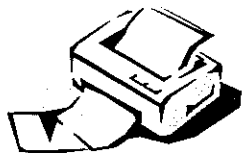


LAWFAX LAWFAX LAWFAX

ALERTING MANAGEMENT TO BREAKING LABOR AND EMPLOYMENT LAW DEVELOPMENTS



NO. 93 — March 2009

ARE YOU PREPARED FOR THE EMPLOYEE FREE CHOICE ACT?

Seaton, Beck & Peters, P.A. Offers Immediate Training Package on EFCA and Union Issues for Business Owners, Managers, Human Resources and Supervisors, and for Rank-and-File Employees

By Attorney Jon S. Olson

The Obama Administration and the Democratic-controlled Congress and Senate are intent on passing the so-called Employee Free Choice Act (EFCA) or "card check bill," which passed Congress and obtained a majority of votes in the Senate in 2008, but failed to obtain the necessary 60 votes to pass. EFCA was reintroduced last week and, with a reduced number of Republican Senators, is likely to pass in 2009.

EFCA would eliminate most secret ballot elections for union representation and require that the National Labor Relations Board certify any union if the union obtains authorization cards from 50% + 1 of your employees (usually without notice to the employer or opposing employees). Unions now typically obtain a card majority before filing an election petition, and yet win only about one-half of all secret ballot elections. This is because unions are free, without repercussion, to misrepresent the meaning or purpose of the card to get employee signatures. The secret ballot election, however, permits true employee choice to trump a card majority obtained by union misrepresentations. This safeguard would largely disappear under EFCA.

If this card certification by ambush and misrepresentation were not serious enough, under EFCA, employers would also be required to reach agreement with the new union within 120 days, or a government arbitrator would be empowered to impose a contract. EFCA would also impose severe new penalties on employers (but not on unions) for violations of the statute.

Unions are collecting cards right now, largely without employers being aware of it, in anticipation of EFCA becoming law. Because EFCA eliminates secret ballot elections, employers (and employees opposing unionization) who have not been proactive in preparing for EFCA, will have no opportunity to make their voices heard before a union is certified, and employers will lose control over the terms and conditions of employment, even though they have the responsibility of covering these costs.

Employers will need to commit to a proactive and positive employee relations strategy in order to meet the challenges of this new legal landscape.

In This Issue

- Are You Prepared for the Employee Free Choice Act—Training Package Offered
- Correction to Last Month's article on Pro-Labor Executive Orders
- Scott Becker, Employee Benefits Lawyer, joins SBP
- Register now for May 5 Labor Law Forum @ www.seatonlaw.com



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Are your managers and supervisors – and your employees – prepared to meet these challenges? If you wait, you may find a union certification in the mail and it will be too late. Contact your Senators and Congressional Representatives (Minnesota's list is attached and we'll be happy to supply the same information for others) to express your opposition to EFCA, but prepare for the worst with our help.

The experienced labor lawyers at Seaton, Beck & Peters, P.A. are ready to assist you in meeting the challenges presented by EFCA by offering training to your supervisors and managers which will prepare them to:

- Discuss the impact of EFCA with your employees.
- Recognize the signs of union activity.
- Legally discuss the true impact of unionization with your employees.
- Counter the arguments and misinformation made by union agents.
- Explain the true meaning and serious consequences of card signing.

Unlike most law firms, we are also prepared to conduct educational sessions for your rank-and-file employees, to help them understand how EFCA will affect their workplace and their lives, and to present the arguments and facts against unionization to them before union agents approach them.

Details: Training sessions for either managers or for rank-and-file employees (at your location) in the Minneapolis/St. Paul Metro Area are offered for \$1,150.00. Sessions for both groups on the same day are offered for \$1,750.00. For out-state Minnesota sessions, and training in Wisconsin, North Dakota, South Dakota or Iowa, a supplementary charge will be quoted, depending on distance and the scheduling of other sessions or legal work nearby.

For more information, or to schedule training, contact Doug Seaton, Alec Beck, Greg Peters, Tom Revnew or Jon Olson at Seaton, Beck & Peters, P.A. Phone: 952-896-1700; Fax: 952-896-1704; Email: firm@seatonlaw.com

CORRECTION TO THE LAST LAWFAQ

In the last LawFax, our summary of the first of the Pro-Labor Executive Orders should have said:

The first order prohibits federal contractors from being reimbursed for expenses incurred during "any activities undertaken to persuade employees" about whether to or not to form a union or engage in collective bargaining.

Welcome to Attorney Scott A. Becker

Experienced employee benefits lawyer Scott A. Becker has recently joined forces with the Seaton, Beck & Peters firm. Scott offers our clients employee benefits advice, planning, drafting and compliance assistance. A graduate of William Mitchell College of Law, Scott has been practicing since 1994 and works on both welfare and retirement plans, including 401(k)s, pensions, stock option plans, non-qualified plans, Section 125 Cafeteria plans, Health Reimbursement Arrangements, executive compensation and non-discrimination testing. He has dealt extensively with the IRS and U.S. DOL in benefit plan compliance. Contact any Seaton, Beck & Peters lawyer for inquiries about our benefits practice at 952.896.1700 or contact Scott directly at 952-921-4603.

REGISTER NOW FOR OUR

FOURTH ANNUAL LABOR LAW FORUM

TUESDAY, MAY 5, 2009

8:30 A.M.—4:30 P.M.

SHERATON BLOOMINGTON HOTEL

COST: \$295

(includes breakfast, lunch & materials)

We are pleased to sponsor a full-day, upper-level program dealing with today's most significant labor issues.

We will be presenting the following topics: **Review of Recent Labor Developments, including EFCA; Bargaining in a Recessionary Economy; Employment Law Update; Effectively Handling Arbitration Cases.**

For more information and to register go to <http://www.seatonlaw.com/training/index.shtml>

If you are receiving this LawFax, you or another member of your organization is a client, a member of one of the trade associations or chambers of which we are also members, or have requested a subscription to this newsletter. If you'd rather receive our LawFax by e-mail, or if you no longer wish to receive it, please e-mail us at firm@seatonlaw.com or call toll-free at 800-268-5008.

This communication is intended for general informational purposes only and is not intended to constitute legal advice with respect to any individual facts or circumstances. You are urged to consult with one of our attorneys regarding your own situation and your specific question. We would be happy to help.

SEATON, BECK & PETERS, P.A. 2009

Minnesota Representatives

<p>Congressman Timothy J. Walz (D) – First District 1529 Longworth House Office Bldg Washington, DC 20515</p> <p>Phone: (202) 225-2472 Fax: (202) 225-3433 Website: http://walz.house.gov</p>	<p>Congressman Keith Ellison (D) – Fifth District 1130 Longworth House Office Bldg Washington, DC 20515</p> <p>Phone: (202) 225-4755 Fax: (202) 225-4886 Website: http://ellison.house.gov</p>
<p>Congressman John Kline (R) – Second District 1210 Longworth House Office Building Washington, DC 20515</p> <p>Phone: (202) 225-2271 Fax: (202) 225-2595 Website: http://kline.house.gov</p>	<p>Congresswoman Michele Bachmann (R) – Sixth District 107 Cannon House Office Building Washington, DC 20515</p> <p>Phone: (202) 255-2331 Fax: (202) 225-6475 Website: http://bachmann.house.gov</p>
<p>Congressman Erik Paulsen (R) – Third District 126 Cannon House Office Building Washington, DC 20515</p> <p>Phone: (202) 225-2871 Fax: (202) 225-6351 Email: rep.erik.paulsen@house.mn</p>	<p>Congressman Collin C. Peterson (D) – Seventh District 2211 Rayburn House Office Bldg Washington, DC 20515</p> <p>Phone: (202) 225-2165 Fax: (202) 225-1593 Website: http://collinpeterson.house.gov</p>
<p>Congresswoman Betty McCollum (D) – Fourth District 1714 Longworth House Office Bldg Washington, DC 20515</p> <p>Phone: (202) 225-6631 Fax: (202) 225-1968 Website: www.mccollum.house.gov</p>	<p>Congressman James L. Oberstar (R) – Eighth District 2365 Rayburn House Office Building Washington, DC 20515</p> <p>Phone: (202) 225-6211 Fax: (202) 225-0699 Website: www.oberstar.house.gov</p>

Minnesota Senator

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