Allow Workers and Employers to Work without Burdensome Regulation

One of America's greatest economic strengths is individuals' and businesses' ability to adapt to changing economic conditions. However, in the case of labor markets, many workers and employers remain subject to an array of obsolete New Deal-era labor regulations that discourage innovation and hamper flexibility. The old adversarial model of labor relations has little to offer to the 21st century workforce, which is characterized by horizontal company structures and greater job mobility—flexibility which employers and workers need to better ride out downturns in the economy.

America has come a long way since the New Deal, when the National Labor Relations Act was enacted. Since then, the collective bargaining model that has predominated in the U.S. has been one based on compulsory monopoly representation. Under this system, when employees at a given workplace vote on whether they want to be represented by a union, that union becomes the exclusive bargaining agents for all the workers there—including workers who did not vote to be represented by the union. This violates workers' First Amendment rights to freedom of association and freedom of speech—by forcing them to join unions as a precondition of employment and to support, through the compulsory payment of union dues, political activism with which they may not agree.

Since the passage of the Taft-Hartley Act in 1947, states have been able to mitigate this situation through the enactment of right-to-work laws, which bar making union membership a precondition for employment. Today, 22 states have right-to-work laws. But now organized labor is pushing Congress to close even this opening in the labor market, hoping to make compulsory unionism nationwide.

Abolishing unions' monopoly bargaining privilege would end this anachronistic system. However, short of that, Congress should keep from making the situation worse—and that is precisely what another item atop organized labor's agenda would do: the misleadingly named Employee Free Choice Act (EFCA). EFCA would do three things:

- ***Enact automatic recognition of "card check" organizing whenever a union requests it.*** Card check—a procedure that currently requires employer approval—allows unions to circumvent secret ballot organizing elections, by getting the National Labor Relations Board to recognize a union as the exclusive employee bargaining agent if a majority of employees signs cards requesting union representation. Because cards are signed out in the open, card check exposes employees to high-pressure tactics that secret ballot elections are designed to avoid.

- ***Impose binding arbitration on employers and workers.*** Under EFCA, if a union and an employer are unable to agree on a contract within 120 days, the federal government would then proceed to impose a contract upon the parties. This is undemocratic, and exposes businesses and workers to being saddled with onerous obligations over which they have no say.
- ***Increase penalties for "unfair labor practices."*** Unfair labor practices are actions that are prohibited during union organizing elections. Increased penalties for this would give unions another blunt instrument with which to pressure employers—hardly a recipe for harmonious labor relations.

Finally, several unions are advocating a variety of bills to mandate such detailed workplace issues as wage levels and leave. Yet the parties directly involved in these issues—workers and employers—are best qualified to make these decisions, since they know their own situations better than any federal bureaucrat. Feel-good measures of this sort would exacerbate unemployment by making the entire hiring process more cumbersome, which is the last thing the nation needs in the current economic climate.

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