

## The Senate Goes Wobbly on Card Check It's hard to defend taking away the secret ballot.

- By KIMBERLEY A. STRASSEL, Wall Street Journal, January 2, 2009

Responsibility has a way of focusing the mind.

Take Mark Pryor, Democratic senator from Arkansas. In 2007, Mr. Pryor voted to move card check, Big Labor's No. 1 priority. And why not? Mr. Pryor knew the GOP would block the bill, which gets rid of secret ballots in union elections. Besides, his support helped guarantee labor wouldn't field a challenger to him in the primary.

Postelection, Mr. Pryor isn't so committed. He's indicated he wouldn't co-sponsor the legislation again. He says he'd like to find common ground between labor and business. He is telling people the bill isn't on a Senate fast-track, anyway. His business community, which has nimbly whipped up anti-card-check sentiment across his right-to-work state, is getting a more polite hearing.

It hasn't been much noticed, but the political ground is already shifting under Big Labor's card-check initiative. The unions poured unprecedented money and manpower into getting Democrats elected; their payoff was supposed to be a bill that would allow them to intimidate more workers into joining unions. The conventional wisdom was that Barack Obama and an unfettered Democratic majority would write that check, lickety-split.

Instead, union leaders now say they are being told card check won't happen soon. It seems the Obama team plans to devote its opening months to important issues, like the economy, and has no intention of jumping straight into the mother of all labor brawls. It also seems Majority Leader Harry Reid, even with his new numbers, might not have what it takes to overcome a filibuster. It's a case study in how quickly a political landscape can change, and how frequently the conventional wisdom is wrong.

Paradoxically, it's Mr. Reid's bigger majority that is now hurting him. In 2007, he got every Democrat (save South Dakota's Tim Johnson, who was out sick) to vote for cloture. But it was an easy vote. Democrats like Mr. Pryor knew the GOP held the filibuster, and that Mr. Bush stood ready with a veto. Now that Mr. Reid has 58 seats, red-state Democrats in particular are worried they might actually have to pass this turkey, infuriating voters and businesses back home.

Mr. Pryor isn't alone. Fellow Arkansas Democrat Blanche Lincoln voted for cloture in 2007 but is now messaging Mr. Reid that she's not eager for a repeat. She recently said she doesn't think "there is a need for this legislation right now," that the country has bigger problems. What she didn't mention is that she is also up for re-election next year, and that one potential GOP challenger, Tim Griffin, is already vowing to make card check an issue. South Dakota's Tim Johnson, Nebraska's Ben Nelson and others face

similar pressure. And it seems unlikely new Senate arrivals such as Colorado's Mark Udall are eager to make card check an opening vote, especially with visions of United Auto Worker bailouts fresh in voter minds.

Republican "moderates" aren't eager for card check either. If this were a minimum-wage vote, Maine's Susan Collins, for example, would be lining up. But polls show more than 80% of Americans disagree with eliminating union ballots. Senate Minority Leader Mitch McConnell has bolstered opposition by turning card check into a litmus test of Mr. Obama's promise to work with the other side. Even Pennsylvania's Arlen Specter, the lone GOP vote for card check in 2007, is backpedaling, worried about a 2010 primary challenge.

Credit for this new environment goes to a business community that has been uncharacteristically unified in a sweeping campaign against the bill. U.S. Chamber of Commerce General Counsel Steven Law says the issue has even inspired his organization to change tactics.

"In the past, unions would show up in force on the ground while the business community would send someone in a suit up to Capitol Hill. This time, we pushed hard at the grass-roots level and lit a fire under this issue." Those grass roots have targeted senators like Mr. Pryor and Mrs. Lincoln. Business also spent millions airing ads about card check during the presidential campaign, a prime time to educate voters.

None of this is to suggest card check is dead, or that it might not yet be resurrected in the early days. If Al Franken pulls out a win in Minnesota, Mr. Reid might be inspired to use his 59 votes to forge ahead. Some House Democrats are also suggesting union intimidation would in fact "stimulate" the economy, and that the legislation ought to be attached to the upcoming spending package.

Whatever the difficulties, it's hard to fathom how waiting helps Democrats. Mr. Obama will never be stronger than in his opening months, and he'll need muscle to strongarm reluctant party members to support such an unsupportable measure. The initial union strategy was to whip this through before Americans understood the debate, but in that they've already failed. The more time goes on, the more likely this issue turns into trench warfare.

For the unions, that wouldn't just be a shot to the heart, but to the ego. Democrats may try to fob them off with less controversial legislation -- "fair pay" or more unionization of public safety officials -- but Big Labor feels it is owed much more. We may be about to discover just how patient, or forgiving, those union bosses are.



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Voters, Union Households Believe Employee Free Choice Act Will Cost Jobs, End Privacy

WASHINGTON, Jan. 26 /PRNewswire-USNewswire/ -- A new national survey of voters released today by the Coalition for a Democratic Workplace (CDW) shows opposition coming from an unlikely source - union households. A special polling oversample of 400 union households shows both union members and all voters strongly opposing The Employee Free Choice Act, often called the "card check" bill.

The findings indicate widespread concern among both voters and union households about this legislation that threatens secret ballots, worker privacy and job growth. Both voters and union members tell pollsters that Congress should focus on other more important issues and put Big Labor's agenda aside.

"The strong opposition from current union members to the Employee Free Choice Act should send a clear signal to President Obama and the Democrat-controlled Congress that the EFCA lacks popular support, both among a key Democratic constituency and voters as a whole," said Brian Worth with the Coalition for a Democratic Workplace. "The only support card check has is among the leaders of Big Labor."

The poll was conducted by nationally respected polling firm of McLaughlin & Associates. It surveyed 1,000 likely voters with a sub-sample of 400 union households. The poll was conducted from January 7 to 11, 2009.

Key findings of the poll include:

- Three out of four voters (74%) oppose the "The Employee Free Choice Act." Union households also strongly oppose the Employee Free Choice Act, 74% oppose to only 20% support.
- When given a more detailed description of the Employee Free Choice Act, nearly 9 out of 10 voters, 86%, feel the process should remain private and only 8% feel it should be public information. Again, even union workers feel strongly that the process should be kept private, as 86% said private and only 8% said public.
- Four out of five voters, or 82%, favor having a federally supervised election as a means to "protect the individual rights of workers." The voters clearly see this as a basic right, especially given that only 11% of voters feel the card check would be the best way to protect the individual rights of workers. Support increases to 85% among union households.
- The majority (52% to 26%) of American voters believe that the Employee Free Choice Act is not good for job creation. Even among union households, the plurality (48%) believes that the Employee Free Choice Act will cost America jobs.
- In the current economic climate, 52% of voters are particularly opposed to any measure that would risk jobs or job growth.
- Further exemplifying the electorate's distaste for the Employee Free Choice Act, 71% agreed that this legislation would be "unwise" and "risky." In today's economic climate, the electorate has little confidence in the federal government's ability to make such major business decisions.

Despite opposition from their own rank and file workers, labor bosses have made support for the EFCA, or "card check" bill, a top priority this year and are pressuring Congress to act quickly to pass it. Unfortunately for Big Labor, 79% of union workers and voters want Congress to focus on other issues like jobs and healthcare.

"Workers aren't fooled by Big Labor's attempt to increase their power at the expense of worker privacy," said Worth.

More information about the poll and CDW's efforts to protect secret ballots and worker privacy can be found at [www.MyPrivateBallot.com](http://www.MyPrivateBallot.com).

Methodology: This poll of 1,000 likely general election voters in the United States was conducted from January 7th - 11th, 2009 by McLaughlin & Associates. An oversample of 193 union households was conducted, which brings the combined total of union households to 400. All interviews were conducted via telephone by professional interviewers. Interview selection was random within predetermined election units - in this case, the fifty states. These units were structured to correlate with actual voter turnout in a general election. This poll of 1,000 likely general election voters has an accuracy of +/- 3.1% at a 95% confidence interval. The 400 sample of union households has an accuracy of +/- 4.9% at a 95% confidence interval.

About the Coalition for a Democratic Workplace  
The Coalition for a Democratic Workplace is made up of more than 500 associations and organizations from every state across the nation that have joined together to protect a worker's right to a private ballot when deciding whether to join a union. For more information and a listing of our membership, please visit [www.MyPrivateBallot.com](http://www.MyPrivateBallot.com).

SOURCE Coalition for a Democratic Workplace

Rhonda Bentz or Hayden Pruett, +1-202-560-7289, both for Coalition for a Democratic Workplace

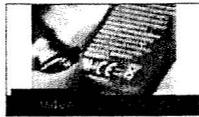
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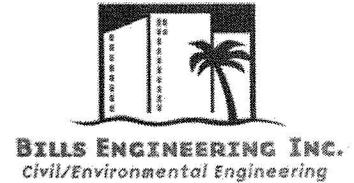
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LATE

March 20, 2009

Honorable Karl Rhoads, Chair  
Committee on Labor & Public Employment  
State Capitol, Room 309  
Honolulu, Hawai'i 96813



Emailed to: [LABtestimony@capitol.hawaii.gov](mailto:LABtestimony@capitol.hawaii.gov)

**RE: SB1621, SD2 "Relating to Collective Bargaining"**

Chair Rhoads and Members of the Committee on Labor & Public Employment:

I am David Bills, President of Bills Engineering Inc. As an active member of ACEC Hawai'i, Bills Engineering Inc. shares in the desire to unify and promote the interests of the industry and enhance the quality of life for the people of Hawai'i.

Bills Engineering is strongly opposed to SB 1621, SD2, "Related to Collective Bargaining" because of the increased burden it would place on businesses at a time when they can least afford it while giving unions unfair and extraordinary powers and rights.

SB 1621, SD2 is also referred to as the "Card Check" bill because it would eliminate the secret ballot elections for union certification if a majority of employees provide written authorization for a union to be their bargaining representative.

SB 1621 also provides unions with legal immunity and authorizes unions to engage in criminal conduct if engaging in a labor dispute. If passed, this bill would provide protection to unions against criminal trespass in a labor dispute. Under this bill, a reasonable request or order from a law enforcement officer can be defied with impunity, thereby allowing labor activity to obstruct walkways and driveways and totally restrict any public access. We do not see any fairness in this provision. While the conduct of unions in obstructing walkways and driveways would be authorized by this law, the general public will be subject to criminal penalties if they try to gain public access that has been blocked.

There would be total immunity for any civil claims against a union, its officials or any member while engaging in collective bargaining activities in a labor dispute. Untruthful smear campaigns; obstruction of access to your premises, libel and slander; and torts will all be protected activity if it occurs while a union or one of its members is "participating in a labor dispute".

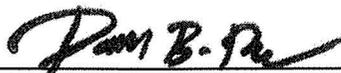
SB1621 includes a "binding arbitration" provision that mandates arbitrators to dictate the wages and benefits under a union contract, then deprives workers of the chance to vote on that contract.

For these reasons, Bills Engineering asks that this bill be held. It is bad for business and ultimately bad for the consumers in this state.

Thank you for the opportunity to express my view.

Very truly yours,

BILLS ENGINEERING INC.

By:   
DAVID B. BILLS, President

DBB:flb

**From:** Brett M. Akimoto [BMA@tanakarestaurants.com]  
**Sent:** Friday, March 20, 2009 1:46 PM  
**To:** LABtestimony

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
Committee Chair Karl Rhoads  
Vice Chair Kyle T. Yamashita

Committee Members,

**RE: Testimony in opposition to SD 1621 SD2**

The secret ballot is the foundation of our democratic system. Basing the decision to use collective bargaining using a card check procedure may allow coercion or fear of retribution to enter into the process. ALL employees deserve the chance to make this important decision in private with a secret ballot.

Employers should be afforded the opportunity to address employees prior to a secret vote and offer their concerns and ideas.

Each business is unique and binding arbitration could put the determination of the details of a union contract in the hands of persons not fully able understand the complexities of each business.

Laws regarding property rights should not be permitted to be compromised for any reason by anyone.

While there may be a need to simplify the process by which employees determine their right to collective bargaining, SD1621 SD2 is contrary to basic democratic and constitutional principles and should not be passed.

Sincerely,

**Brett M. Akimoto**  
**Assistant Manager**  
**Tanaka of Tokyo Restaurants Ltd., West**  
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**From:** Jennie M. Sekimoto [JMS@tanakarestaurants.com]  
**Sent:** Friday, March 20, 2009 1:47 PM  
**To:** LABtestimony  
**Cc:** Chester E. Kaneshiro; Ray Liu; S. Alexander Screen  
**Subject:** Opposition to SD 1621 SD2

LATE

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Committee Chair Karl Rhoads  
Vice Chair Kyle T. Yamashita

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Sincerely,

Jennie Sekimoto

**Jennie M. Sekimoto**  
**Manager**  
**Tanaka of Tokyo Restaurants Ltd.**  
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