



September 19, 2013

The Honorable Phil Roe
Chairman
Subcommittee on Health, Employment,
Labor and Pensions
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Rob Andrews
Ranking Member
Subcommittee on Health, Employment,
Labor and Pensions
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Roe and Ranking Member Andrews:

On behalf of Associated Builders and Contractors (ABC), a national trade association with 72 chapters representing nearly 22,000 members from more than 19,000 construction and industry-related firms, I am writing in regard to today's subcommittee hearing, titled, "The Future of Union Organizing." With a full quorum at the National Labor Relations Board (NLRB) and a recently confirmed Secretary of Labor, proponents of union organizing are demanding policy changes to increase declining membership.

As a result of their continued failure to pass the Employee Free Choice Act (EFCA), or "card check," organized labor and the Obama administration have shifted to administrative actions and rulemakings to meet their goals. The NLRB and the U.S. Department of Labor's (DOL) Office of Labor-Management Standards have been leading this effort. Two of the administration's proposals in particular are designed to work hand-in-glove to achieve EFCA's end goal of eliminating employer involvement in the union representation process. If allowed to take effect, these proposals will create an alarming imbalance in workplace labor relations that will give union organizers an unfair advantage, and infringe on employers' and employees' rights.

In a proposal first unveiled in 2011, the NLRB plans to authorize "ambush" elections, which would cut the timeframe between the filing of a union representation petition and the election itself from the current average of 38 days (which a top NLRB official referred to as "outstanding" and most employers accept as a reasonable amount of time) to as little as 10 days. This proposal is concerning to our members because the time after a representation petition is filed is crucial for employers to consult with qualified legal counsel and other advisors, comply with a multitude of paperwork and information-sharing requirements and, most importantly, exercise their right to communicate with employees about the advantages and disadvantages of being in a union. While this rule has been tied up in ongoing litigation, NLRB Chairman Mark Pearce has stated publicly that he is "determined to move forward."

The same week the NLRB issued its ambush elections proposal, DOL announced its own plans to transform workplace labor relations. DOL's proposal, known as "persuader" and slated to be finalized in November, severely narrows current rules that exempt reporting communications between attorneys (and other third party labor advisors) and their employer clients when they discuss labor issues. Employers' rights to free speech, freedom of association and legal counsel will be infringed, and employees' collective right to obtain balanced information to decide whether or not to be represented by a union will be significantly limited as well. Small businesses will be unquestionably discouraged from using outside legal assistance, and advisors, who will have to disclose relationships with other clients, will be more reluctant to offer assistance due to the unreasonable burdens imposed on them (and their clients) if they get involved.

ABC vehemently opposes any current or future policy or regulation that deprives employees of valuable, balanced information regarding the union representation process by obstructing employers' ability to communicate on the subject of union organizing. Viewed jointly, the NLRB and DOL proposals will rapidly speed up the union election process while simultaneously making it harder for employers to obtain expert advice.

ABC thanks the Subcommittee on Health, Employment, Labor and Pensions for holding today's hearing, and we look forward to assisting in any efforts to stop this assault on our industry's workplaces.

Sincerely,

A handwritten signature in black ink, appearing to read "G. G. Burr", with a long horizontal flourish extending to the right.

Geoffrey G. Burr
Vice President, Government Affairs