



November 29, 2011

Dear Representative:

On behalf of the National Federation of Independent Business (NFIB), the nation's largest small business advocacy organization, I am writing in strong support of H.R. 3094, the Workforce Democracy and Fairness Act. H.R. 3094 is a much-needed response to the National Labor Relation Board's (NLRB) recent proposal on "ambush" elections, and its decision in Specialty Healthcare to allow micro-unions. **Final passage of H.R. 3094 will be considered an NFIB Key Vote for the 112th Congress.**

Despite Congress refusing to pass card check legislation, it seems clear that the NLRB is intent on implementing card check by regulation. The Board's new proposed "ambush" election rule will significantly undermine an employer's opportunity to learn of and respond to union organization by reducing the so-called "critical period" from petition filing to election, from the current average time of 31 days to as few as 10-21 days. With this new proposed rule, NFIB believes that employee informed choice will be compromised because the shortened time frame means owners will have to scramble to obtain legal counsel and will have little time to talk to their employees. This shortened time frame would hit small businesses particularly hard, since small employers usually lack labor relations expertise and in-house legal departments.

In its Specialty Healthcare decision, the Board ruled in favor of so-called micro-unions, allowing unions to organize mini-bargaining units throughout a business. Specialty Healthcare involved a non-acute care nursing home in which a union sought to organize a group of workers that consisted only of nursing assistants. The Board decided that such sub-unit organizing was permissible. The result of the NLRB's decision means that small business owners could face numerous union organizing campaigns from different unions even if they only have a small number of employees. Ultimately, the Board's decision in Specialty Healthcare will create additional expense and administrative burdens for small businesses.

With the proposed "ambush" election rule and its decision on micro-unions, the NLRB has demonstrated that it has little understanding or concern for the unique demands that these actions would place on small business. It is always a challenge for small business owners to keep current with new regulations and labor laws, especially in the current economic environment. NFIB's monthly economic surveys indicate that the small business economy is still at recession levels, and nearly 20 percent of small business owners surveyed indicate that economic and political uncertainty is their number one concern. Unfortunately, the pro-union actions of the NLRB will only create more uncertainty for small business owners at a time when the country needs them to be creating more jobs.

NFIB strongly supports H.R. 3094 and will consider it an NFIB Key Vote for the 112th Congress.
We look forward to working with you to protect small business as the 112th Congress moves forward.

Sincerely,

A handwritten signature in black ink that reads "Susan Eckerly". The signature is fluid and cursive, with a long, sweeping underline.

Susan Eckerly
Senior Vice President
Public Policy