

How Trade Unions Are Using Democrats to Kill the Union-Free Construction Industry

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On Tuesday, November 4th, Americans will learn whether U.S. labor unions' spending upwards of \$1 billion of their members' money on the general election will have paid off. You see, unbeknownst to most Americans, American voters have become the victims of the largest and most expensive union campaign in history. If the union bosses in Washington and their hand-picked candidates within the Democratic Party succeed in taking over the nation's federal government, it will have long lasting and, in many cases, devastating consequences to employers and their workers across nearly every industry. However, none will be more ravaged than the union-free construction industry.

The reason unions are spending so much to buy their way into power is that they have gotten a 100% commitment from their Democratic political picks to pass the delusionally-named Employee Free Choice Act (EFCA). EFCA is an extremely anti-business/anti-jobs bill that passed the House of Representatives on March 1, 2007 but later failed in the U.S. Senate.

EFCA is designed to strip workers of a secret-ballot vote on the subject of unionization, relying instead on a manipulative process of unionization called "card-check" which subjects workers to union exploitation, coercion and trickery. Following a union's successful takeover of a company's workers under EFCA's card-check provision, the bill also states that, if a company cannot agree with a union's demands (regardless if the demands are realistic or not), the employer is then forced into process called "binding arbitration," which means the negotiating process is turned over to a federally-appointed arbitrator. The arbitrator's duty will be to decide what the terms and conditions of the first contract will be between the union and the company—whether the contract is competitive or not.

While so-called "card-check" will have a detrimental effect on American companies and the jobs they provide, the second component (binding arbitration) is what will kill a vast number of American workers' jobs, as it will force many employers out of business and others to outsource in order to remain viable. In the construction industry, it will simply force union-free construction companies out of business.

Unions Like Herpes?

In the mid-90s, while his company Whole Foods was under siege by the United Food & Commercial Workers, company co-founder & CEO John Mackey made an oft-quoted statement that unions and many of their followers still find appalling today: "The union is like having herpes," Mr. Mackey stated. "It doesn't kill you, but it's unpleasant and inconvenient, and it stops a lot of people from becoming your lover." Well, if unions are like herpes in the grocery industry, *trade unions are like AIDS to the union-free construction industry—and just as deadly*. For when a union-free construction company becomes unionized, it is all-too-often a death sentence for that company and its workers...And the death of a union-free construction company that becomes unionized usually comes fairly quickly.

There is no other industry in America where the difference between being union or union-free is as stark as night and day. In construction, you're either union or you're union-free. For the union-free contractor, he gets almost all of his work based on three things: 1) Price, 2) Productivity (union-free jobsites are rarely, if ever, shut down over such things as union jurisdictional disputes) and 3) because he and his workers are union-free (see numbers one and two).

Unionized construction work is largely uncompetitive. In fact, according to one recent study¹, the costs of building “union-only” can increase the costs by as much as 35%. As a result gross cost of having a union on a jobsite, as well as the separation of union vs. union-free in the industry, it is the union trades that have been on the losing end of the competitive marketplace, as union-free work has grown significantly in the last three decades.. In fact, today, 86% of all construction- industry workers in the United States are union-free.

General contractors that have chosen to use union-free subcontractors know that hiring a union subcontractor or having a union-free subcontractor become unionized will infect the other sub-contractors on his jobsite and, in most cases, put the job costs (or completion of the job) in jeopardy. And, because the construction industry is a fairly tight knit industry where companies know one another and which are unionized or union-free, there is a tendency for union-free general contractors to shun unionized subcontractors and vice versa.

Organize ‘Em Or Put ‘Em Out of Business

Years ago, the AFL-CIO’s Building and Construction Trades Department recognized that the trade unions were losing market share to union-free construction companies. As a result, it was decreed that the unions must either unionize the union-free construction companies or put them out of business. Since then, and in large measure, the unions have failed to do either and the union-free construction industry has continued to blossom.

Today, the climate has become so abysmal for trade unions that many union locals have more members on their “bench” (out of work) than have working. As a result, many union pension funds have become underfunded and, in many cases, union workers are losing their paid health benefits due to the lack of hours working in order to maintain the benefits.

In many cases, trade unions have become so desperate for work that they have begun a questionable practice of paying hundreds of thousands of dollars from the union’s treasury to union contractors to enable to the contractor the ability to lower its price in order to get compete. The practice is called “job recovery” or “job targeting” and it is essentially unions subsidizing their own work.

EFCA: A Death Sentence for Union-Free Construction Companies

As stated above, the Orwellian-named Employee Free Choice Act has two main components that will have a damaging impact on the union-free construction industry: First, card-check recognition which eliminates secret-ballot elections, forcing a union-free companies to become unionized based solely on unions obtaining a majority of signatures from workers; Second, binding arbitration which forces a contract upon an employer.

Unionization under card-check makes bidding for new work impossible. Under card-check recognition, unions often use misleading and deceptive tactics to trick workers into signing union authorization cards. In fact, the majority of workers today sign union authorization cards without full knowledge about unions or the process of collective bargaining. In many cases, unions send in union “salts” or union “moles” (which are workers paid by the union to unionize a targeted company) into companies. Indeed, some unions even make “salting” a requirement for union apprentices before they can be sent to union job sites. Despite unions’ underhanded tactics, today’s system allows for workers to have a secret-ballot election wherein the workers can decide after hearing from *both* the union *and* the

¹ Project Labor Agreements and Financing Public School Construction in Massachusetts. David G Tuerck, PhD & Paul Bachman MSIE, Beacon Hill Institute at Suffolk University. December 2006.

employer whether to unionize or not. Under EFCA, the union will decide if there is to be an election and the vast majority of unions will opt not to have an election, since they stand a greater chance to lose.

Unfortunately, under EFCA, a union-free construction company that becomes unionized under card-check will immediately be put into economic peril. The reason is the nature of the construction industry itself as most construction jobs are short in duration. Immediately upon unionization, the former union-free construction company will be unable to bid on new work as it will be unable to accurately predict its labor costs, since the company is either still negotiating or waiting for an arbitrator to decide its labor costs.

Binding Arbitration Destroys Free-Market Economics. Since 1935, one of the cornerstones of the National Labor Relations Act has been the process of collective bargaining between an employer and the representative of its employees. Under the Act, while it is mandatory for a company to bargain in good-faith with a union over wages, hours of work and other terms and conditions of employment, the Act does not require either party to agree to the other's proposals. EFCA, however, effectively guts the collective bargaining process by using the state to impose a binding two-year agreement.

Since unions have been failing nearly 50% of the time to win contracts after unionizing workers², it is understandable why unions would wish to have state coercion. However, the issue becomes more complicated in the construction industry due to the fact that most trade unions have what are referred to as "area-wide" agreements. Area-wide agreements cover all of the local union's members in the trade with the employers that are signatory to the union's contract. Under area-wide agreements, most unions have agreements that contain what are commonly called "most-favored nation" clauses which state that the union will not agree to any other contract with any other employer that is different than what is contained in the union's area-wide agreement.

Typically, under area-wide agreements, in addition to hourly wage rates, union provisions include such things as union pension, health and welfare benefits paid into the union's fund, as well as the union's hiring hall provisions (which mean that employers contract to hire workers through the union hall, as opposed to the open market). Since most trade unions cannot accept anything other than what is specified in its area-wide agreement, it is these provisions that will put the union-free construction company out of business.

Conclusion—Construction Workers' Unemployment is in the Cards

As unions mount the largest and most expensive union organizing campaign in history, the union-free construction industry will be the first to suffer and fail if the unions and the Democrats succeed with their plans. Under the oxy-moronic Employee Free Choice Act and its coercive card-check provisions and binding arbitration, trade unions will be in a position to shut down companies within a matter of months of unionization, placing a greater number of construction workers on the unemployment lines. Unfortunately, too many union-free companies and their employees remain in the dark about the plan that unions have for them.

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² Source: Wall Street Journal 2006. Federal Mediation and Conciliation Service, 2004. Brent Garren, Chief Counsel to UNITE-HERE, before the American Bar Association's Section on Labor and Employment, August, 2003.