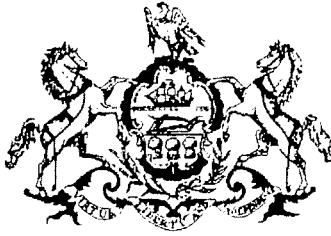


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**House of Representatives**  
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TO: All House Members

FROM: Representative Scott Perry  
92<sup>nd</sup> Legislative District 

DATE: January 3, 2011

SUBJECT: Cosponsorship of Constitutional Amendment to Ensure Secret Ballot Election in Union Representation Elections.

Attached please find a copy of legislation that I will be introducing in the near future which proposes an amendment to Pennsylvania Constitution that would preserve the right of individuals to a secret ballot election in employee representation elections. As many of you are aware, in the last Congress there was legislation introduced in both the House and Senate to create a "card check" process to determine whether employees wanted to unionize or not. This legislation proposed amending the National Labor Relations Act (NLRA) to require that the National Labor Relations Board (NLRB) certify a labor union as the exclusive representative of employees if it presents union authorization cards signed by a majority of employees, without the benefit of a lawfully-supervised secret ballot election.

Current federal law requires that the NLRB conduct a secret ballot election to determine the will of employees in situations where: 1) a petition for a representation election is filed by an individual or union and such petition is supported by a "showing of interest" by at least 30 percent of employees stating that they want to be represented by a union; or 2) an employer requests a representation election because it doubts a union's claim to majority of its workers want union representation, with such claim based on signed union authorization cards ; and

A "card check" union certification process will effectively change the NLRA to eliminate an employer's right to request a secret ballot election in cases where it has reasonable doubt as to the validity of a union's claim to be recognized as the collective bargaining agent based on presentation of union authorization cards.

Fortunately, the Democrat leadership in last Congress could not garner enough votes to pass this legislation. However, it is expected that such legislation will be reintroduced again. More importantly, it is possible that the Obama administration will try to bypass Congress and enact card check through rule-making by National Labor Relations Board.

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In my opinion, such a change to the NLRA would hinder, not promote, employee free choice by depriving employees of their long-established right to a secret ballot election in contested situations. Four states (Arizona, South Carolina, South Dakota, and Utah) have passed constitutional amendments similar to what this legislation proposes in order to protect their citizen's right to secret ballot elections in union representation elections. Whether or not a federal statute would preempt a state's constitution in this area is not settled law, and many legal scholars believe that such constitutional provisions would survive court challenges.

In my opinion, my proposed constitutional amendment makes perfect sense in that our constitution guarantee certain basic rights for citizens and this should be one of them. Should you wish to co-sponsor this legislation, please contact Lisa Seilhammer at 783-8783 or through e-mail at [lseilham@pahousegop.com](mailto:lseilham@pahousegop.com)

Attachment