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23 LRW 1337

Organizing

Specter Says He Would Support Cloture Vote on 'Modified' EFCA

Sen. Arlen Specter (D-Pa.) said Aug. 14 that he would support a cloture vote on a "modified version" of the proposed Employee Free Choice Act (H.R. 1409, S. 560).

"I expect the cloture vote to occur on a modified version of the Employee Free Choice legislation," Specter said during brief comments on the legislation during a bloggers convention in Pittsburgh. "And I will support that cloture vote."

While his statement does not change his position on the bill, Specter had previously not formally made such an announcement. A successful cloture vote of 60 votes would allow the debate to begin on the Senate floor.

EFCA, introduced in both houses of Congress March 10 (23 LRW 385, 3/12/09), would amend the National Labor Relations Act to establish a procedure, known as "card check," whereby the National Labor Relations Board would certify a union as the bargaining representative of employees if a majority of unit employees signs valid union authorization cards. The legislation would allow unions to continue to petition for NLRB-supervised secret ballot elections, if they choose, once 30 percent of the workers have signed union authorization cards.

Opposed to Card Check

While Specter did not describe what a "modified version" could look like, he is strongly opposed to the card check provision in the bill.

Under the proposed EFCA, parties that are unable to reach a first contract within 90 days of collective bargaining could refer the dispute to mediation by the Federal Mediation and Conciliation Service. If FMCS were unable to bring the parties to agreement within 30 days, the dispute then would be referred to binding arbitration.

Specter has suggested that the arbitration provision could be modified to a "last best offer" proposal, where parties present contract proposals to an arbitrator.

The legislation also would amend the NLRA to provide triple back pay to employees

who are unlawfully discharged or discriminated against while involved in union activities during an organizing campaign or in the period leading up to a first contract. And civil penalties of up to \$20,000 per violation could be imposed if an employer is found to have willfully or repeatedly violated employees' rights during an organizing campaign or while bargaining for a first contract.

Eddie Vale, spokesman for the AFL-CIO, said "it still remains to be seen what the compromise will be."

Glen Spencer, executive director of the U.S. Chamber of Commerce's Workforce Freedom Initiative, said Specter's comment was "no news."

"It's no surprise he would vote cloture," Spencer said. "He's in the room crafting the agreement; of course he would vote for it."

Supporters of the bill need 60 votes to begin debate on the legislation and overcome Republican procedural hurdles to a final vote.