



Human Resources

Committee

Las Vegas, NV

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What to watch out for in  
the coming year!!

# “Reductions In Force”

*not*

## “Layoffs”

- The Discrimination Laws Still Apply!
  - ◆ Disparate Impact v. Disparate Treatment
- Make sure you have all your ducks in a row
  - ◆ Essential policies signed?
  - ◆ Payroll issues handled?
- Consider Severance Packages
  - ◆ Always use a signed agreement!





# Dealing with Leaves of Absence and Related Issues

- Family Medical Leave Act (FMLA)
- Americans with Disabilities Act (ADA)
- Workers Compensation
- COBRA



The Employee Free Choice Act

Aka

“Card Check”

**A PRACTICAL  
OVERVIEW**



# *HOW DOES IT WORK?*

- **Traditional Union Organizing** is done from the “Bottom Up”:
  - ◆ **Election Petition** (30% Rule & 42 days)
  - ◆ **Ballot Count** (50% rule)



**Then along comes  
the**

**Employee Free  
Choice Act**



# *Employee Free Choice Act*

- **First introduced in 2003**
  - ◆ Killed in Republican-controlled Committees
- **Re-introduced in 2005**
  - ◆ Co-Sponsored in the Senate by a junior Senator from Illinois named **Barack Obama**.
  - ◆ Again died in committee





# *Employee Free Choice Act*

- **Re-introduced yet again in 2007**
  - ◆ **Again co-sponsored in the Senate by Senator Barack Obama**
  - ◆ **Opposed by the US Dept. of Labor**
  - ◆ **Out of Committee and onto the floor, but died when Congress adjourned without a vote on it.**



# *Employee Free Choice Act*

- Passing the EFCA in 2009 is expressly stated as the *top priority* of every Labor Union
- **Presidential Candidate Barack Obama**
  - ◆ Endorsed by every US Labor Union
  - ◆ Promised “We will pass the Employee Free Choice Act.”
- Currently Stalled in Congress



# *Employee Free Choice Act*

## So what will the EFCA do?

- **GET OUT YOUR CRYSTAL BALL!!**
- **EFCA will amend the NLRA**
  - ◆ **Traditional organizing through secret ballot elections can be by-passed**
    - ◆ Employees denied right to secret ballot election
    - ◆ Card Check Certification will be permitted



# *Employee Free Choice Act*

## So what will the EFCA do?

- **EFCA will amend the NLRA**
  - ◆ **Interest Arbitration Provisions**
    - ◆ If negotiations are not successful within 90 days, mediation is order within 30 days
    - ◆ If mediation fails then mandatory arbitration will decide the terms of the contract
    - ◆ “Style” of the arbitration unclear



# *Employee Free Choice Act*

## So what will the EFCA do?

- **EFCA will amend the NLRA**
  - ◆ **Increased Penalties**
    - ◆ Back pay due would be “trebled”
    - ◆ ULP penalties of up to \$20k against Employers (but not unions)
      - Huge incentive for unions to “cheat” in collecting signatures for card checks



**What's a poor ole'  
employer to  
do?!?!?!?!?**



*Show your employees  
the **BETTER WAY?***

- **Preventative (& Proactive!) Labor Relations**
- **Good Employee Relations Practices**
- **Sound Hiring, Discipline, And Communications Policies**



Thank You!

Human Resources Committee

Cory King – Chair

[cking@employerlawyers.com](mailto:cking@employerlawyers.com)

Mario Malacara – Vice-Chair

[Mario.Malacara@ServiceKing.com](mailto:Mario.Malacara@ServiceKing.com)