

The Employee Free Choice Act: Shared Prosperity And Sustained Economic Growth In America

By Mark H. Ayers

The Employee Free Choice Act has quickly become the most contentious legislative issue facing the United States Congress. My intention here in this space is to provide some clarity and context on this issue as it applies to the construction industry, as well as attempt to de-bunk some of the more outlandish claims being made by opponents of this legislation.

The Employee Free Choice Act would amend the National Labor Relations Act in order to provide to employees, and not the employers, the option of having a secret ballot election. Put simply, the legislation would create an option for employees to sign cards indicating their support for collective bargaining representation; lessen the time needed for the National Labor Relations Board (NLRB) to formally recognize the union; and create an arbitration procedure to ensure a first contract.

For many contractors in the construction industry, the Employee Free Choice Act offers many potential benefits, especially when it comes to a competitive playing field in many markets. For example, many non-union contractors—because they subscribe to a business model that is predicated upon finding the cheapest, most easily exploitable workforce they can find—typically set their wage rates far below union scales. By making it easier for workers to join unions and bargain for better wages, health benefits, and pensions, the Employee Free Choice Act will essen-

tially work to level the playing field for many contractors.

The Employee Free Choice Act would also benefit those contractors who pay health benefits. Because health costs are invariably shifted to those who can actually pay, many contractors and owners have traditionally been saddled with subsidizing the health care for those who do not receive employer-provided health insurance. With the injury rate in construction being 29 percent higher than the average of all private industries (58 percent higher for severe injuries), to have more employers sharing the health care burden would be of significant benefit to contractors and owners alike. With more workers paying into benefit funds, the Employee Free Choice Act would have the effect of lessening the burdens imposed on responsible contractors and owners who currently subsidize the actions of their more unscrupulous competitors.

The same dynamic comes into play when it comes to skills training. Any reasonable and studied observation of the North American construction industry would conclude that the union sector assumes the costs associated with training, while the non-union sector reaps the benefits. Should the Employee Free Choice Act be passed into law and more contractors are organized, those training costs will begin to be spread more equitably—again, improving the



competitive position of signatory contractors.

As for de-bunking the myths associated with this legislation, let me begin with the question of the secret-ballot election. The Employee Free Choice Act DOES NOT eliminate the secret ballot election. If the employees would rather be recognized simply through “card-check” then that is their choice. If they prefer an election, that is their choice, too.

Additionally, there is always talk about “union intimidation” in relation to this legislation, and how union organizers will pressure people—through threats and other means—to sign union authorization cards. Again, this is another urban legend that has no basis in reality. In fact, it is the exact opposite scenario that is prevalent to unimaginable degrees. First, intimidation of any kind—either from unions or employers—is illegal under current law. Secondly, a study by the HR Policy Association (a pro-business

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organization) identified only 113 cases of union intimidation since the inception of the National Labor Relations Act. And only 42 of those cases were found to actually have merit. That's 42 cases of union intimidation since 1935! Now, in 2007 alone, there were 29,559 cases where workers received back pay awards in cases involving illegal firings and other violations of the law. In 2006, that number was 26,824; in 2005 it was 31,358. There is simply no evidence that the Employee Free Choice Act will generate union coercion, while there is ample evidence that employer coercion and intimidation is rampant.

The Employee Free Choice Act is a win-win for America and American businesses. Unions are an essential part of a strong democracy and they play a crucial role in our public and community life. Unions also make workplaces safer and more productive, and they work to raise professional standards. According to a recent study, unions raise productivity by 19 to 24 percent in manufacturing; 16 percent in hospitals; and by 17 to 38 percent in the construction industry.

That's why we applaud the tens of thousands of responsible employers

from our industry who have gone on record in support of the Employee Free Choice Act. They understand the value of widespread, shared prosperity in creating sustained economic growth in America. To them, the passage of the Employee Free Choice Act would be a welcome occasion. ●

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