Independent Electrical Contractors 2009 Legislative Agenda

Employee Free Choice Act

The Employee Free Choice Act (EFCA) would amend the National Labor Relations Act (NLRA) to allow for public card-check campaigns during union organizing drives.

Currently, the NLRA requires a government-supervised secret ballot election to recognize a union as a collective bargaining unit once the union has collected authorization cards signed by 30% of the employees. An employer may also choose to recognize the union based on presentation of a majority of employee-signed union authorization cards. EFCA seeks to amend the NLRA adding language that requires an employer, and the National Labor Relations Board (NLRB), to immediately recognize the results of a card-check campaign, without a secret ballot election, if a majority of employees have signed a union authorization card.

EFCA also mandates time frames for the beginning and conclusion of union contract negotiations. If, after 90 days, no agreement has been reached, either side may request mediation from the Federal Mediation and Conciliation Service (FMCS). If the FMCS cannot broker an agreement within 30 days the negotiations would be referred to a federal arbitration board whose decision would be binding upon both parties for a period of 2 years. Effectively, the federal government would be setting the terms of labor for a private company.

The Employee Free Choice Act was passed by the full U.S. House of Representatives in March 2007 by a vote of 241-185. The Senate took up floor consideration of EFCA in June 2007, but failed to pass the bill after it failed (51-48) to reach the 60 votes necessary to end debate.

Status of Legislation: The House (H.R. 1409) and Senate (S. 560) bill introduced on March 10, 2009. The House bill was introduced with 223 original cosponsors, down from the 233 that signed when the bill was introduced in 2007. The Senate bill was introduced with 40 cosponsors, down from 46 in 2007. In recent weeks House leadership has hinted that they want the Senate, where EFCA failed in 2007, to take action and vote first since the bill is expected to easily pass in the House.

Senator Jim DeMint (R-SC) and Representative John Kline (R-MN) have introduced the Secret Ballot Protection Act, which would "ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board." The Senate version (S. 478) currently has 19 cosponsors and the House version (H.R. 1176) has 109.

IEC Position: IEC strongly opposes H.R. 1409/S. 560 and any effort to strip employees of the right to a secret ballot or to impose binding federal arbitration on business owners. IEC supports H.R. 1176/S. 478.

Union-only Project Labor Agreements

Union-only Project Labor Agreements (PLAs) on federal contracts require that the contracts be awarded only to those who agree to collective bargaining and union hiring. Union-only PLAs exclude a majority of the workforce from the opportunity to participate in federally-funded projects.

Union-only PLA proponents argue that the agreements promote fair wages and labor peace through non-strike clauses. However, Davis-Bacon laws already ensure that the local, usually union, prevailing wage is paid on federal construction projects and merit shop employees do not go on strike. In reality, these agreements are about forcing merit shop contractors to submit to union rules and hiring halls if they want to bid on projects covered by a union-only PLA. As merit shop contractors have already chosen to operate non-union, why would they agree to bid on projects covered by union-only PLAs?

PLAs cost the American taxpayer more money by drastically limiting project bids to a small segment of the market that runs union-only shops. In a time when elected officials in both parties preach the doctrine of fiscal discipline, the expense of PLAs does not seem justified. In a move designed to curtail wasteful federal spending in 2001, President Bush signed Executive Order 13202, which expressly prohibits PLAs on federal construction projects.

In 2008, according to the Bureau of Labor Statistics, 84% of the construction workforce in the United States did not belong to a labor union. Not only do union-only PLAs waste taxpayer money, but they prohibit the large majority of the workforce that has chosen not be a part of a union from working on projects financed by their tax dollars.

Status of Legislation: On February 6, 2009, President Barack Obama signed Executive Order 13502, which authorizes and encourages the use of union-only project labor agreements (PLAs) on federal construction contracts. President Obama's order also repealed President Bush's Executive Order 13202, which banned PLA's on federal projects. Senator David Vitter (R-La.) and Representative John Sullivan (R-Ok.) have introduced the Government Neutrality in Contracting Act (S. 90/H.R. 983), which would preserve open competition on federal construction projects. Specifically, S. 90 and H.R. 983 would "prevent discrimination against Federal Government contractors or their employees based upon labor affiliation or the lack thereof, thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects."

IEC Position: IEC opposes any legislation that would promote union-only PLAs. IEC support S. 90/H.R. 983 and any effort to ensure open competition on federal construction projects.

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Green Jobs Act

While IEC supports efforts to address the lack of skilled workers, in general or specifically in the field of energy efficiency, the Green Jobs Act limits eligibility to entities who are partnered with a labor organization. The reality is that this language would prevent non-union training programs across the country from receiving this grant funding.

The Green Jobs Act establishes National Energy Training Partnership Grants to fund training programs targeted at creating an efficient energy and renewable energy skilled workforce. With the same goal, the Act would create a State Energy Training Partnership Program for eligible states to administer green jobs training programs. Finally, this act would utilize the Energy Efficiency and Renewable Energy Worker Training Program to make grants for community-based nonprofit organizations in order to train low income individuals in skilled trades related to increasing energy efficiency.

Unfortunately, the Act specifically limits program eligibility to entities that partner with labor organizations, thus effectively preventing the vast majority of the construction industry from participating in the program.

Open shop companies train millions of workers each year in a wide variety of skilled occupations and are constantly striving to keep pace with technology and innovation in order to make certain America has the skilled workforce it deserves, and that all American workers, regardless of union affiliation, enjoy equal opportunity access to critical job training. Allowing monopolistic participation by labor organizations in this grant process would make it extremely difficult, if not impossible, for the organizations that train almost 9 out of every 10 skilled workers to participate in this new and emerging job market.

Status of Legislation: The Green Jobs Act language was enacted as part of the Energy Bill signed into law in December 2007. However, funding for implementation of the Act has not yet been approved. Yet to be introduced in 111th Congress, however, the original House sponsor, Rep. Hilda Solis, has been nominated to be the next Secretary of the Department of Labor and thus funding for the Green Jobs Act could become a priority. The Green Jobs Improvement Act, which would have removed the partnering with a union requirement from the Green Jobs Act, was introduced in the 110th Congress by Rep. John Kline.

IEC Position: While IEC strongly supports the concept of green jobs training, IEC opposes funding this program unless the statutory language is changed to allow all federal-or state-approved training organizations to be eligible for these training grants. IEC supports legislation that would open up green jobs funding to all approved training programs.

Davis-Bacon Prevailing Wage Rate Reform

The Davis-Bacon federal prevailing wage law is a Depression-era regulation that requires the payment of the locally prevailing wage -- the wage paid to a majority of workers or the average wage in a given classification in given area -- on all federally-funded construction projects. The Davis-Bacon wage rate is supposed to be based on the information gathered via voluntary wage surveys. In reality, due to inefficiencies and inaccuracies with this archaic program, the federal prevailing rates are often the local union rates and not the prevailing market wage rates.

As a federally-supervised law, Davis-Bacon also requires significant paperwork and reporting. Many smaller businesses avoid bidding for projects that include Davis Bacon requirements because of the added paperwork and reporting requirements. The prevailing rate is an inaccurate, cumbersome system that adds more red tape and bureaucracy for those merit shop contractors who want to bid on federal jobs.

Davis-Bacon prevents the taxpayers from getting the best bargain on federal construction projects by eliminating true competition from the contracting process.

Status of Legislation: The 110th Congress considered several bills expanding Davis-Bacon into private sector and state-funded projects, including loan guarantee programs at the Department of Energy and tax credit bonds for energy production. This trend is expected to increase with the new administration and expanded majorities in the 111th Congress.

IEC Position: IEC opposes any legislation that would further expand the Davis-Bacon prevailing wage rate. IEC supports updating the federal prevailing wage so that accurate wage rates are obtained and the uncertainty and inefficiency is removed from the process.

Mandatory Paid Sick Leave

Legislation was introduced in the 110th Congress that would make drastic changes to current labor law and mandate that employers provide seven days of paid sick leave for all employees. The Healthy Families Act would create a new federal mandate requiring all businesses employing 15 or more individuals to provide 7 days of paid sick leave annually to all employees. Currently employers are not required to provide sick leave, though a vast majority do so on a voluntary basis as an employee benefit.

Status of Legislation: Yet to be introduced in 111th Congress.

IEC's Position: IEC opposes the Healthy Families Act and any one-size-fits-all approach to this issue. Each business is unique and must be able to address personnel needs in a practical way.

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RESPECT Act

The *Re-Empowerment of Skilled and Professional Employees and Construction Tradeworkers* (RESPECT) Act seeks to make drastic changes to the NLRA definition of a supervisor. The RESPECT Act would remove the duties of assigning and responsibly directing other employees from the definition of supervisor. The RESPECT Act also specifies that supervisors must "hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees" for a *majority* of their work time. These two semantic changes would eliminate almost all employees from the supervisor classification and potentially place them into a collective bargaining unit.

In order for a company to run effectively, it needs to know its supervisors are loyal to the company and that they will make decisions based upon efficiency and merit, not internal union politics or work rules. By the same measure, supervisors need to know that their decisions are subject to the authority of their employer and not to a union official. Effectively, this legislation would deny supervisor status to many hard-working Americans who have risen through the ranks and succeeded in becoming leaders in their workplace.

Status of Legislation: Yet to be introduced in 111th Congress.

IEC Position: IEC opposes the RESPECT Act and any attempt to strip away a standard that has long been a key part of the balance between management and labor.

Association Healthcare Plans

Providing quality health care coverage for employees is one of the most difficult and expensive problems facing many employers. Small businesses feel this impact on a greater scale because they do not have the negotiating power that larger businesses and corporations have. Association Health Plans (AHPs) have long been sought as a way to provide small business owners with an affordable health care alternative. AHPs would allow for businesses to band together through associations to increase their buying power when negotiating with insurance providers for coverage. By forming AHPs, associations could provide their members with more health insurance options, which would drive down the cost for small business owners and their employees.

Status of Legislation: Yet to be introduced in 111th Congress.

IEC Position: IEC is proud to represent America's small business owners, with more than 60% of its membership consisting of companies with 10 or fewer employees. IEC supports legislation that allows a market-based health insurance system with quality health insurance options, while avoiding the state coverage mandates that make insurance too expensive for many hard-working Americans.

Repeal of the Death Tax

The federal estate tax, commonly referred to as the Death Tax, is a tax on the estate of a deceased person. Essentially taxpayers are paying double taxes as they build their estate and then again as they pass it on to the next generation. The Death Tax acts as a major hurdle, if not outright barrier, to passing down family owned small businesses to future generations.

As part of the 2001 *Economic Growth and Tax Relief Act*, the threshold amount at which the Death Tax is applied was increased and the tax rate was decreased, leading to an outright repeal of the tax in 2010. However, that elimination will sunset after just one year and the death tax will again be in place at the 2001 levels starting in 2011.

Status of Legislation: Yet to be introduced in 111th Congress.

IEC's Position: IEC supports permanent repeal of the Death Tax.

Repeal of 3% Withholding on Government Contracts

In an effort to increase tax compliance by contractors working with the federal government, a 2005 tax cut included a last minute provision to implement a 3% withholding starting in 2011. Section 511 of the *Tax Increase Prevention and Reconciliation Act of 2005* requires any local government entity, with annual revenues in excess of $100 million, to withhold three percent of total contract payments until contractors have proven that their taxes are paid full. This move could be crippling to smaller business that typically operate on smaller profit margins.

While this provision will not take effect until 2011, the issue was accelerated by some in Congress who would like to move the effective date up to fund other congressional initiatives.

Status of Legislation: Yet to be introduced in 111th Congress.

IEC Position: IEC opposes this new tax, and supports legislation that seeks to repeal it.

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