

Employee Free Choice Act Hits The Floor
Labor & Employment Law Alert -- March 12, 2009
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Yesterday, the card check legislation heavily promoted by unions as their savior was introduced in Congress. The so-called Employee Free Choice Act's reintroduction after going down to defeat during the Bush administration, is no surprise and the only question was when—not if—it would reemerge. The bill would radically change the procedure for union certification elections under the National Labor Relations Act from a majority employee vote in secret ballot elections overseen by the National Labor Relations Board to a majority employee signing of union authorization cards typically overseen by union business agents.

In light of the Obama administration's full plate with the foundering economy, there was some question whether campaign promises of support for reintroduction of the legislation would fall by the wayside, but organized labor cleverly couched the legislation as a key ingredient in the reemergence of a revitalized middle class. The Obama administration picked up on this theme and recent pro-labor Executive Orders (see [Employment Alert, February 5, 2009](#)) were accompanied by the message that a rebirth of unions would jumpstart the economy. Obviously, this message and the legislation have drawn a firestorm of controversy between the business community and unions.

Aside from changing the union certification process to make it easier to unionize, the bill would also tie newly unionized employers to binding arbitration for their initial collective bargaining agreements require the initial contracts to last at least two years. Finally, the legislation would provide triple back pay to employees who are discharged or the subject of discrimination in violation of the National Labor Relations Act. A more detailed description of the Employee Free Choice Act's provisions can be found [here](#). When the bill was last introduced in 2007, it passed in the House but fell nine votes short of the 60 needed to limit Senate debate and proceed to final consideration. Then-President Bush had indicated he would veto the legislation. With a supporter in the White House as well as an increase in the Democrats in the Senate, the fate of the bill could come down to the unsettled Senate race in Minnesota involving Democrat Al Franken as well as Republicans such as Senator Arlen Specter who have indicated they are still studying it. We will keep you apprised of future developments.