

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 73 Session of 2009

INTRODUCED BY SCHRODER, BEAR, BOYD, CAUSER, CLYMER, CREIGHTON, CUTLER, DELOZIER, DENLINGER, EVERETT, FAIRCHILD, GABIG, GINGRICH, GRELL, GROVE, HARPER, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER, MAHER, MARSICO, METCALFE, MILLER, MOUL, OBERLANDER, PICKETT, PYLE, RAPP, REICHLEY, ROAE, ROCK, ROHRER, SAYLOR, SONNEY, STEVENSON, SWANGER, TALLMAN, TRUE AND TURZAI, FEBRUARY 11, 2009

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 11, 2009

A RESOLUTION

1 Expressing opposition to Federal labor legislation eliminating
2 secret ballots or requiring compulsory arbitration.

3 WHEREAS, In the 110th Congress, bills enacting the Employee
4 Free Choice Act of 2007 contained language that proposed
5 amending the National Labor Relations Act (49 Stat. 449, 29
6 U.S.C. § 151 et seq.) to require the National Labor Relations
7 Board (NLRB) to certify a labor union as the exclusive
8 representative of employees if it presents union authorization
9 cards signed by a majority of employees without the benefit of a
10 government-supervised secret ballot election and to utilize
11 binding arbitration to impose an initial contract if either
12 party in a collective bargaining negotiation requests mediation,
13 and such mediation is not successful; and

14 WHEREAS, Current Federal law requires that the NLRB conduct a
15 secret ballot election to determine the will of employees if a

1 petition for a representation election is filed by an individual
2 or union and the petition is supported by a showing of interest
3 by at least 30% of employees stating that they want to be
4 represented by a union or if an employer requests a
5 representation election because it doubts a union's claim that a
6 majority of its workers want union representation, with the
7 claim based on signed union authorization cards; and

8 WHEREAS, The bills in the 110th Congress enacting the
9 Employee Free Choice Act of 2007 proposed creating a card-check
10 union certification process, which would have effectively
11 changed the National Labor Relations Act to eliminate an
12 employer's right to request a secret ballot election in cases
13 where it has reasonable doubt as to the validity of a union's
14 claim to be recognized as the collective bargaining agent based
15 on presentation of union authorization cards; and

16 WHEREAS, Such a change to the National Labor Relations Act
17 would hinder, not promote, employee free choice by depriving
18 employees of their long-established right to a secret ballot
19 election in contested situations; and

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

24 WHEREAS, The card-check process essentially eliminates an
25 employer's ability to discuss with employees the employer's view
26 of union representation in violation of the employer's First
27 Amendment rights and, thus, prevents employees from receiving
28 all available facts or information on which to make an informed
29 decision; and

30 WHEREAS, The secret ballot election ensures that all

1 employees in a collective bargaining unit have input, via their
2 private vote, as to whether they want to be represented by a
3 union; and

4 WHEREAS, The card-check process can leave workers who were
5 never asked to sign such card by union organizers without any
6 input into whether they are to be represented by a union; and

7 WHEREAS, The card-check process could lead to situations in
8 which employees are misled by union organizers as to the full
9 significance of signing such card authorizations, as detailed by
10 public testimony in February 2007 before the United States House
11 Subcommittee on Health, Employment, Labor, and Pensions; and

12 WHEREAS, The secret ballot election process is not biased
13 against unions, as is evidenced in the NLRB's Annual Report for
14 Fiscal Year 2007 which stated that, in fiscal year 2007-2008,
15 1,905 representation elections were held covering 101,551
16 employee voters, with workers choosing union representation as
17 their bargaining agents 54.9%; and

18 WHEREAS, The secret ballot election process is being
19 administered by the NLRB in a timely, efficient manner, as is
20 evidenced in the NLRB's Performance and Accountability Report
21 for Fiscal Year 2008, which states that 95% of initial
22 representation elections were held within 56 days of filing of a
23 representation petition; and

24 WHEREAS, The bills in the 110th Congress enacting the
25 Employee Free Choice Act of 2007 also proposed creating a
26 binding arbitration process which could be instituted in as
27 little as 120 days after commencement of initial contract
28 negotiations to impose an initial contract upon the parties
29 involved in collective bargaining; and

30 WHEREAS, Current Federal law does not require that binding

1 arbitration be used on unwilling participants, and traditional
2 national labor policy favors a collective bargaining process
3 which does not compel either party to agree to any proposal or
4 require the making of a concession; therefore be it

5 RESOLVED, That the House of Representatives of the
6 Commonwealth of Pennsylvania oppose language in any Federal
7 legislation which creates a card-check process, because such a
8 process violates workers' fundamental rights to a secret ballot
9 vote, which protects them from intimidation and which ensures
10 that all workers have a chance to give their input; and be it
11 further

12 RESOLVED, That the House of Representatives of the
13 Commonwealth of Pennsylvania maintain the position that, if
14 there are problems with the fairness of secret ballot elections
15 with respect to isolated instances of employer intimidation,
16 then Congress should address that issue alone and do so in a
17 manner that primarily maintains the secret ballot election
18 process for deciding union representation in contested
19 situations; and be it further

20 RESOLVED, That the House of Representatives of the
21 Commonwealth of Pennsylvania oppose any Federal legislative
22 language violating an employer's First Amendment right to
23 express the employer's view to employees on the implications of
24 union representation; and be it further

25 RESOLVED, That the House of Representatives of the
26 Commonwealth of Pennsylvania oppose language in any amendment to
27 the National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151
28 et seq.), to require binding arbitration, because such a
29 requirement will seriously alter the traditionally accepted
30 balance of power in initial contract negotiations and subject

1 employers to the imposition of contract provisions by third
2 parties; and be it further

3 RESOLVED, That copies of this resolution be transmitted to
4 the presiding officers of each house of Congress and to each
5 member of Congress from Pennsylvania.