholesalers Association
California Manufacturers & Technology Association
Capital Associated Industries Inc. (Raleigh and Greensboro, NC)
CenTex Chapter IEC
Central Alabama Chapter IEC

Central Indiana IEC
Central Missouri IEC
Central Ohio AEC/IEC
Central Pennsylvania Chapter IEC
Central Washington IEC
Centre County IEC
Charleston Chamber of Commerce
East Tennessee IEC
Eastern Washington Chapter, IEC
Employers Coalition of North Carolina (Raleigh, NC)
Greater Montana IEC
IEC Atlanta Chapter
IEC Chesapeake
IEC Dakotas, Inc.
IEC Dallas Chapter
IEC Florida West Coast
IEC Fort Worth/Tarrant County
IEC Georgia Chapter
IEC Greater St. Louis
IEC Hampton Roads Chapter
IEC NCAEC
IEC New England
IEC of Arkansas
IEC of East Texas
IEC of Greater Cincinnati
IEC of Idaho
IEC of Illinois
IEC of Kansas City
IEC of Northwest Pennsylvania
IEC of Oregon
IEC of Southeast Missouri
IEC of Texoma
IEC of the Bluegrass
IEC of the Texas Panhandle
IEC of Utah
IEC Southern Arizona
IEC Southern Colorado Chapter
IEC Southern Indiana Chapter-Evansville
IEC Texas Gulf Coast Chapter
IEC Western Reserve Chapter
IEC, Inc. El Paso Chapter

IEC, Inc. Lubbock Chapter
IEC, Inc. San Antonio Chapter
IEC, South Florida Chapter, Inc.
IECA Kentucky & S Indiana Chapter
IECA of Arizona
IECA of Nashville
IECA of Southern California, Inc.
IEC-OKC, Inc.
Kansas Chamber
Little Rock Regional Chamber of Commerce
Management Association of Illinois
Manufacturer and Business Association
MEC IEC of Dayton
Mid-Oregon Chapter IEC
Mid-South Chapter IEC
Midwest IEC
Montana IEC
Nebraska Chamber of Commerce & Industry
Nevada Manufacturers Association
New Jersey Food Council
New Jersey IEC
Northern New Mexico IEC
NW Washington IEC
Ohio Manufacturers' Association
Portland Cement Association
Puget Sound Washington IEC Chapter
Rio Grande Valley IEC, Inc.
Rocky Mountain Chapter IEC
San Antonio Manufacturers Association
Southern New Mexico IEC
Texas Hospital Association
Texas State IEC
The Employers Association
Tri State IEC
Virginia Trucking Association
Western Carolina Industries
Western Colorado IEC
Western Electrical Contractors Association
Wichita Chapter IEC