



Attend a Working Session on the EFCA and other proposed employer related statutes.

Tuesday, December 9, 2008

7:45—10:30 a.m.

Sheraton Bloomington

Registration form attached or register online at www.seatonlaw.com



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Employers: Are You Ready For The “Employee Free Choice” Act (And A Dozen Other Anti-Employer Federal Statutes)? Attend A Working Session To Get You Ready On Tuesday, December 9, 2008.

By: Attorney Douglas P. Seaton

Barack Obama's victory and the increased numbers of Democrats in Congress and the Senate mean that some version of the so-called Employee Free Choice Act or “card check bill” is likely to become law in 2009.

This bill passed the last session of Congress and was only defeated by a few votes in the Senate on a cloture vote. Had it passed, President Bush would have vetoed the bill, but President-Elect Obama has pledged his support, secured by hundreds of millions of dollars in contributions to his campaign by organized labor, and supporters may have enough votes in the 2009 Senate to cut-off debate and pass EFCA.

EFCA would require that the National Labor Relations Board certify any union to represent your employees if they obtain authorization cards from 50% + 1 of the employees (usually without any notice to the employer or opposing employees), circumventing the six week campaign period and secret ballot election now required for certification. Unions now win about half of all secret ballot elections under current law, even though a majority of cards is usually obtained by unions before the election. This is because unions are free, under current law, to misrepresent the meaning or purpose of the card to get that card majority. Only outright fraudulent signatures now disqualify a card. The secret ballot election, however, permits true employee choice to trump a card majority on union representation. This safeguard would disappear, except in rare “opt out” situations after the union is certified, under EFCA.

As though this card certification by ambush and misrepresentation were not serious enough, employers would also be required to reach agreement with the new union within 120 days, or a government-appointed arbitrator would be empowered to impose a contract over employer (and employee) objections, with very few, if any, grounds for appeal. One such arbitrator, under a counterpart law now in effect in Quebec, Canada, recently imposed a 33% first year wage increase.

The card check and “interest arbitration” provisions will completely abolish the twin pillars of American labor law: the secret ballot election with a limited campaign period and mutual agreement of the parties on contract terms, subject to carefully balanced “economic weapons” (strike, picketing, lock-out, replacement, final offer implementation) among the parties. Under EFCA, employers (and employees opposing unionization) will have no notice of union organizing in the workplace and no opportunity for comment and employers will lose control over the terms and conditions of employment, even though they are the ones with the responsibility of covering these costs.

Employers can no longer afford to “wait until the NLRB petition is filed” to communicate with employees about union representation, because there will be no such petition under EFCA, only notice that the union has been certified. Whole industries which have never experienced union organizing will now. Employee communications, and changes in policies, practices and compensation arrangements designed to defend against unionization, must begin now and be refreshed periodically in order to assure that new employees learn and veterans are reminded of the employer’s position on unionization and have the incentives and information to say no to the union card solicitors.

If EFCA is not enough to concern you, consider that a dozen or so other labor, employment and human resources bills have been identified as high priority in the new Obama Administration’s agenda. These include reducing the number of supervisors under federal labor law, expanding the Worker Adjustment and Retraining Notification Act remedies and scope, requiring employers to “accommodate” employee schedule and location change requests and expanding requirements, penalties and liabilities in numerous other areas. Every employer will be seriously affected by this proposed legislature agenda.

Plan to attend our law firm’s Working Session and Continental breakfast on EFCA and the other Democratic labor, employment and human resources law bills on Tuesday, December 9, 2008, at the Bloomington Sheraton (at Highways 494 & 100).

Continental Breakfast and Check-in start at 7:00 a.m. with the session running from 7:45 to 10:30 a.m. The registration form is attached or you can register online at www.seatonlaw.com or send an email to us at firm@seatonlaw.com. You will get practical tips on the following:

- Which EFCA provisions (and those in the other anti-employer bills) are likely to be passed.
- Key policy changes to make now – while there is still time – to limit union organizing success under EFCA.
- Compensation and benefit options you should consider to inoculate employees against the union “sell,” and produce better morale and higher productivity and profit as well.
- Human resources planning and practice alternatives to prepare for the dozen other labor and employment bills on the Democratic agenda.
- Tips and strategies for an employee communication program to assure employees know about the pit falls of unionization and its adverse effect on the competitive position of your business.

SPECIAL FEATURE!

Hear from a Canadian lawyer who represents employers under EFCA-like Canadian law.

Seaton, Beck & Peters, P.A. are the “*Lawyers for Employers*” in the Upper Midwest. We have dedicated our practice entirely to labor and employment law advice and representation of employers for 13 years and have dealt with both card check and interest arbitration previously. You can rely on the combined 100 plus years of experience, expertise and concentration of our lawyers in this area. We hope to see you at our Working Session.

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