



EXECUTIVE MANAGEMENT  
SERVICES, INC.

A member of 

March 4, 2009

The Honorable [ Senator ]  
[ Address ]  
[ City, State, Zip Code ]

Re: Please Stop the "Employee Free Choice Act" from Taking Away  
Workers' Freedom to Choose and Further Crippling Our Struggling  
Economy

Dear The Honorable [ Senator ]:

Please let me introduce myself. I am the Owner/CEO of Executive Management Services, Inc. (EMS), an Indianapolis-based corporation. EMS is a national building service company, providing custodial, security, and facility services, as well as chemicals, equipment and paper products supplies, to major corporations involved in a variety of different businesses nation-wide.

EMS's business involvement with such a wide range of industries (including health care, automotive, research and development, mining, chemical production, communications, insurance, retail services, and the non-profit sector) provides a unique perspective into how these organizations operate and what affects not only their profitability, but their ultimate survival. As is true for EMS, each of my customer's ultimate success lies in their ability to manage the efficiency and cost of its workforce.

Today I write to ask for your support in stopping a bill that I believe will cripple almost every business and industry in this country. My beliefs stem from the unique perspective described above and from my own personal experiences at EMS. You see, my company has been the object of a ruthless three-year union organizing campaign by the Service Employees International Union, which has used the tactics described below to try to force me to give away my employees right to a secret ballot election to decide whether they wish to be represented by this union.

The so-called "Employee Free Choice Act," an inaptly named bill supported by organized labor (but not the vast majority of business owners or employees), is not really about employee "free choice." In truth, this legislation is about taking away the individual employee's freedom to choose whether they want to join a union or not – in an atmosphere free from intimidation and coercion.



Before I continue, let me say that I am neither anti-union nor pro-union; I am, however, proudly pro-business. I believe that American businesses are responsible to create good jobs by providing needed products and services, thereby strengthening our national economy and our competitiveness around the globe. Labor unions have been effective at times during American history in protecting workers' rights, improving wages and benefits, and securing a safer working environment. In many ways, however, federal and state legislatures have stepped in to provide important protections for American workers in each of these areas, such that the need for unions in our economy has been significantly reduced.

Unfortunately today, unions are no longer a part of the solution; instead, they are now a major part of the current economic crisis. Unions have decimated U.S. industry, particularly in the manufacturing sector, forcing companies overseas or, even worst, out of business altogether. The most obvious example of this is the automotive industry, but this is true in many other sectors as well. Sadly, the unions fail to realize that they are driving up the costs of labor and creating unnecessary workplace inefficiencies. Instead of working with businesses as strategic partners, they have become antagonists that create a bitter divide not only between management and labor, but also our political parties.

Organized labor has been on the decline in the U.S. for many decades now. Today just 12.4 percent of the American workforce is unionized. Although the unionization rate in the public sector is about 37 percent, it has fallen to just over seven percent in the private sector.

As a rallying cry to try to enhance their position in the marketplace, labor unions now claim they are at a disadvantage during organization efforts due to current federal laws. They contend that the current National Labor Relations Board (NLRB) processes, which provide for a "secret ballot" election, favor businesses over unions. This is simply not true.

According to statistics published by the NLRB, *unions win about two-thirds of the representation elections held each year.* And in cases in which the employer engages in unfair labor practices during the election, the union may petition to have the election results set aside so that a new election may take place. They claim that the process favors business, but if anything the numbers show that it already favors unions!

Labor unions would also have you believe that companies spend time plotting the further demise of unions through intimidation and harassment of its workers to thwart union organizing. However, as I mentioned, from my unique perspective I have seen a very small percentage of this across all of the industries with whom I have done in the past 35 years. I am sure there are companies that resort to such tactics, which is unfortunate. Even more unfortunate is that these tactics are the norm for unions and their organizers. These tactics as well as corporate defamation campaigns are embedded in the labor unions' playbooks (see attachment).

In fact, labor unions currently utilize an organizing tactic similar to the "Employee Free Choice Act" called a "Neutrality Agreement." When a union decides to organize a company, they contact the company for a meeting at which time they demand that the

company sign a Neutrality Agreement (see attached). This agreement requires the company to remain “neutral” regarding unionization – which effectively means that employees don’t have the opportunity to hear the negatives about unionization; all they hear is the union’s promises. It also requires the company to provide a list of all eligible employees along with their home addresses and telephone numbers so that the union can contact them about signing a union card. And most importantly, it takes away the employees’ right to a secret ballot election by requiring the employer to recognize the union upon a showing that it has obtained a majority of signatures on union authorization cards.

The union makes it very clear they expect the company to sign the proposed Neutrality Agreement “or else.” If the employer expresses reluctance to sign and to take away the employees’ rights, they threaten the contractor with their favorite slogan: “We prefer Conversation, but we embrace Confrontation.”

If the company refuses to sign the Neutrality Agreement, the union immediately initiates a comprehensive “Corporate Campaign” attacking the company and its business and employment practices. Such campaigns include picketing the company’s business and customers, sending letters and distributing flyers to company customers defaming the company, hosting numerous protests and rallies decrying the company’s “unfair” wages, benefits and working conditions, filing multiple frivolous NLRB and OSHA complaints (by the union not the employees) which the employer is forced to defend, and issuing misleading press releases and defamatory websites. (See attachments.) The union stops short of allegations that would elicit lawsuits, but paints a dark misconception of the company’s employment practices.

The worst part of the corporate campaign strategy is that the union employs *the exact practices of intimidation, harassment, lies, coercion, bribes and threats* it accuses the company of using in all of its propaganda! Additionally, the union will utilize people on picket lines who are not union members or not employees of the targeted company, again in an effort to misleadingly suggest that the company’s employee support the union, when in fact they do not. In many instances they are homeless, recruited at shelters for low wages, and paid in cash. The union will also recruit employees from the company (normally a small percentage of the work force) who will submit written statements about alleged mistreatment. Unfortunately, many of those employees lack credibility due to unsatisfactory work performance, unsatisfactory attendance or other problems. The union also “salts” employees into the company’s work force, in order to intimidate and pressure the company’s employees and disrupt the workforce.

So why does the union resort to such tactics? Why does it push for a Neutrality Agreement? Why does it push for new legislation (Employee Free Choice Act) instead of utilizing current NLRB laws which have worked well for over 50 years?

There are many reasons but the following are the most prominent.

1. Labor unions no longer have a viable product to sell. In our increasingly competitive economy, the union’s approach to focusing on seniority rather than

- performance undermines workplace productivity, drives up labor costs, and ultimately makes businesses less competitive.
2. Labor unions do not approach the process in a professional, business-like manner. If an employer does not quickly accede to their demands, they resort to name-calling and bully tactics in an effort to force businesses to give in to the pressure.
  3. Labor unions resist the democratic process of a "Secret Ballot Election" because they know that if employees know the truth the union will be less likely to win their support.
  4. Labor unions wish to organize large industries or metropolitan areas as one large group and one contract versus several separate contracts. It is a function of time, effort and economics. It is a much more viable business plan to "Card Check" than to go through the process of a secret ballot election and to negotiate separate contracts for each employer.
  5. It is much easier to harass, pressure, intimate, bribe, threaten and mislead employees into signing "Union Cards" than to try to persuade them of the true value of unions.

The end result is that unions are not only mistrusted by the company, but more importantly, by the exact audience they target -- the company's employees.

Labor unions argue that the NLRB favors business. I find several items striking about their argument.

1. NLRB law places far more restrictions on an employer's ability to interface and convey information to employees that it does on union organizers.
2. The NLRB tends to be sympathetic to the unions because their existence depends on their success. In fact, the NLRB employees who investigate alleged unfair labor practices and who conduct union elections are themselves union members!
3. Only the employees or the union can approve a petition for an election, not the employer, yet the union refuses to petition in most cases. A company may ask for an election, but the union must agree to it.
4. Unions say that the "Secret Ballot Election" process takes too long. Ironically, most companies can and will conduct an election within about 42 days. Unions do not like elections because they want more time to spread propaganda, intimidate the work force, and coordinate a larger group such as an industry or metropolitan area without the employer telling its employees the truth about unions.

The "Employee Free Choice Act" is an attempt by labor unions to return this country to the 1930's and begin a new wave of union organizing, which will in turn render American business uncompetitive in the world market. Labor unions have largely failed to adapt their practices to a changing global economy and now face extinction, much like the automotive companies GM, Ford, and Chrysler.

Now the labor unions want the government to reward them for their inability to adapt to a changing global economy and, instead, to help expand their membership roles. They want their inconceivable tactics against companies and employees to be blessed and protected by law. Most alarming is they are willing to sacrifice our fundamental

democratic principles – including freedom of choice for employees and freedom of speech for employers – for their own selfish reasons.

It is important to remember that you were chosen for your public service by a secret ballot election. Are you willing to enact a law that would take away that fundamental right from American workers? **If not, I urge you to oppose the Employee Free Choice Act.**

If you have questions, would like additional information or real life stories, or would like to meet in person, please contact me at you convenience. I appreciate your time and consideration.

Best Regards,

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