

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 260 Session of 2009

INTRODUCED BY SCHRODER, BEAR, BOBACK, BOYD, CAUSER, CLYMER, COX, CREIGHTON, CUTLER, DELOZIER, DENLINGER, ELLIS, EVERETT, FAIRCHILD, FLECK, GABIG, GABLER, GILLESPIE, GINGRICH, GRELL, GROVE, HARPER, HELM, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER, MAHER, MAJOR, MARSICO, MENSCH, METCALFE, MILLER, MOUL, OBERLANDER, PICKETT, PYLE, RAPP, REICHLEY, ROAE, ROCK, ROHRER, SAYLOR, SONNEY, STEVENSON, SWANGER, TALLMAN, TRUE, TURZAI, VULAKOVICH AND PHILLIPS, APRIL 23, 2009

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 23, 2009

A RESOLUTION

1 Memorializing Congress to vote against the Employee Free Choice
2 Act of 2009.

3 WHEREAS, The Employee Free Choice Act of 2009 proposes
4 amending the National Labor Relations Act (NLRA) to require that
5 the National Labor Relations Board (NLRB):

6 (1) certify a labor union as the exclusive
7 representative of employees if it presents union
8 authorization cards signed by a majority of employees without
9 the benefit of a government-supervised secret ballot
10 election; and

11 (2) utilize binding arbitration to impose an initial
12 contract if either party in a collective bargaining
13 negotiation requests mediation and such mediation is not
14 successful;

15 and

1 WHEREAS, Current Federal law requires that the NLRB conduct a
2 secret ballot election to determine the will of employees in
3 situations where:

4 (1) a petition for a representation election is filed by
5 an individual or union and such petition is supported by a
6 "showing of interest" by at least 30% of employees, stating
7 that they want to be represented by a union; or

8 (2) an employer requests a representation election
9 because it doubts a union's claim that a majority of its
10 workers want union representation, with such claim based on
11 signed union authorization cards;

12 and

13 WHEREAS, The Employee Free Choice Act of 2009 proposes
14 creating a "card check" union certification process which will
15 effectively change the NLRA to eliminate an employer's right to
16 request a secret ballot election in cases where it has
17 reasonable doubt as to the validity of a union's claim to be
18 recognized as the collective bargaining agent based on
19 presentation of union authorization cards; and

20 WHEREAS, Such a change to the NLRA would hinder, not promote,
21 employee free choice by depriving employees of their long-
22 established right to a secret ballot election in contested
23 situations; and

24 WHEREAS, A secret ballot election ensures that all workers
25 can hear arguments from the employer and union, have time for
26 reflection and then vote their conscience without pressure or
27 fear of retaliation; and

28 WHEREAS, The "card check" process essentially eliminates an
29 employer's ability to discuss with employees the employer's view
30 of union representation in violation of the employer's First

1 Amendment rights, and thus the "card check" process deprives
2 employees of all available facts or information on which to make
3 an informed decision; and

4 WHEREAS, The secret ballot election ensures that all
5 employees in a collective bargaining unit have input, via their
6 private vote, as to whether they want to be represented by a
7 union; and

8 WHEREAS, The "card check" process can leave workers who were
9 never asked to sign such cards by union organizers without any
10 input into whether they are to be represented by a union; and

11 WHEREAS, The "card check" process will lead to situations
12 where employees are intimidated by union organizers, as
13 documented by public testimony in February 2007 before the
14 United States House Subcommittee on Labor, Education, and
15 Pensions; and

16 WHEREAS, The "card check" process could lead to situations
17 where employees are misled by union organizers as to the full
18 significance of signing such card authorizations, as detailed by
19 public testimony in February 2007 before the United States House
20 Subcommittee on Labor, Education, and Pensions; and

21 WHEREAS, There is no provision in the Employee Free Choice
22 Act of 2009 that requires that union organizers return signed
23 authorization cards to employees who may have changed their mind
24 about wanting union representation, thus possibly leading to
25 situations where some authorization cards are turned in to the
26 NLRB that no longer reflect an employee's views; and

27 WHEREAS, The secret ballot election process is not biased
28 against unions, as is evidenced in the NLRB's Annual Report for
29 Fiscal Year 2007, which states that in fiscal year 2007, 1,905
30 representation elections were held covering 101,551 employee

1 voters, with workers choosing union representation as their
2 bargaining agents 54.9% of the time; and

3 WHEREAS, The secret ballot election process is being
4 administered by the NLRB in a timely, efficient manner, as is
5 evidenced in the NLRB's Performance and Accountability Report
6 for fiscal year 2008, which states that 95% of initial
7 representation elections were held within 56 days of filing of a
8 representation petition; and

9 WHEREAS, The Employee Free Choice Act of 2009 also proposes
10 creating a binding arbitration process that could be instituted
11 in as little as 120 days after commencement of initial contract
12 negotiations to impose an initial contract upon the parties
13 involved in collective bargaining; and

14 WHEREAS, Current Federal law does not require that binding
15 arbitration be used on unwilling participants, and traditional
16 national labor policy favors a collective bargaining process
17 that does not compel either party to agree to any proposal or
18 require the making of a concession; therefore be it

19 RESOLVED, That the House of Representatives of the
20 Commonwealth of Pennsylvania oppose language in the Employee
21 Free Choice Act of 2009 that creates a "card check" process,
22 because such a process violates a workers' fundamental right to
23 a secret ballot vote which protects them from intimidation and
24 which ensures that all workers have a chance to give their
25 input; and be it further

26 RESOLVED, That the House of Representatives express its
27 collective belief that if there are problems with the fairness
28 of secret ballot elections with respect to isolated instances of
29 employer intimidation, then the Congress of the United States
30 should address that issue alone and do so in a manner that

1 primarily maintains the secret ballot election process for
2 deciding union representation in contested situations; and be it
3 further

4 RESOLVED, That the House of Representatives oppose any
5 language violating an employer's First Amendment right to
6 express his or her view to employees on the implications of
7 union representation; and be it further

8 RESOLVED, That the House of Representatives oppose language
9 in the Employee Free Choice Act of 2009 that amends the National
10 Labor Relations Act to require binding arbitration, because such
11 a requirement would seriously alter the traditionally accepted
12 balance of power in initial contract negotiations and subject
13 employers to the imposition of contract provisions by third
14 parties; and be it further

15 RESOLVED, That the House of Representatives of the
16 Commonwealth of Pennsylvania memorialize members of Congress to
17 oppose the Employee Free Choice Act of 2009; and be it further

18 RESOLVED, That the House of Representatives of the
19 Commonwealth of Pennsylvania memorialize members of the United
20 States Senate to oppose any motion to invoke cloture to end
21 debate on legislation implementing the Employee Free Choice Act
22 of 2009; and be it further

23 RESOLVED, That copies of this resolution be transmitted to
24 the presiding officers of each house of Congress and to each
25 member of Congress from Pennsylvania.