TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009

ON THE FOLLOWING MEASURE:
S.B. NO. 1621, S.D. 1, RELATING TO COLLECTIVE BARGAINING.

BEFORE THE:
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Thursday, February 26, 2009 **TIME:** 9:00 AM

LOCATION: State Capitol, Room 016

TESTIFIER(S):
WRITTEN TESTIMONY ONLY. For more information, contact James Halvorson, Deputy Attorney General at 587-2900.

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General strongly opposes this bill.

The purposes of this bill are (1) to create a union representation privilege, including work product, by way of legislation; (2) to create a complete defense to prosecution for trespass and offenses against public order where a person or persons are engaged in a labor dispute; (3) to allow certification of a union representative through card check authorization without an election; and (4) to give complete immunity to unions for engaging in collective bargaining activities or for participating in a labor dispute.

1. Union Representation Privilege

One of the purposes of this bill under section 3 (page 3, lines 12-21, and page 4, lines 1-20) is the codification of an unnecessary and overbroad "union representation privilege," including union work product privilege, by way of legislation.

The only exception to the privilege under this measure is where the representational privilege is sought in furtherance of activities that the union "knew or should have known to be a crime or fraud." This exception is far too narrow and should also apply in the

investigations of any wrongdoing in administrative, civil, or criminal proceedings.

Further, if this bill passes in its current form, the holders of the privilege (namely the union leadership, who are solely vested with the power to waive the same) will be permitted to cherry pick when they want to "allow" testimony to be presented to a tribunal such as the Hawaii Labor Relations Board (HLRB) or an arbitrator, and stifle such testimony when they feel it will be detrimental to their interests. Simply put, if passed, this bill will undermine good faith public sector bargaining in Hawaii and will make it next to impossible even for individual union members to hold their unions accountable for violating their rights.

For example, chapter 89, Hawaii Revised Statutes (HRS), makes provision for public unions, public employers and individual union members to file complaints with the HLRB alleging that a union or employer has committed a "prohibited practice" and violated our labor laws. As written, this bill would have an immediate and dramatically negative effect on all future prohibited practice complaints filed by public employers and/or individual union members against public unions brought under section 89-13(b).

Conversely, the bill would have no such similar impact on prohibited practice complaints filed by public unions against public employers under section 89-13(a), HRS, but would severely affect the ability of the various public employers to defend themselves from such complaints filed by the unions.

As a concrete (not to mention timely) example, the State filed a prohibited practice complaint against the Hawaii State Teachers Associaion (HSTA) regarding random drug testing of teachers. In 2007, the State offered substantial pay and benefit increases for the 2007-09 contract period in return for HSTA's acceptance of the obligation to negotiate and implement procedures for random testing applicable to "all" teachers no later than June 2008. In July 2008, after the pay raises were made, HSTA refused to complete the negotiation of such

procedures, based upon the primary contention that the previous HSTA Chief Negotiator and her bargaining team never agreed to any such thing back when the contract was ratified in 2007.[1] On that basis, the State asserts that HSTA has refused to "negotiate in good faith," a term of art embedded within section 89-13(b)(2), HRS.

In order to prevail on a prohibited practice complaint filed under section 89-13, HRS, the complainant must establish that the other party in labor negotiations has "willfully" violated some aspect of chapter 89, HRS (such as the duty of both public employers and public unions to negotiate in good faith rather than with their fingers crossed behind their backs). This is a very high standard, and it is normally established through witness testimony.

If this bill passes, the current HSTA leadership could arguably prevent any and all former and current members of **both** bargaining teams (**even the State's**) from testifying precisely as to what was agreed upon in bargaining over the 2007-09 contract. Moreover, the current union leadership could itself refuse to testify as to what they believed was agreed upon, and could even prevent **individual teachers** from testifying as to what they were told by the HSTA leadership at the time they ratified the 2007-09 contract. This bill takes direct aim at limiting the State's ability to uncover and admit into evidence this very type of key information.

Obviously, the same sort of limitations will apply in every other prohibited practice complaint filed by the public employer or unions in the future. In other words, this bill promises to render the unions effectively immune from allegations of failing to negotiate in good faith. Moreover, the unions would be free to make such a charge against the public employers, and then invoke this one-way privilege to exclude exculpatory evidence. Clearly, if the union representation privilege and union work product privilege are recognized, they must be

[1] HSTA asserted that random testing is also unconstitutional, however HSTA's first and foremost reason for refusing to agree to random testing procedures applicable to all teachers is its claim that it never bound itself in negotiations to do so.

recognized for management as well. The failure to do so would give unfair advantage to the unions.

In addition, this bill seriously undermines the rights of individual union members to hold their unions accountable for violations of their rights. Every union has such a duty codified in section 89-13(b), HRS, which allows an employee to file a complaint against his or her union when the union willfully interferes, restrains, or coerces any employee in the exercise of any right guaranteed under chapter 89; refuses to bargain collectively in good faith with the public employer; refuses to participate in good faith mediation and arbitration procedures; or violates the terms of the collective bargaining agreement.

As noted, union members cannot invoke this privilege; only the union can. Thus, the bill not only prevents union members from obtaining confidential information (documents or statements) or work-product that bears directly on the union's fiduciary and fair representation duties owed to them; it even goes so far as to give the union leadership the power to prevent the very union member who filed the complaint from testifying against them.

Finally, the bill makes union representation privilege applicable not only in courts, but in administrative agencies, arbitrations, legislature, and other tribunals. However, chapter 380, HRS, is limited only to the jurisdiction of the courts. Administrative agencies are governed by other statutes, e.g., Hawaii Labor Relations Board is governed by section 89, HRS.

This bill is corrosive both to good faith public sector bargaining and to individual workers rights. It should be rejected by this committee.

2. Complete Defense to Prosecution for Trespass and Offenses Against Public Order

Section 3 of this bill amends chapter 380, HRS (page 5, lines 9-18), by adding a new section, entitled "Defenses for protected activity in a labor dispute." This section attempts to create complete defenses

to the criminal offenses of criminal trespass in the first degree, criminal trespass in the second degree, criminal trespass onto public parks and recreational grounds, simple trespass, disorderly conduct, failure to disperse, and obstructing, for persons engaged in a labor dispute. Although failing to clearly do so, it appears the section is attempting to provide a defense to these offenses when persons attempt to publicize a labor dispute on areas adjacent to the entry and exit points of an establishment involved in the dispute. The proposed defense provision will unreasonably allow individuals engaged in labor disputes to violate the law, commit criminal trespass of any degree, commit disorderly conduct, obstruct public passageways, violate terms of use of public parks, and disregard requests or lawful orders of law enforcement officers attempting to control situations.

3. Certification of Union Representative Through Card Check Authorization

The Department opposes section 4 of this measure (pages 8-9) because board certification of a union representative through card check authorizations has a tendency to undermine employees' right to organize for purpose of collective bargaining under both the constitution and the statute.

Employees have the constitutional right to "organize for purpose of collective bargaining." Article XIII, sections 1 and 2, Hawaii State Constitution. Based on this right, the Legislature granted employees the freedom to participate in the collective bargaining process through representation of their own choosing. Sections 89-3 and 377-4, HRS, were enacted and designed to protect employees. These statutes provide that employees have the right of self-organization and the right to form, join, or assist labor organizations, and bargain collectively through representatives of their own choosing. Further, sections 89-3 and 377-4 also provide that employees have a right to refrain from such activities.

In Hawaii, elections have been the exclusive means by which a union may obtain Board certification to act as a collective

bargaining agent for a group of employees. However, if enacted, this bill would obligate the HLRB to certify a union based on authorization cards without an election. Authorization cards are poor indicators of support and are susceptible to intimidation, coercion, and introduce irrelevant factors into the calculus of whether to select union representation. Secret ballot elections, on the other hand, provide employees with the opportunity to carefully consider their choice after being fully informed by both the union and the employer of the advantages and disadvantages of union representation. The National Relations Board has repeatedly stated that secret elections are generally the most satisfactory and indeed the preferred-method of ascertaining whether a union has majority support.

We should continue the current process of certifying union representative through election, which is patterned after how we vote for public officials.

4. Union Immunity for Collective Bargaining Activities and For Participation in Labor Dispute

Section 6 of the bill amends section 380-6, HRS (page 11, lines 7-13), by adding a new subsection (b), which gives "immunity" from civil liability to unions for "engaging in lawful collectively bargaining activities or for participating in a labor dispute as defined in section 380-13(3)." The clause giving immunity for "participating in a labor dispute" is not limited to lawful participation or fair labor practices. It may, therefore, immunize unlawful participations or "unfair" labor practices. This is not good public policy.

We respectfully request that this bill be held.

LINDA LINGLE
GOVERNOR

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COLLEEN Y. LaCLAIR
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February 25, 2009

To: The Honorable Brian T. Taniguchi, Chair
and Members of the Senate Committee on Judiciary and Government Operations

Date: Tuesday, February 26, 2009
Time: 9:00 a.m.
Place: Conference Room 016 State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

Testimony in Strong Opposition of S.B. 1621 – Relating to Labor

I. OVERVIEW OF PROPOSED LEGISLATION

Senate Bill 1621 seeks to do away with the federally-run democratic secret ballot election process, which employees currently follow when deciding to organize as a union. The Bill provides that if the Hawaii Labor Relations Board finds that a majority of the employees have signed a 'valid authorization' designating an individual or labor organization as their bargaining representative, then the board shall certify the individual or organization as the representative **without directing an election**.

This legislation also attempts to force employers, to enter into collective bargaining meetings within ten days after receiving a written request for collective bargaining from the non-elected representative.

The Bill provides procedure for conciliation under section 377-3 if an agreement is not entered into after ninety days. If after thirty days beginning on the date the request for conciliation is made, the parties have not entered into agreement, the Hawaii Labor Relations Board shall refer the dispute to an arbitration panel established by the board.

II. RELEVANT LAWS

Nothing in state or federal law prevents an employer from ***voluntarily*** entering into an agreement with a labor organization that wants to organize under "crosschecking" or "card check".

Federal laws have a long tradition of recognizing the rights of workers to join labor unions. Since the passage of the Wagner Act in 1935, federal law has protected employees' exercise of their free choice to decide whether to join a union. This statute, which is also known as the National Labor Relations Act ("NLRA"), prohibits discrimination due to union membership. The Act, in Section 8(a)(3), provides that:

> It shall be an unfair labor practice for an employer --:
> by discrimination in regard to hire or tenure of employment
> or any term or condition of employment to encourage or
> discourage membership in any labor organization.
> 29 U.S.C. §158(a)(3).

The NLRA, otherwise known as the Wagner Act, was passed by Congress in 1935. The NLRA is the grandfather of employee rights legislation in the United States. Although passed primarily to create a peaceful system for unionization and collective bargaining, the NLRA was also the first federal employment discrimination statute - making it illegal for employers to discipline or discharge employees because they engage in union activity and other protected concerted activities.

Exclusive jurisdiction for enforcement of the NLRA was vested in a unique administrative agency – the National Labor Relations Board ("NLRB"). The NLRB was given broad authority to interpret and enforce the rights and obligations created by the NLRA, and to develop through case-by-case adjudication, a body of law to govern labor-management relations.

The NLRA went through significant changes in 1947 when the Taft-Hartley Act added a set of provisions designed to regulate and disempower unions. The statutory scheme that exists today, the Labor Management Relations Act ("LMRA"), combines the original pro-labor provisions of the Wagner Act with the limitations on union activity established by Congress in 1947.

Section 7 of the NLRA describes the essential employee rights underlying the act:

> Employees shall have the right to self-organization, to
> form, join, or assist labor organizations, to bargain
> collectively through representatives of their own choosing,
> and to engage in other concerted activities for the purpose
> of collective bargaining or other mutual aid or protection,
> and shall also have the right to refrain from any or all of
> such activities....

Further, according to information provided by the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), "Most working people have the legal right under Section 7 of the National Labor Relations Act (NLRA) to join or support a union and to engage in collective bargaining (see www.aflcio.org). This includes the right to:

1. Attend meetings to discuss joining a union.
2. Read, distribute and discuss union literature (as long as this takes place in non-work areas during non-work times, such as break or lunch hours).
3. Wear union buttons, T-shirts, stickers, hats or other items on the job at most worksites.
4. **Sign a card asking your employer to recognize and bargain with the union.**
5. Sign petitions or file grievances related to wages, hours, working conditions and other job issues.
6. Ask other employees to support the union, to sign union cards or petitions or to file grievances.

Section 8 of the NLRA says employers cannot legally punish or discriminate against any worker because of union activity. The employer cannot threaten to or actually fire, lay off, discipline, transfer or reassign workers because of their union support. The employer cannot favor employees who don't support the union over those who do in promotions, job assignments, wages and other working conditions. The employer cannot lay off employees or take away benefits or privileges employees already have in order to discourage union activity."

III. SENATE BILL

The Department supports the right of workers to organize, but strongly opposes this bill for the following reasons:

1. On April 14, 2008 Governor Lingle vetoed H.B. 2974 which is substantively the same Bill as S.B. 1621, for the following reasons:
    a. The "card check" procedure envisioned by this bill is a poor substitute for the secret ballot and is ripe for abuse.
    b. The use of the secret ballot election process provides the employee anonymity and the opportunity to carefully consider and weigh individual choices after having the time to be fully informed by both the labor organization and the employer of various advantages and disadvantages of being collectively represented.
    c. Nothing in this bill specifies how or when signatures can be obtained and there is no provision for neutral supervision. As a result there is no way to determine whether a worker's signature was given freely and without

intimidation, pressure, or coercion from fellow employees, labor representatives, or the employer.

d. Maintaining the secret ballot is the fair, appropriate, and democratic way to protect workers' privacy and to ensure workers have the ability to vote their conscience without fear of repercussion or retaliation.
e. There is no compelling justification for replacing an unbiased, democratic process with one that has the potential to erode a worker's existing rights and protections under law.
f. This bill is also objectionable because it places arbitrary restrictions and deadlines on the negotiating parties without regard to the complexity of the agreement or the importance of free and non-coercive bargaining. Forcing parties to agree is antithetical to the system of labor relations that has served our country well for nearly 75 years.

2. This legislation is less-democratic as it forces the employer to effectively remain and to ensure that the NLRB election process is bypassed in an attempt by a labor organization to persuade their employees to join a union. Additionally, it does away with the secret balloting process that is inherent in our democratic society in allowing people to vote their conscience and imposes a simple "sign up" sheet.

   We should continue the current process which is patterned after how we vote for public officials. Alternatively, the Department questions the need for such legislation and has concerns about the abolishment of secret balloting, which is specifically designed to protect employees from undue coercion.

3. This is an issue of fairness. Employees should be allowed to voice their support for or against a union in the privacy of the voting booth without undue pressure or intimidation from both management and the union.

   Alternatively, an employer should be allowed a choice in determining whether they want to have an equal voice with the labor union in advocating for or against organizing their establishment. In forcing the employer to enter into this agreement, that choice is taken away from them. Again, under state and federal law, an employer can already "voluntarily" enter into these agreements.

   The Department believes it is bad public policy to force employers and employees to enter into these agreements as a condition of receiving state work or money. Further, the state strips the employee of their right to exercise their vote in private, without coercion or intimidation; and the employer of their right to insist on an election process that is both fair and ensures that employees are voting their conscience and not being peer pressured to sign a card.

   Under this bill, the state is using the "power of purse" to force employers to agree to this organizing tactic in order to get work.

4. According to information provided by the AFL-CIO, a worker's right to organize is already protected.

5. The NLRA has been developed over the last 69 years to ensure a proper balance between the rights of those employees that want to organize and those that do not, as well as providing a fair process that protects the rights of employers.

LINDA LINGLE
GOVERNOR OF HAWAII

MARIE C. LADERTA
DIRECTOR

CINDY S. INOUYE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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February 25, 2009

COMMENTS TO THE
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
For Decision Making on Thursday, February 26, 2009
9:00 a.m., Conference Room 016

BY

MARIE C. LADERTA, DIRECTOR

Senate Bill No. 1621, S.D. 1
Relating to Collective Bargaining

TO CHAIRPERSON TANIGUCHI AND MEMBERS OF THE COMMITTEE:

The purpose of S. B. No. 1621, S.D. 1 is to provide a union representation privilege to protect the functions of the union; allow certification of union representatives through a card-check authorization; require collective bargaining to begin upon union certification; set certain deadlines for initial collective bargaining agreements; set civil penalty for unfair labor practices; extend certain authorities to labor organizations; and allow labor disputes to be defenses against prosecution for certain violations of law.

The Department of Human Resources Development **strongly opposes** the amendments to Chapter 380, Hawaii Revised Statutes, set forth in Section 3 of this measure (See page 3, beginning from line 12, through page 4, ending on line 20).

First, this bill would create a new, statutory union representational privilege which would allow Unions to withhold so-called "confidential" union information and communications made in the course of rendering union representational services. The expansive scope of this new privilege is breathtaking, as it would protect union communications and information from labor agreement negotiations, grievance and

unfair labor/prohibited practice investigations and processing, exhaustion of internal union procedures and remedies, and actions to enforce rights established by contract or statutes. This protection would be unilateral since there is no provision in the bill to recognize a reciprocal management privilege. Thus, application of this privilege to a Chapter 380, HRS, labor dispute in court would be patently absurd because employers would have to produce their internal communications and information, generated by their managers, supervisors, and employees, while the unions would have no corollary obligation to do the same. There are no circumstances under which a court of law could render a sound opinion or ruling when the record consists only of one party's evidence.

Second, in response to a point raised in Senate Standing Committee Report No. 431, dated February 20, 2009 regarding S.B. 1621, a union's mere status as an exclusive bargaining representative, with a duty to fairly represent its members, does not warrant the sweeping privilege sought to be established by this bill. With such a privilege in place, a member could not even prove that his or her union breached its duty of fair representation to the member since that member's communications with union officials could not be disclosed in any proceeding against the union. Such communications would form the crux of any fair representation claim by a member against a labor organization. This privilege, combined with the bill's proposed amendment to Section 380-6, HRS, to absolve the union of legal liability (under the justification that the union's actions are "lawful collective bargaining activities" or "participation in a labor dispute") is inapposite to the ultimate goal of a fair collective bargaining process for <u>all</u> parties—including employees and employers.

Third, and most repugnant to the State, is the bill's requirement at Section 3, first subsection (d), that the "representational privilege shall be respected by the courts, administrative agencies, arbitrators, legislative bodies, and other tribunals." This brazen attempt to extend the scope of the privilege beyond Chapter 380, HRS, proceedings blatantly usurps the power and authority of the courts, agencies, arbitrators, legislative bodies, and other tribunals to rule on issues of privilege and evidence based on their own statutes, rules, policies and procedures, and any other applicable laws. While these tribunals respect long-standing privileges—i.e., attorney-

client and physician-patient—rooted in common law and statute, the union representational privilege can claim no such status. Moreover, a union's assertion of this novel privilege at an arbitration or HLRB hearing would leave many issues in routine cases unresolved—i.e., whether a grievance was untimely filed, because a key piece of evidence is when a member brought an issue to the union's attention. As another example, on almost any other issue, employers would be at a significant disadvantage because a union could choose to waive the privilege when its internal communications are supportive of its position but assert the privilege when such communications are unfavorable.

Therefore, we strongly urge that these amendments to Chapter 380, beginning from line 12 on page 3 up through line 20 on page 4, be deleted in their entirety.

Thank you for the opportunity to submit comments on this matter.

LINDA LINGLE
Governor

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON
JUDICIARY AND GOVERNMENT OPERATIONS
THURSDAY, FEBRUARY 26, 2009
9:00 A.M.
ROOM 016

SENATE BILL NO. 1621, SD1
RELATING TO COLLECTIVE BARGAINING

Chairperson Taniguchi and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 1621, SD1 which seeks to allow union certification of certain employees or employee groups by signed authorization from the employee; requires collective bargaining to begin upon union certification; sets certain deadlines for initial collective bargaining agreement procedures and conciliation of disputes; sets civil penalty for unfair labor practices; extends certain authorities to labor organizations representing employees for collective bargaining; allows labor disputes to be defenses against prosecution for certain violations of law. The Hawaii Department of Agriculture (HDOA) is in opposition to this bill, particularly Section 377-5(e), relating to the use of a petition rather than private ballot. We defer to the Department of Human Resources Development and the Department of Labor and Industrial Relations as to their concerns about other parts of the bill.

The existing law honors a worker's right to a private ballot, thereby increasing the likelihood that the worker's decision was made free from influence, abuse and intimidation. If the results from the private ballot indicate interest in an election, then both the union and the employer have the opportunity to make their case to the workers. Under this bill, if more than 50% of workers sign a petition, which by its nature exposes

the worker's position and therefore places the worker in a vulnerable situation, the Hawaii Labor Relations Board would have to certify the union, and a private ballot election would be prohibited, even if the workers want one.

Agricultural workers are particularly vulnerable to misleading verbal or written explanations of a process that they may have little or no familiarity with. A language study undertaken by the National Agriculture Statistics Service indicates that the most prevalent language among agricultural workers is Ilocano; 89% comprehend English verbal instructions and 59% comprehend English written instructions. Among these same workers, comprehension of written instructions in their first language, Ilocano, is 79.7%. Among all agricultural workers, 87.9% can understand written instructions in their first language and 71.3% can understand written instructions in English.

Hawaii's farm workers are already the highest paid in the country. Among hired farm workers on all farms in Hawaii, the average wage paid in the period of January 11-17, 2009 in Hawaii was $12.69/hr. compared to $11.16 in California and $10.93 nationally (excluding Alaska). Among field and livestock workers on all farms in Hawaii, the average wage paid in the same period was $10.93, $10.10 in California, and $10.08 nationally (excluding Alaska). Concern for the needs of agricultural workers is such that incentives for farm worker housing were included in the Important Agricultural Lands incentives bill passed in the 2008 session. Clearly, the existing system of representation has benefited farm workers. In the long-run, changing the system of private ballot to an exposed petition process will result in the lessening of opportunities for farm workers to express their true feelings and priorities.

DEPARTMENT OF HUMAN RESOURCES

CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

KENNETH Y. NAKAMATSU
DIRECTOR

February 26, 2009

The Honorable Brian T. Taniguchi, Chair
and Members of the Committee on
Judiciary and Government Operations
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members of the Committee:

Subject: S.B. 1621, SD1, Relating to Collective Bargaining

I am Ken Nakamatsu, Director of Human Resources, City and County of Honolulu. Section 3 of S.B. 1621, would create a legal privilege for unions. By granting this privilege, the legislature would be providing the unions with an unfair advantage in collective bargaining that would entitle unions to have the unbridled power to withhold the disclosure of information and communications. Moreover, the privilege would profoundly prejudice the employer in defending against prohibited practice claims and duty of fair representation claims as the employer's ability to raise a complete defense would be hampered. In short, the privilege would certainly undermine and be contrary to good faith bargaining and fair dealings.

Based on the foregoing reasons, the City strongly opposes S.B. 1621. We thank you for giving us the opportunity to comment on this matter.

Sincerely,

Ken Y. Nakamatsu

KEN Y. NAKAMATSU
Director of Human Resources

HAWAII STATE AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Government Operations

Testimony by
Hawaii State AFL-CIO
February 26, 2009

S.B. 1621 SD1 – RELATING TO COLLECTIVE BARGAINING

The Hawaii State AFL-CIO strongly supports the purpose and intent of S.B. 1621 SD1 and the proposed amendments to Chapter 377, and 380 HRS, (The Hawaii Employment Relations Act). As drafted, the bill would allow employees to unionize through majority sign-up. Presently, an employer does not have to recognize majority sign-up and can insist on a secret ballot election, resulting in numerous delays, threats, coercion and any other tactics to ensure union organizing drives fail. In fact, nationwide, over 86,000 workers have been fired over the past eight years for trying to unionize.

According to Kate Bronfenbrenner from Cornell University, "employers fire workers in a quarter of all campaigns, threaten workers with plant closings or outsourcing in half and employ mandatory one-on-one meetings where workers are threatened with job loss in two-thirds." Undeniably, employees are fearful of losing their jobs and therefore, vote no when the election finally occurs. This type of coercion needs to stop, and the employee free choice act can help prevent these hideous tactics from occurring.

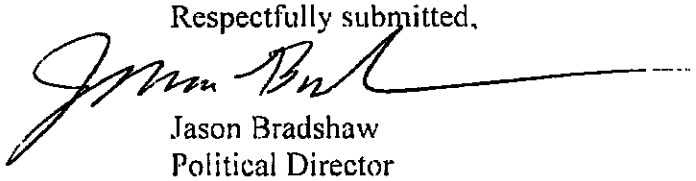
Furthermore, opponents claim the employee free choice act would take away the sanctity of the secret ballot and as a result oppose the bill. However, opponents should try and compare a union election to a political election. In a political election, candidates have equal access to the voters, whereas in a union election, the employers have access to the employees while the union does not. This is obviously not fair and a complete advantage to the employer.

In addition, the other suggested additions to Chapter 377, HRS will prevent efforts by employers to stall negotiations indefinitely. The parties are required to make every reasonable effort to conclude and sign a collective bargaining agreement. If the parties are not successful after ninety days of negotiations, either party can request conciliation through the Hawaii Labor Relations Board. This will help thwart the numerous delays that employers use. In addition, as stated from SB 1621 SD1 "an employer who willfully or repeatedly commits unfair or prohibited practices that interfere with the statutory rights of employees or discriminate against employees for the exercise of protected conduct shall be subject to a civil penalty not to exceed $20,000 for each violation." The civil penalty should hopefully protect the employee from employer abuses.

In all, it is time to give the working class a break. The economy is nearing depression levels. unemployment is rising each and every month and more and more of our working class are struggling to stay in their homes. Meanwhile. CEO's, executives, and others continue to receive multi-million dollar bonuses and large six to seven digit salaries, while the working class continues to receive pay cuts. That is not the way to fix our ailing economy. It is time to pass the employee free choice act and level the playing field once and for all. It is our working class that will help revitalize our economy and get us out of this economic crisis we are currently in. Passage of the employee free choice act is a step in the right direction.

Thank you for the opportunity to testify in support of S.B. 1621 SD1

Respectfully submitted,



Jason Bradshaw
Political Director

INTERNATIONAL LONGSHORE & WAREHOUSE UNION
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LOCAL 142

The Senate
The Twenty-Fifth Legislature
Regular Session of 2009

Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

DATE: Thursday, February 26, 2009
TIME: 9:00 a.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

TESTIMONY OF THE INTERNATIONAL LONGSHORE & WAREHOUSE UNION LOCAL 142 ON S.B. 1621 RELATING TO COLLECTIVE BARGAINING

This testimony on S.B. 1621 is submitted on behalf of the International Longshore and Warehouse Union, Local 142 (ILWU). The ILWU represents approximately 20,000 private sector employees for the purpose of collective bargaining in a number of industries including agriculture, tourism and resorts, health care, and the general trades. We are in favor of Senate Bill No. 1621 which implements and promotes the right to organize for the purpose of collective bargaining as recognized in Article XIII of the Hawaii State Constitution by making certain amendments to the Little Wagner Act (chapter 377), and the Little Norris-LaGuardia Act (chapter 380). These changes are necessary to strengthen and expand the American middle class through restoration of the workers' freedom to organize and collectively bargain under our nation's labor laws.

As you may be aware the U.S. House of Representatives has recognized the critical need for labor law reform in America through the passage of the Employee Free Choice Act of 2007. A copy of Congressional Report No. 110-23 is attached hereto. See attachment 1. The report documents the vital role of labor unions to the creation of the American middle class (see pp. 13-15), the nature of the attacks on worker rights we have experienced in recent decades which has reduced the percentage of organized workers in the private sector to 8% (see pp. 8-10), and the economic consequence of a human rights crisis which has resulted (see pp. 8-13). The majority report also verifies the need for specific changes including increased penalties for violation of worker rights (see pp. 15-19), a majority sign-up certification process (see pp. 19-23), and for first time contract mediation and binding arbitration (see pp. 23-25). During the 2008 legislative session lawmakers in Hawaii also acknowledged the need for labor law reform in House Bill No. 2974, H.D. 2 which was adopted by both the House and Senate but vetoed by our Republican Governor (unfortunately).

Sections 2, 4, and 5 of this bill contain amendments to HRS chapter 377 (the Little Wagner Act) similar to the Employee Free Choice Act which is currently working its way through the U.S. Congress. As you know, chapter 377 was adopted in Hawaii in 1945, was modeled after the Wagner Act of 1935, and was responsible for extending collective bargaining to sugar, pineapple, and other workers in Hawaii who were exempt from the jurisdiction of the National Labor Relations Board (NLRB). See ILWU v. Ackerman, 82 F. Supp. 65, rev'd, 187 F.2d 860 (1948). The ILWU currently represents approximately 1,600 agricultural workers in 10 bargaining units in Hawaii, and chapter 377 applies to many of them and others who work for companies not engaged in interstate commerce sufficient to trigger NLRB

jurisdiction. Hawaii's workers need true freedom to join unions to strengthen and expand the middle class in this state. See attachment 2 (The Facts: What the Freedom to Join Unions Mean to America's Workers and the Middle Class).

Senate Bill No. 1621 also amends Hawaii's Little Norris-LaGuardia Act (HRS chapter 380) to implement and promote the constitutional right to engage in collective bargaining under Article XIII of the State Constitution. In 1950 the framers of Hawaii's constitution decided to afford state constitutional protection for the right to engage in collective bargaining following New York in 1939, Florida in 1944, Missouri in 1945, and New Jersey in 1947. See United Public Workers, AFSCME, Local 646, AFL-CIO v. Yogi, 101 Hawai`i 46, 51, 62 P.3d 189, 194 (2002). This was done, in part, to protect employees against judicial actions which rendered illegal protected concerted activities by employees under the common law. F. Frankfurter & N. Greene, The Labor Injunction at 27.

Sections 3 and 6 of this measure amend the Little Norris-LaGuardia Act to address court and legal developments which interfere and restrain employees from the free exercise of collective bargaining under the developing common law. Employees who join labor organizations need greater protections against judicial and court actions which do not respect the confidentiality of information provided to union negotiators and representatives during the course of negotiations and contract enforcement. Employee organizations must have a means of obtaining civil relief to collect dues from members and agency fee payers equally. We cannot continue to have trespass and nuisance laws enforced against union members and organizers who legitimately exercise their collective bargaining rights. Finally, we need a reasonable measure of protection from threats of law suits based on defamation and tort claims where union

members and officers are merely engaged in lawful collective bargaining activities.

For the foregoing reasons we urge favorable action from you on Senate Bill No. 1621.

110TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 110–23

EMPLOYEE FREE CHOICE ACT OF 2007

FEBRUARY 16, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GEORGE MILLER of California, from the Committee on Education and Labor, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 800]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 800) to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Free Choice Act of 2007".

SEC. 2. STREAMLINING UNION CERTIFICATION.

(a) IN GENERAL.—Section 9(c) of the National Labor Relations Act (29 U.S.C. 159(c)) is amended by adding at the end the following:

"(6) Notwithstanding any other provision of this section, whenever a petition shall have been filed by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a majority of employees in a unit appropriate for the purposes of collective bargaining wish to be represented by an individual or labor organization for such purposes, the Board shall investigate the petition. If the Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the Board shall not direct

59–006

an election but shall certify the individual or labor organization as the representative described in subsection (a).

"(7) The Board shall develop guidelines and procedures for the designation by employees of a bargaining representative in the manner described in paragraph (6). Such guidelines and procedures shall include—

(A) model collective bargaining authorization language that may be used for purposes of making the designations described in paragraph (6); and

(B) procedures to be used by the Board to establish the validity of signed authorizations designating bargaining representatives.".

(b) CONFORMING AMENDMENTS.—

(1) NATIONAL LABOR RELALTIONS BOARD.—Section 3(b) of the National Labor Relations Act (29 U.S.C. 153(b)) is amended, in the second sentence—

(A) by striking "and to" and inserting "to"; and

(B) by striking "and certify the results thereof," and inserting ", and to issue certifications as provided for in that section,".

(2) UNFAIR LABOR PRACTICES.—Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(A) in paragraph (7)(B) by striking ", or" and inserting "or a petition has been filed under section 9(c)(6), or"; and

(B) in paragraph (7)(C) by striking "when such a petition has been filed" and inserting "when such a petition other than a petition under section 9(c)(6) has been filed".

SEC. 3. FACILITATING INITIAL COLLECTIVE BARGAINING AGREEMENTS.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

"(h) Whenever collective bargaining is for the purpose of establishing an initial agreement following certification or recognition, the provisions of subsection (d) shall be modified as follows:

"(1) Not later than 10 days after receiving a written request for collective bargaining from an individual or labor organization that has been newly organized or certified as a representative as defined in section 9(a), or within such further period as the parties agree upon, the parties shall meet and commence to bargain collectively and shall make every reasonable effort to conclude and sign a collective bargaining agreement.

"(2) If after the expiration of the 90-day period beginning on the date on which bargaining is commenced, or such additional period as the parties may agree upon, the parties have failed to reach an agreement, either party may notify the Federal Mediation and Conciliation Service of the existence of a dispute and request mediation. Whenever such a request is received, it shall be the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement.

"(3) If after the expiration of the 30-day period beginning on the date on which the request for mediation is made under paragraph (2), or such additional period as the parties may agree upon, the Service is not able to bring the parties to agreement by conciliation, the Service shall refer the dispute to an arbitration board established in accordance with such regulations as may be prescribed by the Service. The arbitration panel shall render a decision settling the dispute and such decision shall be binding upon the parties for a period of 2 years, unless amended during such period by written consent of the parties.".

SEC. 4. STRENGTHENING ENFORCEMENT.

(a) INJUNCTIONS AGAINST UNFAIR LABOR PRACTICES DURING ORGANIZING DRIVES.—

(1) IN GENERAL.—Section 10(l) of the National Labor Relations Act (29 U.S.C. 160(l)) is amended—

(A) in the second sentence, by striking "If, after such" and inserting the following:

"(2) If, after such"; and (B) by striking the first sentence and inserting the following:

"(1) Whenever it is charged—

"(A) that any employer—

"(i) discharged or otherwise discriminated against an employee in violation of subsection (a)(3) of section 8;

"(ii) threatened to discharge or to otherwise discriminate against an employee in violation of subsection (a)(1) of section 8; or

"(iii) engaged in any other unfair labor practice within the meaning of subsection (a)(1) that significantly interferes with, restrains, or coerces employees in the exercise of the rights guaranteed in section 7;

while employees of that employer were seeking representation by a labor organization or during the period after a labor organization was recognized as a representative defined in section 9(a) until the first collective bargaining contract is entered into between the employer and the representative; or

"(B) that any person has engaged in an unfair labor practice within the meaning of subparagraph (A), (B) or (C) of section 8(b)(4), section 8(e), or section 8(b)(7);

the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.".

(2) CONFORMING AMENDMENT.—Section 10(m) of the National Labor Relations Act (29 U.S.C. 160(m)) is amended by inserting "under circumstances not subject to section 10(l)" after "section 8".

(b) REMEDIES FOR VIOLATIONS.—

(1) BACKPAY.—Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by striking "*And provided further,*" and inserting "*Provided further,* That if the Board finds that an employer has discriminated against an employee in violation of subsection (a)(3) of section 8 while employees of the employer were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract was entered into between the employer and the representative, the Board in such order shall award the employee back pay and, in addition, 2 times that amount as liquidated damages: *Provided further,*".

(2) CIVIL PENALTIES.—Section 12 of the National Labor Relations Act (29 U.S.C. 162) is amended—

(A) by striking "Any" and inserting "(a) Any"; and

(B) by adding at the end the following:

"(b) Any employer who willfully or repeatedly commits any unfair labor practice within the meaning of subsections (a)(1) or (a)(3) of section 8 while employees of the employer are seeking representation by a labor organization or during the period after a labor organization has been recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract is entered into between the employer and the representative shall, in addition to any make-whole remedy ordered, be subject to a civil penalty of not to exceed $20,000 for each violation. In determining the amount of any penalty under this section, the Board shall consider the gravity of the unfair labor practice and the impact of the unfair labor practice on the charging party, on other persons seeking to exercise rights guaranteed by this Act, or on the public interest.".

PURPOSE

H.R. 800, the Employee Free Choice Act of 2007, seeks to strengthen and expands the American middle class by restoring workers' freedom to organize and collectively bargain under the National Labor Relations Act (NLRA). The bill reforms the NLRA to provide for union certification through simple majority sign-up procedures, first contract mediation and binding arbitration, and tougher penalties for violations of workers' rights during organizing and first contract drives. The Employee Free Choice Act of 2007 furthers the long-standing policy of the United States to encourage the practice of collective bargaining and to protect the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

COMMITTEE ACTION

108TH CONGRESS

The Employee Free Choice Act was first introduced during the 108th Congress. On November 21, 2003, Representative George Miller (D–CA), then Ranking Member of the Committee, introduced

H.R. 3619. A companion bill; S. 1925, was introduced in the Senate by Senator Edward M. Kennedy (D–MA) at the same time. H.R. 3619 garnered 209 cosponsors, both Democratic and Republican. It was referred to the Committee on Education and the Workforce and the Subcommittee on Employer-Employee Relations.

Neither the full Committee nor the Subcommittee took any direct action on the bill. The Subcommittee, however, conducted several hearings which either featured references to the Employee Free Choice Act or raised issues related to the Employee Free Choice Act—particularly union organizing issues. On April 22, 2004, the Subcommittee conducted a hearing on "Developments in Labor Law: Examining Trends and Tactics in Labor Organization Campaigns." On May 10, 2004, the Subcommittee conducted a field hearing in Round Rock, Texas, on "Examining Union 'Salting' Abuses and Organizing Tactics that Harm the U.S. Economy." And on September 30, 2004, the Subcommittee held a hearing on "H.R. 4343, The Secret Ballot Protection Act of 2004."

109TH CONGRESS

On April 19, 2005, the Employee Free Choice Act was re-introduced in the 109th Congress as H.R. 1696 by Representative George Miller, then Ranking Member of the Committee, joined by Representative Peter King (R–NY) as a lead co-sponsor. At the same time, Senator Kennedy introduced its Senate companion, S. 842, joined by Senator Arlen Specter (R–PA) as a lead co-sponsor. In the House of Representatives, the Employee Free Choice Act garnered 214 co-sponsors, both Democratic and Republican. H.R. 1696 was referred to the Committee on Education and the Workforce and the Subcommittee on Employer-Employee Relations.

Neither the full Committee nor the Subcommittee took any action on the bill. Democratic Members of the Committee, however, conducted field forums on the Employee Free Choice Act. For example, on June 13, 2005, Representative George Miller, then-Ranking Member on the full Committee, joined Representative Rosa DeLauro (D–CT) in New Haven, Connecticut, for a field forum on local organizing issues and the Employee Free Choice Act. On June 27, 2005, Representative Robert Andrews (D–NJ), then-Ranking Member on the Subcommittee on Employer-Employee Relations, conducted a field forum on local organizing issues and the Employee Free Choice Act in Trenton, New Jersey, and was joined by other Members of the New Jersey congressional delegation, including Committee Members Donald Payne (D–NJ) and Rush Holt (D–NJ). On April 20, 2006, Representative George Miller conducted another field forum on the Employee Free Choice Act in Sacramento, California. There, he was joined by Representative Doris Matsui (D–CA). In each of these forums, Members of Congress heard from workers attempting to organize unions and expert witnesses on organizing and collective bargaining rights.

110TH CONGRESS

First Economic Hearing: The State of the Middle Class

On January 31, 2007, the Committee on Education and Labor conducted its first full Committee hearing of the new Congress. This hearing, "Strengthening America's Middle Class: Evaluating

the Economic Squeeze on America's Families," provided the Committee with an overview of the state of the American middle class. The Committee heard testimony describing the scope and causes of the middle class squeeze, i.e., the combination of downward pressures on wages and benefits and the rising costs of basic family necessities, such as energy, housing, health care, and education. Witnesses included Professor Jacob Hacker, a professor and author at Yale University; Ms. Rosemary Miller, a flight attendant and middle class mother; Professor Eileen Appelbaum, the Director of the Center for Women and Work at Rutgers University; Ms. Diana Furchtgott-Roth, the Director of the Center for Employment Policy at the Hudson Institute; Ms. Kellie Johnson, President of ACE Clearwater Enterprises, Inc., and Dr. Christian Weller, a senior economist at the Center for American Progress.

Second Economic Hearing: Economic Solutions to the Middle Class Squeeze

On February 7, 2007, the Committee on Education and Labor conducted its second full Committee hearing of the new Congress. This hearing, "Strengthening America's Middle Class: Finding Economic Solutions to Help America's Families," served as the second part of the January 31 hearing. In this hearing, building on what was learned about the state of the middle class, Members and witnesses explored what could be done to alleviate the middle class squeeze and strengthen and expand the middle class. Witnesses testified about the need for fairer trade policies, stronger protections for workers' fundamental rights, more rigorous training and education for a high skills, high wage economy, and a greater commitment to comprehensive health care reform. These witnesses included Mr. Richard L. Trumka, Executive Vice President of the AFL–CIO; Dr. Judy Feder, Dean of the Georgetown Public Policy Institute at Georgetown University; Mr. William T. Archey, President and Chief Executive Officer of AeA; and Dr. Lynn A. Karoly, senior economist at the RAND Corporation.

Introduction of the Employee Free Choice Act

On February 5, 2007, the Employee Free Choice Act, as H.R. 800, was re-introduced in the 110th Congress by Chairman George Miller, joined by 230 original co-sponsors, including Representative Peter King (R–NY) as a lead co-sponsor. In the following days, the number of co-sponsors increased to 234, including both Democratic and Republican co-sponsors.

Subcommittee Hearing on the Employee Free Choice Act

On February 8, 2007, the Subcommittee on Health, Employment, Labor, and Pensions (HELP), led by Chairman Robert Andrews (D–NJ), conducted a legislative hearing on H.R. 800, "Strengthening America's Middle Class through the Employee Free Choice Act." This hearing featured testimony from two panels of witnesses. The first panel consisted of three workers who have attempted to form unions in their workplaces, namely, Mr. Keith Ludlum, an employee of Smithfield Foods in Tar Heel, North Carolina; Mr. Ivo Camilo, a retired employee of Blue Diamond Growers in Sacramento, California; and Ms. Teresa Joyce, an employee of Cingular Wireless in Lebanon, Virginia; as well as a former union

organizer who is currently a union avoidance consultant for employers, Ms. Jennifer Jason, founder of Six Questions Consulting LLC and formerly with UNITE–HERE. These witnesses discussed their experiences in attempting to organize unions. The second panel consisted of two labor lawyers, a labor economist, and a political scientist, namely, Ms. Nancy Schiffer, associate general counsel at the AFL–CIO; Mr. Charles Cohen, a former member of the National Labor Relations Board, speaking on behalf of the U.S. Chamber of Commerce; Professor Harley Shaiken, a labor economist at the University of California-Berkeley; and Professor Gordon Lafer, a political scientist at the University of Oregon. These witnesses discussed the bill.

Full Committee Mark-Up of the Employee Free Choice Act

On February 14, 2007, the Committee on Education and Labor met to markup H.R. 800, the Employee Free Choice Act. The Committee adopted by voice vote an amendment in the nature of a substitute offered by Mr. Andrews. Thirteen other amendments were offered and debated. None of those amendments were adopted. The Committee voted to favorably report H.R. 800, by a vote of 26–19.

SUMMARY

H.R. 800, the Employee Free Choice Act, consists of three basic provisions:

1. The majority sign-up certification provision provides for certification of a union as the bargaining representative of the National Labor Relations Board finds that a majority of employees in an appropriate unit has signed valid authorizations designating the union as its bargaining representative. This provision requires the Board to develop model authorization language and procedures for establishing the validity of signed authorizations.

2. The first contract mediation and arbitration provision provides that if an employer and a union are engaged in bargaining for their first contract and are unable to reach agreement within 90 days, either party may refer the dispute to the Federal Mediation and Conciliation Service (FMCS) for mediation. If the FMCS has been unable to bring the parties to agreement after 30 days of mediation, the dispute will be referred to arbitration and the results of the arbitration shall be binding on the parties for two years. Time limits may be extended by mutual agreement of the parties.

3. The penalties provision makes the following new provisions applicable to violations of the NLRA committed by employers against employees during any period while employees are attempting to organize a union or negotiate a first contract agreement:

   a. Just as the NLRB is required to seek a federal court injunction against a union whenever there is reasonable cause to believe that the union has violated the secondary boycott prohibitions of the NLRA, the NLRB must seek a federal court injunction against an employer whenever there is reasonable cause to believe that the employer has discharged or discriminated against employees, threatened to discharge or discriminate against employees, or engaged

in conduct that significantly interferes with employee rights during an organizing or first contract drive. Likewise, this provision authorizes the courts to grant temporary restraining orders and other appropriate injunctive relief.

b. An employer must pay three times backpay when an employee is unlawfully discharged or discriminated against during an organizing or first contract drive.

c. The NLRB may impose civil fines of up to $20,000 per violation against employers found to have willfully or repeatedly violated employees' rights during an organizing or first contract drive.

COMMITTEE VIEWS

The Committee on Education and Labor of the 110th Congress is committed to strengthening and expanding the American middle class. The middle class is the backbone of this country's strong economy and vibrant democracy. A strong middle class is critical to the long-term prosperity and stability of the United States.

The Employee Free Choice Act of 2007 is—in the final analysis—about saving the American Dream for millions of hard working families who struggle every day to pay for the basics, pay for health care when there is a family illness, to build a nest egg for their future, and to get their children to college in the face of skyrocketing college costs.

To this challenge, Congress must act decisively on behalf of millions of hard working middle class workers who see the American Dream slipping from their reach.

The Employee Free Choice Act is about giving workers basic dignity and respect in their workplace—a tradition that is deeply rooted in our nation's history. It is about allowing employees to make their own decision about whether they want to bargain together—to advocate for fairer wages, benefits, and working conditions—without the threat or fear of harassment and retribution and fear of losing their livelihood.

A HUMAN RIGHTS CRISIS

H.R. 800 addresses a human rights crisis that is a leading cause of the middle class squeeze. The freedom to form or join a labor union and engage in collective bargaining is an internationally-recognized human right. In the United States, the freedom of association is enshrined in the First Amendment of the Bill of Rights. While this freedom is often associated with political ventures, it is a long-standing American principle and tradition that working people may join together to improve their economic circumstances. The most explicit recognition of this principle for private sector workers in federal law is the 1935 Wagner Act, also known as the National Labor Relations Act (NLRA).[1]

Section 1 of the NLRA declares "it is the policy of the United States" to "encourage the practice and procedure of collective bargaining and to protect the exercise by workers of full freedom of association, self-organizing and designation of representatives of their

[1] 29 U.S.C. 151 et seq.

own choosing, for the purpose of negotiating the terms and conditions of their employment, or other mutual aid or protection."[2]

The NLRA is a relatively straightforward law. Section 7 of the NLRA establishes the fundamental rights of workers to "self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities. . ."[3] Section 8 lays out a variety of prohibitions for both employer and union behavior.[4] For example, employers may not interfere with, coerce, intimidate, or discriminate against employees in the exercise of their Section 7 rights. The NLRA also requires employers to bargain in good faith with their employees' exclusive bargaining representative, when a union is voluntarily recognized as such by the employer or certified as such by the National Labor Relations Board (NLRB), the agency which the NLRA establishes to administer and enforce the NLRA.[5]

WORKERS RIGHTS ARE UNDER ATTACK

For more than 70 years, workers' freedom to organize and collectively bargain has depended upon the effectiveness of the NLRA. Today, the NLRA is ineffective, and American workers' freedom to organize and collectively bargain is in peril everyday as a result.

The numbers are staggering. Every 23 minutes, a worker is fired or otherwise discriminated against because of his or her union activity.[6] According to NLRB Annual Reports between 1993 and 2003, an average of 22,633 workers per year received back pay from their employers.[7] In 2005, this number hit 31,358.[8] A recent study by the Center for Economic and Policy Research found that, in 2005, workers engaged in pro-union activism "faced almost a 20 percent chance of being fired during a union-election campaign."[9]

The number of workers awarded backpay by the NLRB also reveals a worsening trend. The NLRB provides backpay to workers who are illegally fired, laid off, demoted, suspended, denied work, or otherwise discriminated against because of their union activity. In 1969 a little over 6,000 workers received backpay because of illegal employer actions.[10] That number has risen by 500 percent although the percentage of the private sector workforce that is unionized has declined over the same time period from nearly 30 percent to just 7.4 percent.[11] In the 1970s, 1-in-100 pro-union workers ac-

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[2] 29 U.S.C. 151.
[3] 29 U.S.C. 157.
[4] 29 U.S.C. 158(a) and (b).
[5] 29 U.S.C. 158(d).
[6] American Rights at Work website, at *http://www.americanrightsatwork.org/resources/23cite.cfm.*
[7] Strengthening America's Middle Class through the Employee Free Choice Act, Hearing Before the Subcommittee on Health, Employment, Labor & Pensions, 110th Cong., 1st Sess. (2007) (written testimony of Harley Shaiken, at 1, n.1) [hereinafter Shaiken Testimony].
[8] Shaiken Testimony, at 1.
[9] John Schmitt & Ben Zipperer, "Dropping the Ax: Illegal Firings During Union Election Campaigns," Center for Economic and Policy Research (January 2007), at 3 [hereinafter Schmitt & Zipperer].
[10] Strengthening America's Middle Class through the Employee Free Choice Act, Hearing Before the Subcommittee on Health, Employment, Labor & Pensions, 110th Cong., 1st Sess. (2007) (written testimony of Nancy Schiffer, at 3) [hereinafter Schiffer Testimony].
[11] Michele Amber, "Union Membership Rates Dropped in 2006 to 12 Percent; Manufacturing Leads the Way," BNA Daily Labor Report (January 26, 2007).

tively involved in an organizing drive was fired. Today, that number has doubled to about 1-in-53.[12]

The anti-union activities of employers have become far more sophisticated and brazen in recent history. Today, 25 percent of employers illegally fire at least one worker for union activity during an organizing campaign.[13] Additionally, 75 percent of employers facing a union organizing drive hire anti-union consultants.[14] During an organizing drive, 78 percent of employers force their employees to attend one-on-one meetings against the union with supervisors, while 92 percent force employees to attend mandatory, captive audience anti-union meetings.[15] More than half of all employers facing an organizing drive threaten to close all or part of their plants.[16]

A 2005 study that focused on organizing campaigns in the Chicago metropolitan area found that 30 percent of employers fired workers engaging in union activities; 49 percent of employers threatened to close or relocate if the union won; and 82 percent of employers hired anti-union consultants to assist with their campaign against the union.[17]

The "union avoidance" industry—comprised of anti-union consultants who help employers defeat organizing drives or encourage the decertification of existing unions—is "worth several hundred million dollars per year."[18] Companies intent on busting organizing drives pay top dollar to anti-union consulting and law firms.[19] These consultants wage highly sophisticated campaigns against workers trying to form a union. These campaigns may include such tactics as "captive speeches, employee interrogations, one-on-one meetings between employees and supervisors, 'vote no' committees, antiunion videos, threats of plant closures, and discriminatory discharges."[20] A rare light was shed on the "union avoidance" industry in a 2004 New York Times expose. According to the article, the battery company EnerSys had paid the anti-union law firm Jackson Lewis $2.7 million for its services—during which time the company, according to a federal complaint containing some 120 unfair labor practices, fired union leaders, assisted the anti-union campaign, improperly withdrew recognition from the union, and moved production to nonunion plants in retaliation for workers' union activity. EnerSys later accused Jackson Lewis of malpractice for its advice, which Jackson Lewis denied.[21]

This human rights crisis in the United States was highlighted in a 2000 Human Rights Watch report entitled "Unfair Advantage:

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[12] Schmitt & Zipperer, at 3.

[13] Kate Bronfenbrenner, "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing," (September 6, 2000).

[14] Id.

[15] Id.

[16] Id.

[17] Chirag Mehta & Nik Theodore, "Undermining the Right to Organize: Employer Behavior During Union Representation Campaigns," A Report for American Rights at Work (December 2005), at 5.

[18] John Logan, "The Union Avoidance Industry in the United States," British Journal of Industrial Relations (December 2006), at 651.

[19] For example, the Republican witness, presented as a former UNITE–HERE organizer in the February 8, 2007, HELP Subcommittee hearing on the Employee Free Choice Act, was paid $225,000 in one year, plus expenses, by Cintas, a company she formerly was trying to organize but had since taken on as a client for her union avoidance consulting firm.

[20] John Logan, "The Fine Art of Union Busting," New Labor Forum (Summer 2004), at 78.

[21] Steven Greenhouse, "How Do You Drive Out a Union? South Carolina Factory Provides a Textbook Case," The New York Times (December 14, 2004).

Workers' Freedom of Association in the United States under International Human Rights Standards," Human Rights Watch warned: "Workers' freedom of association is at risk in the United States, with yet untold consequences for societal fairness."[22] According to the report:

> A culture of near-impunity has taken shape in much of U.S. labor law and practice. Any employer intent on resisting workers' self-organization can drag out legal proceedings for years, fearing little more than an order to post a written notice in the workplace promising not to repeat unlawful conduct. Many employers have come to view remedies like back pay for workers fired because of union activity as a routine cost of doing business, well worth it to get rid of organizing leaders and derail workers' organizing efforts.[23]

In her testimony before the HELP Subcommittee on February 8, 2007, union-side labor lawyer Nancy Schiffer echoed this reality:

> At some point in my career . . . I could no longer tell workers that the [NLRA] protects their right to form a union. Because I knew that, despite the wording of the statute, in practice it does not. And I knew that they would have to be heroes to survive their organizing effort, just because they wanted to form a union so that they could bargain for a better life.[24]

The ineffectiveness of the NLRA has put workers' fundamental freedoms at risk. These developments have spurred a human rights crisis with real economic consequences for America's middle class.

THE ECONOMIC CONSEQUENCES OF THE HUMAN RIGHTS CRISIS

The rise of workers' freedom to organize and collectively bargain dramatically expanded the middle class in 20th Century America. The decline of these freedoms has put the middle class at risk. Workers' inability to join together and bargain for something better, or protect what they already have, has in part manifested itself in the middle class squeeze.

The first two full Committee hearings of the 110th Congress examined the middle class squeeze and explored solutions to it. Witnesses in the first hearing, "Strengthening America's Middle Class: Evaluating the Economic Squeeze on America's Families," held on January 31, 2007, described the state of the middle class.

The middle class is less economically secure today than 30 years ago, as economic burdens and risks have shifted from corporate or government insurance programs to individuals and families. Witness Dr. Jacob Hacker, a professor of political science at Yale University and author of The Great Risk Shift, explained: "Over the last generation, we have witnessed a massive transfer of economic risk from broad structures of insurance, whether sponsored by the corporate sector or by government, onto the fragile balance sheets

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[22] "Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards," Human Rights Watch report (August 2000) [hereinafter Human Rights Watch Report].

[23] Id.

[24] Schiffer Testimony, at 1.

of American families."[25] Dr. Hacker presented research revealing a measurable increase in insecurity—not just a "growing gap between the rungs of our economic ladder" but a "growing risk of slipping from the ladder itself." For example, the instability of family incomes has increased dramatically since the late 1960s. "You can be perfectly average—with an average income, an average-sized family, an average likelihood of losing your job or becoming disabled—and you're still two-and-a-half times as likely to see your income plummet as an average person was thirty years ago," explained Dr. Hacker. Personal bankruptcy filings have risen from less than 300,000 in 1980 to more than 2 million in 2005. The share of households seeing foreclosures on their homes has increased 500 percent since the early 1970s. Americans are burdened by personal debt, with the personal savings rate falling from approximately one-tenth of disposable income to virtually zero between the early 1970s and today. Meanwhile, the American middle class has been losing its access to employer-provided health insurance and guaranteed pensions. This insecurity "strikes at the very heart of the American Dream" but also acts as a drag on the economy in general. Individuals who feel insecure in their economic position are less likely to take on additional risks—such as career changes, new training and education, or entrepreneurial endeavors—which could benefit the economy overall.

These points were supported by witness Dr. Christian Weller, a senior economist at the Center for American Progress.[26] He also presented research which found a growing level of financial insecurity among America's middle class families. For example, according to Dr. Weller: "A substantially smaller share of typical dual income couples between the ages of 35 and 54 who earn between $18,500 and $88,030 a year—those in the middle 60 percent of income distribution—were prepared for an emergency in 2004 (the last year complete data was available) than in 2001." Such emergencies might include the sudden unemployment of a breadwinner or the sudden medical emergency of a family member. Dr. Weller also explained: "One of the foremost reasons for the erosion in middle class economic security is that families face a comparatively weak labor market despite a growing economy." His research showed that, for the first time in any economic recovery, the initial stages of the most recent economic "recovery," beginning in November 2001, were marked by a sustained period of job loss. Between 2000 and 2005, the share of people without any health insurance increased from 14.2 percent to 15.9 percent, and the share of people with employer-provided health insurance decreased from 63.6 percent to 59.5 percent. These structural changes pose an increasing threat to the middle class way of life.

Today's economy is imbalanced. Witness Dr. Eileen Appelbaum, Director of the Center for Women and Work at Rutgers University, testified that working people are not receiving their fair share of the wealth that has been created by economic growth and increased

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[25] Strengthening America's Middle Class: Evaluating the Economic Squeeze on America's Families, Hearing Before the Committee on Education & Labor, 110th Cong., 1st Sess. (2007) (written testimony of Jacob Hacker) [hereinafter Hacker Testimony].

[26] Strengthening America's Middle Class: Evaluating the Economic Squeeze on America's Families, Hearing Before the Committee on Education & Labor, 110th Cong., 1st Sess. (2007) (written testimony of Christian Weller) [hereinafter Weller Testimony].

productivity.[27] She explained: "American workers today produce 70 percent more goods and services than they did at the end of the 1970s. . . . The overwhelming majority of American families haven't shared fairly in this bounty. Workers' pay and benefits have lagged far behind the increase in productivity." Her research pointed out that, since the start of 2001, an 18 percent increase in productivity has been accompanied by only a 3 percent increase in the average real hourly wages of workers, an increase "dwarfed by the increases in corporate profits and in the incomes of the very richest Americans." Dr. Appelbaum suggested a number of prescriptions for tackling the middle class squeeze, including the Employee Free Choice Act. She explained: "Workers need a greater voice at work and the right to form unions if they so desire."

Witness Rosemary Miller, a flight attendant and mother, told the Committee her personal story of the middle class squeeze.[28] After her employer declared bankruptcy, she saw "drastic wage and benefit reductions." She said: "I am now working longer and longer days as well as having to spend more and more time away from home. I have had to miss some of my daughters' school events that I vowed I would never miss because now I have to work longer in order to keep food on the table and a roof over our heads. But not only am I working longer; I'm earning less. My pension has been frozen. My benefits have been reduced." She explained: "We are asking for livable wages, a home that we own, affordable health care, comfortable retirement security, and reasonable means to provide for our children's college costs. It is obscene that in this country, among all others, it is such a struggle to simply live decently."

The Committee's second economic hearing, "Strengthening America's Middle Class: Finding Economic Solutions for America's Families," held on February 7, 2007, looked at a number of economic solutions to the middle class squeeze. All of these solutions complemented one another. For example, one solution forwarded at the hearing was the Innovation Agenda. Better training and education to ensure that workers have sufficient skills and knowledge for a higher-tech economy are necessary but not by themselves sufficient for tackling the middle class squeeze. Better training and education via the Innovation Agenda will ensure that qualified workers are available to fill the jobs of today and tomorrow. Without more, however, there is no guarantee that those jobs—whether service, manufacturing, or high-tech sector jobs—will be middle-class family-supporting jobs. To make those jobs good jobs, workers must be given a fair playing field on which to compete globally and a fair playing field on which to bargain for better wages, benefits, and working conditions. In this regard, the Committee heard testimony on the need for fairer trade practices to allow American workers and business to compete on a global scale and stronger enforcement of workers' rights at home. Finally, the middle class squeeze is not fully addressed without solving the health care crisis—both the coverage crisis and the cost crisis. Testimony was also heard on policy proposals in this area.

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[27] Strengthening America's Middle Class: Evaluating the Economic Squeeze on America's Families, Hearing Before the Committee on Education & Labor, 110th Cong., 1st Sess. (2007) (written testimony of Eileen Appelbaum) [hereinafter Appelbaum Testimony].

[28] Strengthening America's Middle Class: Evaluating the Economic Squeeze on America's Families, Hearing Before the Committee on Education & Labor, 110th Cong., 1st Sess. (2007) (written testimony of Rosemary Miller) [hereinafter Miller Testimony].

The Employee Free Choice Act featured prominently as a key solution to the middle class squeeze in this hearing. Witness Richard L. Trumka, Executive Vice President of the AFL–CIO, testified: "The best opportunity for working men and women to get ahead economically is to unite with their co-workers to bargain with their employers for better wages and benefits."[29] He pointed out that unionized workers earn 30 percent more than non-union workers, are 62 percent more likely to have employer-provided health care coverage, and are four times more likely to have guaranteed defined benefit pensions. According to Mr. Trumka, while nearly 60 million workers say they would join a union if they could, the vast majority have not because of a broken system for forming unions and collective bargaining that does not protect workers' fundamental rights. On behalf of the AFL–CIO, Mr. Trumka called specifically for Congress to pass the Employee Free Choice Act. He explained: "This legislation would represent an enormous step toward restoring balance between workers and their employers and helping repair the ruptured productivity-wage relationship."

UNIONS AND THE MIDDLE CLASS

The link between the Employee Free Choice Act and new hope for a more vibrant American middle class is evident in the numbers. By every measure, workers who join together to bargain for better wages, benefits, and working conditions do indeed receive better wages, benefits, and working conditions. This "union difference" is confirmed by the Bureau of Labor Statistics. Unionized workers' median weekly earnings are 30 percent higher than nonunion workers'.[30] This wage advantage is even more pronounced among women (31 percent union wage advantage), African Americans (36 percent union wage advantage), and Latinos (46 percent union wage advantage). Eighty percent of unionized workers have employer-provided health insurance, while only 49 percent of nonunion workers do. Sixty-eight percent of unionized workers have guaranteed pensions under a defined benefit plan, while only 14 percent of nonunion workers do. Sixty-two percent of unionized workers have the protection of short-term disability benefits, while only 35 percent of nonunion workers do. Unionized workers have, on average, 15 days of paid vacation—time that can be taken to spend with family—compared to only 11.75 average days of paid vacation for nonunion employees. Unionized workers also almost invariably have the protection of just cause employment, while nonunion workers are typically at-will employees, open to firing or layoff for any legal reason or no reason at all.

Unions, however, do not only benefit unionized workers. Strong unions set industry-wide standards that benefit workers across an industry, regardless of their union or nonunion status. Moreover, the threat of unionization often leads employers to attempt to match or approach union pay and benefit scales in order to discour-

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[29] Strengthening America's Middle Class: Finding Economic Solutions for America's Families, Hearing Before the Committee on Education & Labor, 110th Cong., 1st Sess. (2007) (written testimony of Richard Trumka) [hereinafter Trumka Testimony].

[30] This and subsequent statistics in this paragraph are attributed to the following sources: U.S. Department of Labor, Bureau of Labor Statistics, Union Members in 2006 (January 25, 2007); U.S. Department of Labor, Bureau of Labor Statistics, National Compensation Survey: Employee Benefits in Private Industry in the United States (March 2006); Economic Policy Institute; Employee Benefits Research Institute (May 2005).

age unionization. A recent study found that, for example, a high school graduate who is not even a union worker but whose industry is at least 25 percent unionized will be paid 5 percent more than similar workers in less organized industries.[31] A 2002 study found that "more than half of the decline in the average wage paid to workers with a high school education or less can be accounted for by the decline in union density."[32] A 1999 study found that the drop in union density explained about 20 percent of the decline in the percentage of workers receiving employer-provided health insurance between 1983 and 1997.[33] A 2005 report recently explained that "further erosion of unionization is likely to coincide with an overall erosion in the percentage of workers with employment-based health benefits."[34]

The union difference extends into other areas as well. The rise in wage inequality in the U.S., particularly among men, has been linked to de-unionization.[35] A 2004 study on workplace hazards produced findings suggesting that unions "could reduce job stress by giving workers the voice to cope effectively with job hazards."[36] Unions improve product or service quality. For example, a 2004 paper revealed that "[a]fter controlling for patient and hospital characteristics . . . hospitals with unionized R.N.'s have 5.5% lower heart-attack mortality than do non-union hospitals."[37] Moreover, unions have been found to increase overall productivity.[38]

Unions, as the only organizations explicitly representing workers qua workers, have been instrumental in building and preserving nationwide and statewide systems of social insurance and worker protections, such as workers' compensation and unemployment insurance, occupational safety and health standards, and wage and hour laws such as the minimum wage, the 40-hour workweek, and overtime premium pay.[39] All Americans reap the benefits of these laws and programs, regardless of their union or nonunion status.

Many of these points were laid out in the testimony of Professor Harley Shaiken at the February 8, 2007, HELP Subcommittee hearing on the Employee Free Choice Act. As Professor Shaiken explained: "[D]eclining unions fuel 'the Great Disconnect'—rising productivity decoupled from wages."[40] But Professor Shaiken went a step further. In his analysis, he found that "more robust unions" not only stem the middle class squeeze but "contribute to a 'High

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[31] Lawrence Mishel (with Matthew Walters), "How Unions Help All Workers," Economic Policy Institute Briefing Paper (August 2003), at 1 [hereinafter Mishel].

[32] Henry S. Farber, "Are Unions Still a Threat? Wages and the Decline of Unions, 1973–2001," Princeton University Working Paper (2002), at 1.

[33] Thomas C. Buchmueller, John DiNardo, & Robert G. Valletta, "Union Effects on Health Insurance Provision and Coverage in the United States," San Francisco Federal Reserve Bank (1999).

[34] Paul Fronstin, "Union Status and Employment-Based Benefits," EBRI Notes (May 2005).

[35] David Card, Thomas Lemieux, and W. Craig Riddell, "Unionization and Wage Inequality: A Comparative Study of the U.S., U.K., and Canada," NBER Working Paper (February 2003).

[36] John E. Baugher & J. Timmons Roberts, "Workplace Hazards, Unions & Coping Styles," Labor Studies Journal (Summer 2004).

[37] Michael Ash & Jean Ann Seago, "The Effect of Registered Nurses' Unions on Heart-Attack Mortality," Industrial and Labor Relations Review (April 2004), at 422–442. See also Saul A. Rubenstein, "The Impact of Co-Management on Quality Performance: The Case of the Saturn Corporation," Industrial and Labor Relations Review (January 2000).

[38] Christos Doucouliagos & Patrice Laroche, "The Impact of U.S. Unions on Productivity: A Bootstrap Meta-analysis," Proceedings of the Industrial Relations Research Association (2004); and "What Do Unions Do to Productivity: A Meta-Analysis," Industrial Relations (October 2003). For an earlier study, see Charles Brown & James L. Medoff, "Trade Unions in the Production Process," Journal of Political Economy (June 1978).

[39] Mishel, at 11–14.

[40] Shaiken Testimony, at 2.

Road Competitiveness'—a more broadly shared prosperity that benefits working families as well as consumers and shareholders."[41]

In his testimony, Professor Shaiken cited a number of studies showing how "unionization and productivity often go hand-in-hand." For example, greater fairness on the job and wages that reflect a company's success lead to more motivated employees. Unions foster "greater commitment and information-sharing" between employees and management. A 1984 study found that approximately 20 percent of the union productivity effect resulted from lower turnover in unionized firms. This is not difficult to understand. As Professor Shaiken pointed out: "Lower turnover means lower training costs, and the experience of more seasoned workers translates into higher productivity and quality." On a microeconomic level, Professor Shaiken cited a number of companies as examples of high-road competitiveness, where an employer respected workers' rights, paid higher compensation, and achieved higher levels of productivity and quality. These examples included the New United Motor Manufacturing plant, Costco, Cingular Wireless, and the relationships between Culinary Local 226 and the hospitality industry in Las Vegas.[42]

Professor Shaiken concluded:

> The [Employee Free Choice Act] restores needed balance to a process that has become increasingly dysfunctional. As we have seen, denying workers the right to form a union has important consequences for the economy and the political process. Workers' freedom to form unions is, and should be considered, a fundamental human right. All Americans lose—in fact, democracy itself is weakened—if the right to unionize is formally recognized but undermined in practice. Strengthening free choice in the workplace lays the basis for insuring a more prosperous economy and a healthier society.[43]

On every score, the collective bargaining process has produced better wages, benefits, and quality of life for America's working families. The decline in collective bargaining—in workers' ability to join together to press for a better deal—mirrors the tightening squeeze on the middle class. That decline also mirrors a rising tide of employer disregard for the law and for the fundamental rights of workers.

THE NEED FOR THE EMPLOYEE FREE CHOICE ACT

H.R. 800, the Employee Free Choice Act, will help lift the middle class and help working people get ahead by restoring their freedom to organize and bargain for better wages, benefits, and working conditions. It does so by strengthening the nation's labor law in three fundamental ways.

THE NEED FOR INCREASED PENALTIES FOR VIOLATIONS OF WORKERS' RIGHTS

Current penalties for employers who violate the NLRA are insufficient to enforce compliance with the law. Instead, many employ-

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[41] Id.
[42] Id. at 5–8.
[43] Id. at 8–9.

ers treat those penalties as a mere cost of doing business to prevent their company from being unionized. When an employer fires a worker for his pro-union activities, the employee must file a charge with the NLRB. After what are often many years of appeals by the employer, the employee may finally prevail. Employers are only required to reinstate the employee, post a notice promising to never do it again, and pay the employee back wages minus what the worker earned or should have earned in the interim.[44] In 2003, the average backpay amount was a mere $3800.[45] While nearly cost-free, illegal firings are extremely effective in stopping an organizing drive, sending a chilling effect throughout the workforce. Additionally, for other serious violations, such as illegal threats to close the workplace if the union prevails, employers are merely subjected to a cease and desist order and notice posting. Again, this remedy is often imposed years later, once all appeals are exhausted. By that time, the violation has served its unlawful purpose of intimidating or coercing employees.

The HELP Subcommittee heard from two witnesses in the February 8, 2007, hearing with direct experience in unlawful firings. Keith Ludlum began working at a Smithfield Foods meatpacking plant in Tar Heel, North Carolina, soon after returning from a tour of duty in Iraq during Operation Desert Storm.[46] After experiencing and witnessing poor treatment of workers, Mr. Ludlum began trying to organize a union at the plant in December 1993. He testified that, in 1994, he was fired by the company for attempting to get his co-workers to sign union cards with the United Food and Commercial Workers (UFCW). He explained that supervisors and a deputy sheriff marched him out of the plant in front of his coworkers that day "as an example to intimidate them." After more unlawful worker filings, a string of unfair labor practices, and 12 years of litigation, Mr. Ludlum finally won his job back. In 2006, Smithfield settled to reinstate Mr. Ludlum and pay him backpay after the company was found liable by a U.S. Court of Appeals, for, among other things, assaulting, intimidating, firing, and unlawfully arresting workers who were trying to organize a union. Mr. Ludlum testified: "Smithfield was not fined or indicted for breaking the law and none of its executives were punished." The Smithfield facility in Tar Heel, North Carolina, remains nonunion.

Ivo Camilo worked as an electronic machine operator at the Blue Diamond Growers plant in Sacramento, California, for 35 years.[47] He told the Subcommittee of how he started working with fellow employees on a union organizing drive in October 2004. On April 15, 2005, he and his coworkers presented the company with a letter from the organizing committee, signed by 58 workers, including himself, demanding that their rights under the NLRA be respected. Less than a week later, Mr. Camilo, a leader of the organizing drive, was fired. In addition to firing Mr. Camilo, the company con-

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[44] 29 U.S.C. 160(c); NLRB Rules and Regulations, Sections 103.101 and 103.102(a); NLRB Casehandling Manual, Paragraph 10528 (reinstatement) and Paragraphs 10530–10546 (backpay).

[45] Schiffer Testimony, at 6.

[46] Strengthening America's Middle Class through the Employee Free Choice Act, Hearing Before the Subcommittee on Health, Employment, Labor & Pensions, 110th Cong., 1st Sess. (2007) (written testimony of Keith Ludlum) [hereinafter Ludlum Testimony].

[47] Strengthening America's Middle Class through the Employee Free Choice Act, Hearing Before the Subcommittee on Health, Employment, Labor & Pensions, 110th Cong., 1st Sess. (2007) (written testimony of Ivo Camilo) [hereinafter Camilo Testimony].

ducted group captive audience meetings and one-on-one meetings between employees and their supervisors, where management threatened that, if the union won, workers could lose pensions and other benefits. They also threatened to close the plant if it unionized. Soon, two more workers were fired. In March 2006, an NLRB Administrative Law Judge issued a decision finding more than 20 labor law violations by the company, including unlawfully firing Mr. Camilo and another worker. Under threat of a discretionary NLRA Section 10(j) injunction which could have put Mr. Camilo and his coworker back to work pending any appeal, the company relented and reinstated Mr. Camilo in May 2006. However, two more pro-union workers were fired in September 2006 soon after Mr. Camilo's reinstatement. These unfair labor practice charges are awaiting decisions from the NLRB. In the end, compared to Mr. Ludlum and countless other workers fired for organizing a union, Mr. Camilo was one of the lucky ones—he was only out of his job for a little over a year. But, as Mr. Camilo put it, even under such circumstances: "Getting a union shouldn't be so hard. We shouldn't have to pay such a high price in hardship when our employers break the law." The Blue Diamond Grower plant in Sacramento remains nonunion.

Stories like Mr. Ludlum's and Mr. Camilo's are far too common in the United States and are unacceptable in a democracy that respects fundamental human rights, including workers' freedom of association. While the hardship imposed by an unlawful firing on these individuals and their families is enough to demand action, these firings do not happen in a vacuum. The human rights violation is compounded by the fear and intimidation—fully intended by these unlawful acts—that spreads through the workplace when coworkers see pro-union activists fired or disciplined for speaking up. The firings have a chilling effect on any attempts to exercise workers' basic, federally-protected right to organize.

The remedies for unlawful employer activity during organizing and first contract drives, when workers are just beginning to understand and exercise their rights, are simply insufficient to deter unlawful behavior. This problem was apparent to the Congress three decades ago when the U.S. House of Representatives passed H.R. 8410, the Labor Reform Act of 1977, and the Senate came just two votes short of ending debate and passing the bill. The Labor Reform Act of 1977, like the Employee Free Choice Act, also stiffened penalties for workers' rights violations. In the years since, numerous studies have drawn similar conclusions. The 1994 Dunlop Commission, for example, found that unlawful employer activity had increased five-fold since the 1950s, affecting 1-in-20 union election campaigns in 1951–55 and 1-in-4 union election campaigns in 1986–90.[48] In 2000, Human Rights Watch pointed out: "Many employers have come to view remedies like backpay for workers fired because of union activity as a routine cost of doing business, well worth it to get rid of organizing leaders and derail workers' organizing efforts."[49]

In protecting fundamental human rights of workers, the NLRA's remedial scheme fails miserably. Its offer of reinstatement and

[48] Commission of the Future of Worker-Management Relations ("the Dunlop Commission"), Fact Finding Report (1994), at 70 [hereinafter Dunlop Fact Finding].
[49] Human Rights Watch Report.

backpay, minus interim earnings, to workers whose Section 7 rights have been violated stands in stark contrast to other federal labor laws. The Fair Labor Standards Act, for instance, provides for double backpay to workers who are not paid proper overtime. Anti-discrimination statutes, such as Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act, provide for further compensatory damages, such as for emotional distress and inconvenience, as well as punitive damages. The remedial or punitive differences between the NLRA and these other statutes sends a disturbing message about the seriousness with which federal law treats workers' organizing and collective bargaining rights violations. This lack of serious treatment has resulted in employers running roughshod over workers' rights. It is time for the NLRA to be updated and strengthened.

In the case of firings, it should be pointed out that, in addition to the problem of weak monetary penalties under the NLRA, the affirmative order of reinstatement is weakened by long delays. By the time the order is issued, the employee has likely moved on to other work or simply does not wish to return to the employer who treated him so unfairly.[50] Under current law, the NLRB has the option—but not the requirement—to seek an injunction in federal court against unlawful employer activity.[51] Such an injunction—known as a 10(j) injunction—might order a fired worker reinstated pending the outcome of her unfair labor practice charge. That option is rarely utilized by the NLRB and is today more rarely utilized than ever before. In the first four years of the George W. Bush Administration, for example, the NLRB filed just 69 injunctions, compared to 219 in President Clinton's first term and 142 in President Clinton's second term.[52] By contrast, under current law, the NLRB is required to seek an injunction where there is reasonable cause to believe that a union has violated the NLRA's secondary boycott prohibitions.[53] In other words, while the NLRA currently mandates that the NLRB seek an injunction when a business fears negative economic repercussions from an allegedly unlawful picketing, it does not mandate an injunction request when a working family fears negative economic repercussions from an allegedly unlawful firing. This imbalance is in need of correction.

Firings themselves are not the only labor law violations that anti-union employers find effective in battling organizing drives. Forms of fear and intimidation which fall short of firings or discipline are also frequently used. Although employers often illegally threaten to close plants, or unlawfully fire or discipline workers, the remedies under current law for such threats inadequate. Under current law, threats of that nature are punished merely with a cease and desist order and an order to post a notice in the workplace that the employer will not engage in those activities again. By the time the decision is issued and the order enforced—sometimes years later—the damage to workers' organizing rights has

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[50] The Dunlop Commission found that most illegally discharged workers do not take up the offer of reinstatement. Dunlop Fact Finding, 71–72.

[51] 29 U.S.C. 160(j).

[52] 42nd through 69th NLRB Annual Reports (fiscal years 1977–2004); "Workers Rights Under Attack by Bush Administration: President Bush's National Labor Relations Board Rolls Back Labor Protections," Report by Honorable George Miller, Senior Democratic Member, Committee on Education and the Workforce, U.S. House of Representatives (July 13, 2006), at 18–19.

[53] 29 U.S.C. 160(l).

been long done. There is no fine. No backpay is awarded unless a worker was actually fired or disciplined in some manner that resulted in a loss of pay.

Penalties for employers' labor law violations must be enhanced and rendered more effective in deterring unlawful behavior. Even outright opponents of the Employee Free Choice Act have admitted as much. Lawrence B. Lindsey, an opponent of H.R. 800 and a visiting scholar at the American Enterprise Institute, wrote on February 2, 2007, that "it would be reasonable to stiffen the penalties for employers who break the law."[54]

Accordingly, as explained in more detail in the Section-by-Section Analysis of this Report, the Employee Free Choice Act increases the monetary penalty and injunctive remedies for illegal firings and discrimination against employees during any period while employees are attempting to organize a union or bargain a first contract. The Committee finds that seriously stiffening the penalties for violations of workers' fundamental human rights is absolutely necessary to restore workers' freedom to organize and collectively bargain.

THE NEED FOR MAJORITY SIGN-UP CERTIFICATION

Under current law, employees generally have two means to obtain union representation. The employer, however, decides which means will be used:

1. NLRB Election Process. If 30% of the workforce signs a petition or cards asking for union representation or an election, the NLRB will conduct an election. If a majority of those voting favor union representation, the NLRB certifies the union, and the employer must recognize and bargain with the union. This election process sets up the union and the employer as adversaries and is tilted dramatically in favor of the employer.

2. Voluntary recognition (card check or majority sign-up). If a majority of the workforce signs cards asking for union representation, the employer may recognize the union and begin bargaining. The employer, however, is not required to recognize a union when a majority signs cards. Instead, the employer may insist that the employees undergo the NLRB election process described above. Given the advantages afforded in that election process, many employers do insist on an election,. Under majority sign-up, a union is formed only if a majority of all employees signs written authorization forms (compared to a majority of those who actually vote in an NLRB election). A worker who does not sign a card is presumed to not support the union.

Majority-sign up has always been allowed under the NLRA. Indeed, the original framers of the NLRA viewed NLRB secret ballot elections as a tool for deciding between unions (given both the phenomenon of company unions and the rivalry between the American Federation of Labor and the Congress of Industrial Organizations),

[54] Lawrence B. Lindsey, "Abrogating Workers' Rights," Wall Street Journal (February 2, 2007).

not as a tool for deciding whether there would be collective bargaining in the workplace or not.[55]

Today, many employers insist on NLRB elections because they are a tool for killing an organizing drive. In short, this election process is broken and undemocratic. In the NLRB election process, delays of months and even years are common in obtaining and certifying election results. Management has almost unlimited and mandatory access to employees, while union supporters have almost none. Management has total access to a complete and accurate list of employees at all times, while union supporters may have access very late in the process to a list that is often intentionally inaccurate. Under the NLRB election process, the union and employer are pitted against one another as campaign adversaries. One party—the employer—has inherently coercive power over those voters, controlling their work lives and having the authority to reward, punish, promote, or fire the voters.

At the HELP Subcommittee hearing on February 8, 2007, Professor Lafer presented his research on the nature of NLRB elections and how they measure up to American standards for free, fair, and democratic elections. He testified: "Unfortunately, I must report that NLRB elections look more like the discredited practices of rogue regimes abroad than like anything we would call American."[56]

As Professor Lafer pointed out, American democratic elections involve, as a first step, obtaining a list of eligible voters. Under U.S. election law, both parties have equal access to the voter rolls. In NLRB elections, on the other hand, "management has a complete list of employee contact information, and can use this for campaigning against unionization at any time—while employees have no equal right to such lists." Once an election petition is filed and an election scheduled, the union is entitled to an "Excelsior List"—with employee names and addresses—with no right to apartment numbers, zip codes, or telephone numbers. On average, the Excelsior list is received less than 20 days before an election, even though the employer had total access to every employee for the entire period of the organizing drive.[57]

Professor Lafer also made the point that economic coercion is the hallmark of NLRB elections but entirely forbidden under American democratic standards. He quoted Alexander Hamilton, who warned that "power over a man's purse is power over his will." Accordingly, under U.S. election law, it is unlawful for an employer to tell employees how to vote or suggest that the victory or loss of a particular candidate would result in job or business loss. In NLRB elections, however, the employer is free to tell its employees how to vote—and often does so in perfectly legal, mandatory captive audience meetings and what are termed "eyeball to eyeball" or one-on-one supervisor meetings with employees. Under the NLRA, an employer can "predict" that a plant will close if the workers

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[55] David Brody, "Why U.S. Labor Law Has Become a Paper Tiger," New Labor Forum (Spring 2004).

[56] Strengthening America's Middle Class through the Employee Free Choice Act, Hearing Before the Subcommittee on Health, Employment, Labor & Pensions, 110th Cong., 1st Sess. (2007) (written testimony of Gordon Lafer, at 1) [hereinafter Lafer Testimony].

[57] Id. at 2.

unionize, so long as it does not cross the line into "threatening" closure if they unionize.[58]

In NLRB elections, there is no such thing as free speech or equal access to the media, as American democracy understands them. Employers have total access to the eligible voters, as they convene everyday in the workplace. The union would be trespassing if it attempted to access the voters in the workplace. Relegated to standing on public sidewalks outside a worksite or making house calls, the union obviously would be trespassing if it attempted to access a voter at home—the only other place a voter is certain to be—when the voter tells a union organizer to leave. Pro-union workers also find their speech and access to the media circumscribed. Management can plaster a workplace with anti-union propaganda, wherever and whenever it wants. Pro-union workers cannot. Management can hand out leaflets and talk to employees whenever and wherever it wants. Pro-union workers can only talk about the union on non-work time. Management can force employees to attend mass captive audience meetings or one-on-one supervisory meetings against the union, under threat of discipline if they do not attend—and even under threat of discipline if they speak up during the meeting. Unions have no such ability to force workers to attend meetings—and certainly have no right to equal time at a company-sponsored captive audience meeting. According to Professor Lafer, "in a typical campaign, most employees never even have a single conversation with a union representative."[59]

While much is made of the "secret ballot" in NLRB elections, these elections are fundamentally undemocratic. Moreover, the "secret ballot" is often not secret at all. As Professor Lafer explained in response to Congresswoman Linda Sanchez at the HELP Subcommittee hearing, employers often know how every employee is voting on election day. They engage in eyeball-to-eyeball or one-on-one supervisor meetings with employees to discern their union sentiments. They conduct interrogations of employees. They conduct surveillance of employees—which is perfectly legal, so long as it is not overt. In short, employers keep count of the votes.

In recent years, because of increased anti-union activity—both illegal and perfectly legal—by employers in the context of NLRB elections, unions have turned more and more to majority sign-up or card check agreements as a means to gain recognition. Many cutting-edge employers, such as Cingular Wireless, Kaiser Health, Marriott, and the National Linen Company, have embraced these agreements. Majority sign-up procedures have been shown to reduce conflict between workers and management, reduce employer coercion and interference, and allow workers to freely choose for themselves, whether to bargain with their employer for better wages and benefits.[60]

A recent survey of employees at worksites that had undergone organizing drives found that, across the board, coercion and pres-

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[58] Id. at 2–3.
[59] Id. at 3–4.
[60] See e.g., "Partnerships that Work, In Focus: Cingular Wireless," American Rights at Work, Socially Responsible Business Program (2006) (quoting Rick Bradley, Executive Vice President of Human Resources at Cingular Wireless, regarding its majority sign-up agreement with the Communications Workers of America, "We believe that employees should have a choice. . . . Making that choice available to them results, in part, in employees who are engaged in the business and who have a passion for customers.").

sure (both anti-union and pro-union) drop under majority sign-up or card check procedures, compared to the NLRB election process. Specifically, the survey revealed that "NLRB elections invite far more exposure to coercion than card check campaigns." In NLRB elections, 46 percent of workers reported that management coerced them to oppose the union, compared to 23 percent of workers in card check campaigns. In NLRB elections, 22 percent of workers reported that they felt peer pressure from coworkers to support the union, compared to 17 percent in card check campaigns. In short, the majority sign-up process reduces both pressure and coercion, compared to NLRB elections.[61]

The HELP Subcommittee heard testimony on February 8, 2007, that affirmed these findings. Cingular Wireless employee Teresa Joyce testified about the differences between AT&T Wireless and Cingular Wireless, which signed a card check and neutrality agreement.[62] When her worksite was owned by AT&T Wireless, management "did everything they could to stop us from exercising our right to form a union. Our supervisors constantly threatened that AT&T Wireless would leave our town and that we would lose our jobs," she explained. When she and her coworkers tried to distribute union flyers in the break room, supervisors "would immediately gather the information and dispose of it." She described efforts by management to keep employees uninformed or misinformed about the union and to "instill fear through constant threats and lies about the union." When Cingular Wireless bought AT&T Wireless and brought the facility under a card check agreement, however, "the harassment and intimidation stopped." Employees were allowed to distribute literature in the break room and even set up a table with literature about the union, the Communications Workers of America (CWA). Then, in 2005, a majority of the employees signed union authorization cards. Cingular Wireless recognized their union and soon bargained a contract with them. Ms. Joyce argued that all workers should be given the same free and fair opportunity she received with Cingular Wireless:

> Cases such as mine, where the employer agrees to take no position and allow their workers to freely choose whether or not they want a union, are few and far between . . . I had two uncles sacrifice their lives for this great country during World War II. I lost a cousin in the war in Iraq. I have another cousin in Afghanistan and my daughter, Laura, and her husband serve in the U.S. Navy. Every day they risk their lives to protect our freedoms. Every day they work to spread democratic principles and values to audiences abroad. It's outrageous and it's shameful when the very freedoms they fight to preserve are the very freedoms that are routinely trampled on, here, at home.[63]

Not all workers enjoy the same freedoms that Ms. Joyce has had as an employee at Cingular Wireless. Current law allows workers to organize via majority sign-up only where the employer agrees to

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[61] Adrienne Eaton & Jill Kriesky, "Fact Over Fiction: Opposition to Card Check Doesn't Add Up," American Rights at Work Issue Brief (March 2006).

[62] Strengthening America's Middle Class through the Employee Free Choice Act, Hearing Before the Subcommittee on Health, Employment, Labor & Pensions, 110th Cong., 1st Sess. (2007) (written testimony of Teresa Joyce) [hereinafter Joyce Testimony].

[63] Joyce Testimony, at 6.

it. The critical change that the Employee Free Choice Act makes is providing the option of majority sign-up to all workers. The bill would amend the NLRA by providing that if the NLRB finds that a majority of the employees in the proposed bargaining unit have signed union authorization cards, then the Board will certify the bargaining unit. In other words, the employer may not refuse to recognize the union and insist on an NLRB election when a majority of workers sign cards saying they want a union.

H.R. 800 does not eliminate the NLRB election process, as some critics incorrectly claim. The election process would remain available as an option. If 30 percent of the bargaining unit signed cards or a petition asking for an NLRB election, they would have one. If, however, 50 percent plus one of the bargaining unit signed authorization cards asking for recognition of their union, and the NLRB verified their validity, their union would be certified and recognized. Instead of the employer having the authority to veto that majority employee choice, the choice of the employee majority would rule. More details on how this majority sign-up process works under the Employee Free Choice Act are provided in the Section-by-Section Analysis.

It is also important to note that H.R. 800 does not change the process for decertifying or withdrawing recognition from a union. Under current law, majority sign-up is effectively already available to workers seeking to decertify or disband their union. In fact, the withdrawal of recognition doctrine requires an employer to withdraw recognition from a union—which has the same effect as a decertification—when the employer has objective evidence that the union has in fact lost majority support. Such evidence might come in the form of cards or a petition against the union. In those cases, unless an election is pending, the employer is obligated to withdraw recognition.[64] H.R. 800 does nothing to alter this doctrine.

Finally, it is important to note that the signed authorization cards in H.R. 800's majority sign-up process are not "publicly signed," as some critics claim. These cards are treated no differently than signed authorization cards under the majority sign-up agreements that have been in existence since the NLRA's inception. And they are treated no differently than the cards or petitions that have been used to obtain an NLRB election.

THE NEED FOR FIRST CONTRACT MEDIATION AND BINDING ARBITRATION

Even when workers, against all odds, manage to win recognition of their union, the victory often proves a hollow one. For workers, the entire point of organizing is often to negotiate and adopt a collective bargaining agreement with the employer. But rather than bargaining in good faith with the intention of reaching a final contract, many employers delay and undermine the collective bargaining process to frustrate employee aspirations for a contract and ultimately bust the union.

A 2001 report on the status of first contract negotiations following union election victories in 1998 and 1999 found that 34 percent of those victories still had not resulted in a collective bargaining agreement—in some cases three years after the union's cer-

[64] See Levitz Furniture Company of the Pacific, 333 NLRB No. 105 (2001).

tification.[65] While the parties have an obligation to bargain in good faith, this obligation is difficult to enforce. Employers easily drag their feet in negotiations in order to avoid reaching a contract. Employers do so to run out the clock because, after a year of bargaining without a contract, employees may decertify the union or the employer may unilaterally withdraw recognition, if there is a showing of lack of majority support for the union. As Human Rights Watch pointed out: "The problem is especially acute in newly organized workplaces where the employer has fiercely resisted employee self-organization and resents their success."[66]

First contract negotiations often become part and parcel of an employer's anti-union campaign. Rather than bargaining in good faith to reach an agreement, as one scholar points out:

> Consultants advise management on how to stall or prolong the bargaining process, almost indefinitely—"bargaining to the point of boredom," in consultant parlance. Delays in bargaining allow more time for labor turnover, create employee dissatisfaction with the union and prevent the signing of a contract. Without a contract, the union is unable to improve working conditions, negotiate wage increases or represent workers effectively with grievances; and by exhausting every conceivable legal maneuver, certain firms have successfully avoided signing contracts with certified unions for several decades.[67]

Even the current Bush II National Labor Relations Board recognizes that "[i]nitial contract bargaining constitutes a critical stage of the negotiation process because it forms the foundation for the parties' future labor-management relationship."[68] In a memorandum, Bush II General Counsel Meisburg wrote in April 2006 that, "when employees are bargaining for their first collective bargaining agreement, they are highly susceptible to unfair labor practices intended to undermine support for their bargaining representative." According to General Counsel Meisburg, "our records indicate that in the initial period after election and certification, charges alleging that employers have refused to bargain are meritorious in more than a quarter of all newly-certified units (28%). Moreover, of all charges alleging employer refusals to bargain, almost half occur in initial contract bargaining situations (49.65%)." These statistics are high despite the fact that proving a lack of good faith in bargaining is notoriously difficult.

Under existing law, the Federal Mediation and Conciliation Service (FMCS) may provide mediation and conciliation services upon its own motion or upon request of one or more of the parties to the dispute, whenever it believes that the dispute threatens a substantial interruption to commerce. The NLRA currently does not provide for the use of binding arbitration to resolve disputes. When an employer bargains in bad faith or otherwise unlawfully refuses to

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[65] Kate Bronfenbrenner, "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages, and Union Organizing, Part II: First Contract Supplement," Submitted to the U.S. Trade Deficit Review Commission (June 1, 2001), at 7. The Dunlop Commission also found high rates of first contract failures. See Dunlop Fact Finding Report, at 73.

[66] Human Rights Watch Report.

[67] John Logan, "Consultants, Lawyers and the 'Union Free' Movement in the USA Since the 1970s," 33 Industrial Relations Journal 197 (August 2002).

[68] Ronald Meisburg, "First Contract Bargaining Cases," General Counsel Memorandum, GC 06–05 (April 19, 2006).

bargain, the NLRA's remedy is merely an order from the NLRB to resume bargaining.

The Employee Free Choice Act would provide for more meaningful good faith bargaining in first contract cases. As detailed in the Section-by-Section analysis, it would provide that the parties must begin bargaining within 10 days of receiving a written request to begin. Either party may request mediation of a first contract after 90 days of bargaining. If the mediation does not result in a contract within 30 days, the parties then go to binding arbitration. This process would only be available during the highly sensitive first contract negotiation. It would not be available for subsequent contracts. And the time frames are extendable by mutual agreement of the parties.

To effectuate a fundamental purpose of the NLRA—encouraging collective bargaining—it is critical that the law facilitate bargaining particularly in first contract situations. This stage serves as "the foundation for the parties' future labor-management relationship," as NLRB General Counsel Meisburg has pointed out. Achieving a first contract fosters a productive and cooperative collective bargaining relationship.

Binding contract arbitration has a proven track record. It has long been available for postal service union contracts. In Canadian provinces where binding contract arbitration is available, it has served to encourage labor and management to settle their agreement on their own terms, "knowing that the alternative may be an imposed agreement."[69] For example, in 2002, Ontario saw a total of nine applications for first contract arbitration, and eight of those were withdrawn or settled. British Columbia saw a total of 16 applications, and 15 were withdrawn or settled.[70]

SECTION-BY-SECTION ANALYSIS

Section 1. Provides that the short title of H.R. 800 is the "Employee Free Choice Act."

Section 2(a). Provides that Section 9(c) of the NLRA is amended to provide for a majority sign-up certification process for gaining union recognition.

Specifically, whenever any employee, group of employees, individual, or labor organization files a petition alleging that a majority of employees in an appropriate bargaining unit wish to be represented by an individual or labor organization for collective bargaining purposes, the NLRB shall conduct an investigation. Such investigation shall involve determining whether a majority of employees in an appropriate bargaining unit have signed valid authorization cards. If the NLRB finds that they have, the NLRB shall certify their designated representative as their exclusive bargaining representative.

Section 2(a) eliminates the employer's prerogative to deny recognition on the basis of a majority sign-up with cards and eliminates the employer's right to insist upon an NLRB election before recognizing a union. This Section does not eliminate the NLRB election process, which remains an option for employees as it is

[69] Alberta Federation of Labour Backgrounder—First Contract Arbitration (November 9, 2005), at 1.
[70] Id. at 2.

under current law. However, employees, individuals, or labor organizations may submit signed authorization cards to the NLRB, as part of a petition for certification, and gain recognition without undergoing the NLRB election process. Indeed, if a majority sign and submit valid authorization cards to the NLRB, notwithstanding any other provision in the NLRA, the NLRB must certify their union.

Section 2(a) also directs the NLRB to establish guidelines and procedures for the designation of a bargaining representative under the majority sign-up process. Such guidelines and procedures must include model language for the authorization card to ensure that the purpose of the card will be clearly understood by employees, making clear, for example, that the card may be used to gain recognition of an exclusive bargaining representative without conducting an NLRB election. Such guidelines and procedures must also include procedures that the NLRB shall use to determine the validity of signed authorization cards. The Committee envisions that the NLRB will establish procedures similar to those currently used to hear election objections. Importantly, the Employee Free Choice Act of 2007, as introduced in the 110th, makes clear that the cards must be valid. An invalid card would be any card that is coerced, obtained by fraud, or inauthentic. Such invalid cards may not be counted toward a showing of majority support.

Section 2(a) also makes clear that the NLRB cannot certify an exclusive bargaining representative via the majority sign-up process in cases where the employees in question already have a certified or otherwise already recognized exclusive bargaining representative. In those cases, where one union seeks to replace an existing union, the appropriate determination of employees' wishes is via an NLRB election under current rules. Indeed, conducting elections in cases of competing unions was the original intent of the NLRA's election process.[71] This section does not change current law on decertification or the withdrawal of recognition doctrine.

Section 2(b). Provides for conforming amendments in light of the new majority sign-up certification process. Specifically, under this Section, regional directors of the NLRB may be authorized to conduct majority sign-up processes, just as they are currently authorized to conduct NLRB elections. Also, under this Section, the prohibitions on recognitional picketing are adjusted to conform with the availability of the majority sign-up process for NLRB union certification.

Section 3. Provides for the mediation and binding arbitration of initial collective bargaining agreements in order to facilitate a good faith bargaining relationship from the very beginning between the parties. This Section only applies in cases involving a newly certified or otherwise newly recognized exclusive bargaining representative and an employer negotiating an initial collective bargaining agreement. Under this Section, the parties must begin good faith collective bargaining within 10 days of receiving a request for bargaining from the other party. If the parties do not execute a col-

[71] This long-standing rule, preserved by the Employee Free Choice Act, is consistent with the call for "secret ballot elections" in Mexico, made in 2001 by Members of Congress, in the unique context of Mexican labor law and in a situation where the workers were attempting to abandon an allegedly sham union controlled by the government and company and replace it with their own independent union.

lective bargaining agreement within 90 days of the start of bargaining, either party may request mediation from the FMCS. The FMCS is directed to use its best efforts, via mediation and conciliation, to then bring the parties to agreement. If, 30 days after mediation request is made, there is still no first contract, the FMCS is directed to refer the contract negotiations to an arbitration board, under regulations as may be prescribed by the FMCS. The arbitration board must issue a decision settling the negotiations, binding on the parties for two years. The parties may amend the binding, arbitrated settlement agreement by written consent during that two year period. All time frames within this section may be extended by mutual agreement of the parties.

Section 4(a)(1). Provides for mandatory requests for injunctions against employer unfair labor practices during organizing and first contract drives. Specifically, in cases where an employer is charged to have fired or otherwise discriminated against an employee in violation of the employee's Section 7 rights, or threatened to do so, or engaged in activities that significantly interfere with, restrain, or coerce employees in the exercise of their Section 7 rights, during an organizing or first contract drive, if the NLRB finds that there is reasonable cause to believe that the charge is true and a complaint should issue, the NLRB must petition the appropriate United States District Court and seek appropriate injunctive relief pending final adjudication of the matter.

Section 4(a)(2). Provides for a conforming amendment to ensure that investigating and pursuing such unfair labor practice charges are given top priority at the NLRB, just as was required for other charges subject to mandatory injunctions, such as unlawful secondary boycott charges.

Section 4(b)(1). Provides for treble backpay for employees discriminated against by an employer during an organizing or first contract drive. Specifically, an employee who lost pay under such circumstances is entitled to receive their backpay, plus two times that amount, as liquidated damages.

Section 4(b)(2). Provides for civil penalties for employer unfair labor practices during organizing and first contract drives. Specifically, this Section subjects employers during organizing and first contract drives to civil penalties of up to $20,000 for each willful or repeated unfair labor practice, so long as those unfair labor practices constitute interfering, restraining, coercing, or discriminating against employees in the exercise of their Section 7 rights. The NLRB is directed to consider the gravity of the unfair labor practice and its impact on the charging party, other persons seeking to exercise rights under the NLRA, or the public interest when determining the amount of the civil penalty.

Under this formulation, for example, the civil penalty should be larger for larger employers and smaller for smaller employers in order to act as an appropriate deterrent to unlawful behavior, i.e., to ensure the civil penalty has a positive impact on the exercise of Section 7 rights by other persons. In any event, these civil penalties are punitive in nature, not remedial, and are intended to serve as a deterrent to unlawful behavior.

EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. The purpose of H.R. 800 is to strengthen and expand the middle class. The bill reforms the National Labor Relations Act to provide for union certification through simple majority sign-up procedures, first contract mediation and binding arbitration, and tougher penalties for violation of workers' rights during organizing and first contract drives. As the Congressional Accountability Act provides for the application of the Federal Labor Relations Act but not the application of the National Labor Relations Act, 29 U.S.C. 151 et seq., to the legislative branch, H.R. 800 has no application to the legislative branch.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. CBO has determined that the requirement would increase the costs of an existing mandate and would thereby impose a mandate under the Unfunded Mandates Reform Act (UMRA). CBO estimates, however, that the direct cost of complying with the new requirements would be negligible. H.R. 800 contains no governmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

EARMARK STATEMENT

H.R. 800 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

ROLLCALL VOTES
COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 1 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 2 **DEFEATED**
SPONSOR/AMENDMENT: McKEON – SECRET BALLOT PROTECTION ACT

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE		X		
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY				X
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI	X			
Mr. HOEKSTRA	X			
Mr. CASTLE		X		
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	19	27		3

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 2 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 3 **DEFEATED**
SPONSOR/AMENDMENT: KLINE – CARD CHECK FOR DECERTIFICATION

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE		X		
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI		X		
Mr. HOEKSTRA	X			
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	**19**	**28**		**2**

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 3 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 4 **DEFEATED**
SPONSOR/AMENDMENT: BOUSTANY – NLRB REPRESENTATIVE PRESENT

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE		X		
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI	X			
Mr. HOEKSTRA	X			
Mr. CASTLE	X			
Mr. SOUDER		X		
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				
Mr. KELLER	X			X
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				
Mrs. McMORRIS RODGERS	X			X
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	19	28		2

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 4 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 5 **DEFEATED**
SPONSOR/AMENDMENT: DAVIS (TN) – CIVIL PENALTIES

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE		X		
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI	X			
Mr. HOEKSTRA	X			
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	**20**	**27**		**2**

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 5 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 6 **DEFEATED**
SPONSOR/AMENDMENT: WALBERG – RIGHT TO VOTE ON CONTRACT

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE		X		
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI	X			
Mr. HOEKSTRA	X			
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT		X		
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	19	28		2

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 6 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 7 **DEFEATED**
SPONSOR/AMENDMENT: FOXX – DO NOT CONTACT LIST

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE		X		
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA				X
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS				X
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA	X			
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP				X
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	**18**	**25**		**6**

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 7 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 8 **DEFEATED**
SPONSOR/AMENDMENT: PRICE – RETURN OF CARD

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE		X		
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA				X
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA	X			
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	19	26		4

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 8 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 9 **DEFEATED**
SPONSOR/AMENDMENT: EHLERS – BONA FIDE WORKERS ONLY

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE				X
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA				X
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	**18**	**26**		**5**

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 9 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 10 **DEFEATED**
SPONSOR/AMENDMENT: MARCHANT – IMMIGRATION STATUS ON CARD CHECK

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE				X
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA				X
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO				X
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	17	26		6

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 10 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 11 **DEFEATED**
SPONSOR/AMENDMENT: WILSON – UNION VIOLENCE

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE				X
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA				X
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	18	26		5

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 11 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 12 **DEFEATED**
SPONSOR/AMENDMENT: KLINE – TRIBAL LANDS

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE				X
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA				X
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS		X		
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	**17**	**27**		**5**

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 12 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 13 **DEFEATED**
SPONSOR/AMENDMENT: WILSON – NATIONAL RIGHT TO WORK ACT

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE				X
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA				X
Mr. CASTLE				X
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT				X
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	**16**	**26**		**7**

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 13 **BILL: H.R. 800** **DATE: 2/14/2007**
AMENDMENT NUMBER: 14 **DEFEATED**
SPONSOR/AMENDMENT: BIGGERT – STRIKE MANDATORY ARBITRATION SECTION

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE				X
Mr. ANDREWS		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS		X		
Mr. DANNY DAVIS		X		
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE		X		
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE		X		
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI				X
Mr. HOEKSTRA	X			
Mr. CASTLE	X			
Mr. SOUDER	X			
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mr. INGLIS				X
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT	X			
Mr. PRICE	X			
Mr. FORTUNO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP	X			
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
TOTALS	19	26		4

COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 14 **BILL: H.R. 800** **DATE: 2/14/2007** **PASSED 26Y/19N**
SPONSOR/AMENDMENT: ANDREWS MOTION TO FAVORABLY REPORT THE BILL TO THE HOUSE

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman	X			
Mr. KILDEE, Vice Chairman	X			
Mr. PAYNE				X
Mr. ANDREWS	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
Mrs. SUSAN DAVIS	X			
Mr. DANNY DAVIS	X			
Mr. GRIJALVA	X			
Mr. TIMOTHY BISHOP	X			
Ms. SANCHEZ	X			
Mr. SARBANES	X			
Mr. SESTAK	X			
Mr. LOEBSACK	X			
Ms. HIRONO	X			
Mr. ALTMIRE	X			
Mr. YARMUTH	X			
Mr. HARE	X			
Ms. CLARKE	X			
Mr. COURTNEY	X			
Ms. SHEA-PORTER	X			
Mr. McKEON		X		
Mr. PETRI				X
Mr. HOEKSTRA		X		
Mr. CASTLE		X		
Mr. SOUDER		X		
Mr. EHLERS		X		
Mrs. BIGGERT		X		
Mr. PLATTS				X
Mr. KELLER		X		
Mr. WILSON		X		
Mr. KLINE		X		
Mr. INGLIS				X
Mrs. McMORRIS RODGERS		X		
Mr. MARCHANT		X		
Mr. PRICE		X		
Mr. FORTUNO		X		
Mr. BOUSTANY		X		
Mrs. FOXX		X		
Mr. KUHL		X		
Mr. ROB BISHOP		X		
Mr. DAVID DAVIS		X		
Mr. WALBERG		X		
TOTALS	26	19		4

COMMITTEE CORRESPONDENCE

None.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for H.R. 800 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 16, 2007.

Hon. GEORGE MILLER,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 800, the Employee Free Choice Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Anthony.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 800—Employee Free Choice Act of 2007

H.R. 800 would amend the National Labor Relations Act to allow workers to unionize by signing a card or petition, in lieu of a secret-ballot election. The bill also would provide a time frame for employers to begin discussions with the workers' union. In addition, the bill would impose civil monetary penalties of up to $20,000 for repeated violations of fair labor practices. Enacting H.R. 800 could increase revenues from those penalties. However, CBO estimates that the amount is likely to be less than $500,000 annually.

H.R. 800 would impose a mandate on private-sector employers by adding requirements under the National Labor Relations Act, including requiring that employers commence an initial agreement for collective bargaining no later than 10 days after receiving a request from an individual or a labor organization that has been newly organized or certified. CBO has determined that the requirement would increase the costs of an existing mandate and would

thereby impose a mandate under the Unfunded Mandates Reform Act (UMRA). CBO estimates, however, that the direct cost of complying with the new requirements would be negligible. H.R. 800 contains no intergovernmental mandates as defined in UMRA, and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for this estimate are Christina Hawley Anthony (for federal costs) and Paige Shevlin (for private-sector mandates). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Statement of General Performance Goals and Objectives

In accordance with clause 3(c) of House rule XIII, the goal of H.R. 800 is to strengthen and expand America's middle class by restoring workers' freedom to organize and collectively bargain under the National Labor Relations Act. The bill reforms the National Labor Relations Act to provide for union certification through simple majority sign-up procedures, first contract mediation and binding arbitration, and tougher penalties for violation of workers' rights during organizing and first contract drives. The Employee Free Choice Act of 2007 furthers the long-standing policy of the United States to encourage the practice and procedure of collective bargaining and to protect the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Constitutional Authority Statement

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by H.R. 800. The Committee believes that the amendments made by this bill, which amend the National Labor Relations Act, are within Congress' authority under Article I, section 8, clause 1 and clause 3.

Committee Estimate

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 800. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

NATIONAL LABOR RELATIONS ACT

* * * * * * *

NATIONAL LABOR RELATIONS BOARD

SEC. 3. (a) * * *

(b) The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. The Board is also authorized to delegate to its regional directors its powers under section 9 to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, [and] to direct an election or take a secret ballot under subsection (c) or (e) of section 9 [and certify the results thereof,], *and to issue certifications as provided for in that section,* except that upon the filing of a request therefor with the Board by any interested person, the Board may review any action of a regional director delegated to him under this paragraph, but such a review shall not, unless specifically ordered by the Board, operate as a stay of any action taken by the regional director. A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof. The Board shall have an official seal which shall be judicially noticed.

* * * * * * *

UNFAIR LABOR PRACTICES

SEC. 8. (a) * * *

(b) It shall be an unfair labor practice for a labor organization or its agents—

(1) * * *

* * * * * * *

(7) to picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees:

(A) * * *

(B) where within the preceding twelve months a valid election under section 9(c) of this Act has been conducted *or a petition has been filed under section 9(c)(6)*, or

(C) where such picketing has been conducted without a petition under section 9(c) being filed within a reasonable period of time not to exceed thirty days from the commencement of such picketing: *Provided,* That [when such a petition has been filed] *when such a petition other than a petition under section 9(c)(6) has been filed* the Board shall forthwith, without regard to the provisions of section

9(c)(1) or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the Board finds to be appropriate and shall certify the results thereof: *Provided further,* That nothing in this subparagraph (C) shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, unless an effect of such picketing is to induce any individual employed by any other person in the course of his employment, not to pick up, deliver or transport any goods or not to perform any services.

* * * * * * *

(h) Whenever collective bargaining is for the purpose of establishing an initial agreement following certification or recognition, the provisions of subsection (d) shall be modified as follows:

(1) Not later than 10 days after receiving a written request for collective bargaining from an individual or labor organization that has been newly organized or certified as a representative as defined in section 9(a), or within such further period as the parties agree upon, the parties shall meet and commence to bargain collectively and shall make every reasonable effort to conclude and sign a collective bargaining agreement.

(2) If after the expiration of the 90-day period beginning on the date on which bargaining is commenced, or such additional period as the parties may agree upon, the parties have failed to reach an agreement, either party may notify the Federal Mediation and Conciliation Service of the existence of a dispute and request mediation. Whenever such a request is received, it shall be the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement.

(3) If after the expiration of the 30-day period beginning on the date on which the request for mediation is made under paragraph (2), or such additional period as the parties may agree upon, the Service is not able to bring the parties to agreement by conciliation, the Service shall refer the dispute to an arbitration board established in accordance with such regulations as may be prescribed by the Service. The arbitration panel shall render a decision settling the dispute and such decision shall be binding upon the parties for a period of 2 years, unless amended during such period by written consent of the parties.

REPRESENTATIVES AND ELECTIONS

SEC. 9. (a) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

(6) Notwithstanding any other provision of this section, whenever a petition shall have been filed by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a majority of employees in a unit appropriate for the purposes of collective bargaining wish to be represented by an indi-

vidual or labor organization for such purposes, the Board shall investigate the petition. If the Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the Board shall not direct an election but shall certify the individual or labor organization as the representative described in subsection (a).

(7) The Board shall develop guidelines and procedures for the designation by employees of a bargaining representative in the manner described in paragraph (6). Such guidelines and procedures shall include—

(A) model collective bargaining authorization language that may be used for purposes of making the designations described in paragraph (6); and

(B) procedures to be used by the Board to establish the validity of signed authorizations designating bargaining representatives.

* * * * * * *

PREVENTION OF UNFAIR LABOR PRACTICES

SEC. 10. (a) * * *

* * * * * * *

(c) The testimony taken by such member, agent, or agency or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this Act: *Provided,* That where an order directs reinstatement of an employee, back pay may be required of the employer or labor organization, as the case may be, responsible for the discrimination suffered by him: [*And provided further,*] *Provided further, That if the Board finds that an employer has discriminated against an employee in violation of subsection (a)(3) of section 8 while employees of the employer were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract was entered into between the employer and the representative, the Board in such order shall award the employee back pay and, in addition, 2 times that amount as liquidated damages: Provided further,* That in determining whether a complaint shall issue alleging a violation of section 8(a)(1) or section 8(a)(2), and in deciding such cases, the same regulations and rules of decisions shall apply irrespective of whether or not the labor organization affected is affiliated with a labor organization national or international in scope. Such order

may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint. No order of the Board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the Board, or before an examiner or examiners thereof, such member, or such examiner or examiners, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the Board, and if no exceptions are filed within twenty days after service thereof upon such parties, or within such further period as the Board may authorize, such recommended order shall become the order of the Board and become effective as therein prescribed.

* * * * * * *

(l) [Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4)(A), (B), or (C) of section 8(b), or section 8(e) or section 8(b)(7), the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.] *(1) Whenever it is charged—*

(A) that any employer—

(i) discharged or otherwise discriminated against an employee in violation of subsection (a)(3) of section 8;

(ii) threatened to discharge or to otherwise discriminate against an employee in violation of subsection (a)(1) of section 8; or

(iii) engaged in any other unfair labor practice within the meaning of subsection (a)(1) that significantly interferes with, restrains, or coerces employees in the exercise of the rights guaranteed in section 7;

while employees of that employer were seeking representation by a labor organization or during the period after a labor organization was recognized as a representative defined in section 9(a) until the first collective bargaining contract is entered into between the employer and the representative; or

(B) that any person has engaged in an unfair labor practice within the meaning of subparagraph (A), (B) or (C) of section 8(b)(4), section 8(e), or section 8(b)(7);

the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.

(2) If, after such investigation, the officer or regional attorney to whom the matter may be referred has reasonable cause to believe such charge is true and that a complaint should issue, he shall, on behalf of the Board, petition any district court of the United States (including the United States District Court for the District of Columbia) within any district where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein such per-

son resides or transacts business, for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law: *Provided further,* That no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable and such temporary restaining order shall be effective for no longer than five days and will become void at the expiration of such period: *Provided further,* That such officer or regional attorney shall not apply for any restraining order under section 8(b)(7) if a charge against the employer under section 8(a)(2) has been filed and after the preliminary investigation, he has reasonable cause to believe that such charge is true and that a complaint should issue. Upon filing of any such petition other courts shall cause notice thereof to be served upon any person involved in the charge and such person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony: *Provided further,* That for the purposes of this subsection district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal office, or (2) in any district in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit. In situations where such relief is appropriate the procedure specified herein shall apply to charges with respect to section 8(b)(4)(D).

(m) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 *under circumstances not subject to section 10(l),* such charge shall be given priority over all other cases except cases of like character in the office where it is filed or to which it is referred and cases given priority under subsection (i).

* * * * * * *

SEC. 12. [Any] *(a) Any* person who shall willfully resist, prevent, impede, or interfere with any member of the Board or any of its agents or agencies in the performance of duties pursuant to this Act shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or both.

(b) Any employer who willfully or repeatedly commits any unfair labor practice within the meaning of subsections (a)(1) or (a)(3) of section 8 while employees of the employer are seeking representation by a labor organization or during the period after a labor organization has been recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract is entered into between the employer and the representative shall, in addition to any make-whole remedy ordered, be subject to a civil penalty of not to exceed $20,000 for each violation. In determining the amount of any penalty under this section, the Board shall consider the gravity of the unfair labor practice and the impact of the unfair

labor practice on the charging party, on other persons seeking to exercise rights guaranteed by this Act, or on the public interest.

* * * * * * *

MINORITY VIEWS

INTRODUCTION

The right to a private ballot is the cornerstone of our democracy. For centuries, Americans—regardless of race, creed, or gender—have fought for the right to vote, and the right to keep that vote to themselves. In the context of the question of whether employees wish to form and join a union, the right to vote on that question—free of harassment, coercion, or intimidation—and the right to have one's vote known only to oneself—not an employer, not a coworker, and not a union—has been among the most vital protections our federal labor law provides to workers.

H.R. 800, the deceptively-named "Employee Free Choice Act," would strip that right from every American worker. Moreover, the bill makes changes to federal labor law's scheme of penalties and remedies that are one-sided, unnecessary, and unprecedented. Finally, H.R. 800, for the first time in labor law's history, imposes a one-size-fits-all scheme of mandatory, binding interest arbitration with respect to initial contracts, on bargaining parties, again stripping American workers of the right to vote on the terms and conditions of their employment. For these reasons, we oppose this legislation.

THE "EMPLOYEE FREE CHOICE ACT"

H.R. 800 represents a three-pronged attack on worker rights, each prong of which should be rejected. Specifically, the bill:

Strips Workers of the Right to Private Ballot Elections. Current law protects employees from harassment, intimidation, and coercion, and ensures that their voices are heard on the vital question of whether to form and join a union, by providing for a federally-supervised private ballot election conducted and supervised with rigorous scrutiny by the National Labor Relations Board (the "NLRB" or the "Board"). Simply put, H.R. 800 would strip American workers of this right. Although bill supporters have attempted to dissemble and characterize mandatory "card check recognition" as something that has been in the law for 60 years, that is simply not the case. As noted in the Majority's own views, supra, H.R. 800 provides that if a union presents a majority of signed union authorization cards to the Board, the union must be certified, and the right of employees to a private ballot election is immediately and absolutely extinguished. This change in the law is unprecedented, unwise, and unsupportable.

Strips Workers of the Right to Vote on Their Collective Bargaining Agreement. H.R. 800, for the first time in the history of federal labor law, provides that if an employer and a union are unable to reach agreement on a first contract within 90 days, the Federal Mediation and Conciliation Service is provided 30 additional

days to do so. If the parties cannot reach agreement, the matter is removed entirely from the hands of the employer and the union and a federal arbitrator is charged to set the terms and conditions of employment for all covered employees for two years. Wholly missing from this equation is the voice of workers, and the ability of the men and women who will be forced to live with this contract for two years, to express their views. This provision rewards bad behavior, and allows parties to overpromise, posture, and bargain in bad faith, while devolving all responsibility for the outcome onto a federal bureaucrat. Employers lose, unions lose, but most importantly, workers lose.

Imposes One-Sided and Unwarranted Penalties on Employers, but Not Unions. Federal labor law embodied in the National Labor Relations Act ("NLRA" or the "Act") is a balanced system of rights, responsibilities, and penalties that mete out justice to employers and unions on a fair and level basis. H.R. 800's provisions regarding remedies would, for the first time, require the NLRB to seek mandatory injunctive relief, and impose triple backpay and civil penalties, on employers who violate specified sections of the NLRA. Wholly missing from the bill's proposal is any provision applying these same penalties to unions who violate the Act. Put more simply, under the bill, an employer who violates the rights of an employee faces harsh and immediate punishment, while unions who engage in exactly the same behavior are not. These provisions unfairly tip the balance of law in favor of one side, and should be rejected.

REPUBLICAN VIEWS

The right to a secret ballot is sacrosanct

Republican Members of the Committee could not be more clear or resolute on this point: the right to a federally-supervised private ballot election represents perhaps the greatest protection American workers are afforded under federal labor law. We cannot and will not support efforts to strip workers of this right. Nor, would it appear, do American workers want us to. They too recognize the importance of this right, and in overwhelming numbers reject efforts for it to be eliminated. A January 2007 polling[1] of likely voters in all fifty states makes their views on this clear:

- Almost 9 in 10 voters (87 percent) agree that "every worker should continue to have the right to a federally supervised secret ballot election when deciding whether to organize a union";
- Four in five voters (79 percent) oppose the Employee Free Choice Act;
- When asked to make a choice as to whether a worker's vote to organize a union should remain private or be public information, 9 in 10 voters (89 percent) say it should remain private; and
- Nine in ten voters (89 percent) believe having a federally-supervised secret ballot election is the best way to protect the

[1] Polling conducted by McLaughlin & Associates of Alexandria, Virginia, of 1,000 likely general election voters in the United States, January 28–31, 2007.

individual rights of workers. Only 6 percent think that the Employee Free Choice Act's card signing process is better.

The American public recognizes that the private ballot should be sacred, and that a federally-supervised private ballot election conducted by the NLRB is the best way to ensure that the rights of all workers are protected, and that the outcome reflects an employee's true sentiments with respect to the question of unionization. They are not alone. The Supreme Court, federal appeals courts, and the National Labor Relations Board itself each recognize that a federally-monitored private ballot election provides workers with the most protection, and is the only true way to ascertain whether a majority of workers support unionization:

> [A secret ballot election is the] "most satisfactory—indeed the preferred—method of ascertaining whether a union has majority support." Gissel Packing, 395 U.S. 395 U.S. 575, 602 (1969).
>
> [Card checks are] "admittedly inferior to the election process." Id.
>
> "[I]t is beyond dispute that secret election is a more accurate reflection of the employees' true desires than a check of authorization cards collected at the behest of a union organizer." *NLRB* v. *Flomatic Corp.*, 347 F.2d 74, 78 (2d Cir. 1965).
>
> "It would be difficult to imagine a more unreliable method of ascertaining the real wishes of employees than a 'card check,' unless it were an employer's request for an open show of hands." *NLRB* v. *S. S. Logan Packing Co.*, 386 F.2d 562,565 (4th Cir. 1967).
>
> "An election is the preferred method of determining the choice by employees of a collective bargaining representative." *United Services for the Handicapped* v. *NLRB*, 678 F.2d 661, 664 (6th Cir. 1982).
>
> "Workers sometimes sign union authorization cards not because they intend to vote for the union in the election but to avoid offending the person who asks them to sign, often a fellow worker, or simply to get the person off their back, since signing commits the worker to nothing (except that if enough workers sign, the employer may decide to recognize the union without an election)." *NLRB* v. *Village IX, Inc.*, 723 F.2d 1360, 1371 (7th Cir. 1983).
>
> "Freedom of choice is 'a matter at the very center of our national labor relations policy,' . . . and a secret election is the preferred method of gauging choice." *Avecor, Inc.* v. *NLRB*, 931 F.2d 924, 934 (D.C. Cir. 1991) (citations omitted).

Unions themselves appear to recognize the importance of the private ballot, and the critical protections they provide for worker rights—at least when the issue is a question of whether to decertify a union. The United Food and Commercial Workers were direct and succinct in their assertion that secret ballot elections run by the National Labor Relations Board are far superior to "card check" schemes:

> "Board elections are the preferred means of testing employees' support." Brief of United Food and Commercial Workers (UFCW), Levitz Furniture Co. of the Pacific, 333 NLRB 717, 725 (2001).

In the 109th Congress, former NLRB Member John Raudabaugh testified at length as to the superiority of the secret ballot election, its recognition by courts as the preferred means of testing employee support, and perhaps most important, the rigorous and scrupulous regulation of these elections by the federal labor board. As Mr. Raudabaugh explained,

> Under current law, employee designation or selection may be by a Board supervised secret-ballot election or by voluntary recognition based on polls, petitions, or union authorization cards. 29 U.S.C. δδ 159 (a), (c) (2004). *Of these various methods, the United States Supreme Court and the Board have long recognized that a Board conducted secret-ballot election is the most satisfactory, indeed preferred method of ascertaining employee support for a union.* (emphasis added).

Mr. Raudabaugh continued:

> As the Board announced in General Shoe Corp., 77 NLRB 124 (1948), "In election proceedings, it is the Board's function to provide a laboratory in which an experiment may be conducted, under conditions as nearly ideal as possible, to determine the uninhibited desires of the employees. . . .Conduct that creates an atmosphere which renders improbable a free choice will sometimes warrant invalidating an election, even though that conduct may not constitute an unfair labor practice. An election can serve its true purpose only if the surrounding conditions enable employees to register a free and untrammeled choice for or against a bargaining representative."
>
> The Board's "laboratory conditions" doctrine sets a considerably more restrictive standard for monitoring election related misconduct impairing free choice than the unfair labor practice prohibitions of interference, restraint and/or coercion. Over many years, the Board has developed specific rules and multi-factored tests to evaluate and rule on election objections. *In contrast, recognition based on methods other than a Board conducted secret-ballot election is without these "laboratory conditions" protections and unless the interfering conduct amounts to an unfair labor practice, there is no remedy for compromising employee free choice* (emphasis added; citations omitted).

Very few points of labor law are black and white. This is one of those few. Courts, agencies, experts, lawmakers, and most important, American workers, recognize that the secret ballot election process is the only way to ensure that workers are given true "choice" in determining whether to form and join a union. Again, in the very words of organized labor:

> [A representation election] "is a solemn . . . occasion, conducted under safeguards to voluntary choice," . . .

[Other means of decision-making] are "not comparable to the privacy and independence of the voting booth," and [the secret ballot] election system provides the surest means of avoiding decisions which are "the result of group pressures and not individual decision[s]." Joint Brief of the United Automobile, Aerospace, and Agricultural Implement Workers of America, the United Food and Commercial Workers, and the AFL–CIO, Chelsea Industries and Levitz Furniture Co. of the Pacific, Inc., Nos. 7–CA–36846, 7–CA–37016 and 20–CA–26596 (NLRB) at 13 (May 18, 1998) (citations omitted).

Finally, it bears note that some of the very same Members of Congress who support this bill have made clear their belief that the right to a secret ballot ought to be protected in other countries—but not here. No amount of contextualizing, pigeonholing, or explanation can deny the inconsistency in these Members arguments. As they wrote:

AUGUST 29, 2001.

Junta Local de Conciliacion y Arbitraje del Estado de Puebla,
Lic. Armando Poxqui Quintero, 7 Norte, Numero 1006 Altos,
Colonia Centro, Puebla, Mexico C.P.

DEAR MEMBERS OF THE JUNTA LOCAL DE CONCILIACION Y ARBITRAJE OF THE STATE OF PUEBLA: As members of Congress of the United States who are deeply concerned with international labor standards and the role of labor rights in international trade agreements, *we are writing to encourage you to use the secret ballot in all union recognition elections.*

We understand that the secret ballot is allowed for, but not required by, Mexican labor law. However, *we feel that the secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose.*

We respect Mexico as an important neighbor and trading partner, and we feel that *the increased use of the secret ballot in union recognition elections will help bring real democracy to the Mexican workplace.*

Sincerely,

George Miller, Marcy Kaptur, Bernard Sanders, William J. Coyne, Lane Evans, Bob Filner, Martin Olav Sabo, Barney Frank, Joe Baca, Zoe Lofgren, Dennis J. Kucinich, Calvin M. Dooley, Fortney Peter Stark, Barbara Lee, James P. McGovern, Lloyd Doggett.

(Emphasis added).

The Republican Members of the Committee could not say it better.

The One-Sided Penalty Provisions of the Bill Are Unjust and Unwarranted, and Its Mandatory Arbitration Provisions Further Strip Workers of Rights

Extended discussion of the other flaws in this bill is not necessary. As noted above, the bill's penalty provisions are, simply put, a one-sided swipe at only one side of the bargaining equation, namely, employers. Neither the bill nor its supporters attempt to

disguise this fact. Indeed, as detailed below, Committee Democrats unanimously opposed an effort to bring some fairness to this provision in rejecting an amendment that would have provided that the enhanced penalties contained in the bill would apply to union violations as well as employer violations of the Act. Under H.R. 800, if an employer engages in a variety of specified behavior, it is immediately subject to new and severe labor law penalties. A union engaging in exactly the same behavior is exempted. That's not fair, that's not right, and that's not good policy.

Nor do Republicans support the bill's effort to take away a worker's right to vote on his or her contract. As the Supreme Court has noted, the Act is founded on the notion that the parties, not the government, should determine the applicable terms and conditions of employment:

> The object of this Act was not to allow governmental regulation of the terms and conditions of employment, but rather to ensure that employer and their employees could work together to establish mutually satisfactory conditions. The basic theme of the Act was that through collective bargaining the passions, arguments, and struggles of prior years would be channeled into constructive, open discussions leading, it was hoped, to mutual agreement. But it was recognized from the beginning that agreement might in some cases be impossible, and *it was never intended that the Government would in such cases step in, become a party to the negotiations and impose its own views of a desirable settlement. H K. Porter* v. *NLRB*, 397 U.S. 99, 103–04 (1970) (emphasis added).

Current law embodies a delicate balance with respect to the parameters within which unions and employers negotiate the terms and conditions of employment for workers in a particular bargaining unit. H.R. 800 would dramatically upset that balance by imposing, via government fiat, mandatory binding arbitration—essentially rendering the collective bargaining process nearly useless.

As federal labor law expert and former NLRB Member Charles Cohen testified:

> [T]his interest arbitration requirement is unwise public policy. With respect to employees, it would parlay the taking away of a vote on representation with the taking away of a vote on ratification. This is because the contract mandated by the interest arbitrator renders moot employee endorsement. Likewise, it is the employer that must run the business, remain competitive, and pay the employees each week. The union has the opportunity to influence the employer's thinking by engaging in economic warfare. But, the actual agreement is forged in the crucible of what the business can sustain.

Testimony of Charles Cohen, Subcommittee on Health, Employment, Labor, and Pensions Hearing "Strengthening the Middle Class Through the Employee Free Choice Act" (February 8, 2007).

Apart from eliminating their right to vote with a secret ballot on the question of unionization, it is hard to imagine a more undemo-

cratic provision, or a rule that provides employees with less "choice."

For all of these reasons, we oppose this legislation.

COMMITTEE CONSIDERATION OF H.R. 800

In light of the significant problems in H.R. 800 discussed above, during the Committee's consideration of the legislation on February 14, 2007, Committee Republicans offered a series of amendments designed to protect the rights of workers and ensure that federal labor law remains fair, balanced, and equitable with respect to all parties. Despite the Majority's rhetorical flourishes about protecting the rights of workers, each of these amendments met with unanimous Democrat opposition.

The Committee's Senior Republican Member, Mr. McKeon, offered an amendment in the nature of a substitute which would have ensured that employees remain free of harassment, intimidation, or coercion by any party—union, employer, or co-worker—by affirmatively prohibiting the use of card check recognition, and providing that a union may only be recognized and certified after a secret ballot election conducted by the NLRB. The McKeon Amendment embodied the text of H.R. 866, the Secret Ballot Protection Act, sponsored by the late Honorable Charlie Norwood, who chaired the Education and Workforce Subcommittee on Workforce Protections in the 107th, 108th, and 109th Congresses. All Committee Democrats voted against this proposal.

Health, Education, Labor and Pensions Subcommittee Ranking Republican Mr. Kline offered an amendment that would have provided equity and fairness to the card check process by allowing employees who wish to decertify a union as their bargaining agent to do so by way of a card check decertification. All Committee Democrats voted against this proposal.

Dr. Boustany offered an amendment to ensure that workers are afforded the opportunity to sign cards free of harassment and coercion, and that they have a neutral party from whom to seek information, by requiring that an authorization card is not valid unless signed in the presence of an NLRB representative. All Committee Democrats voted against this proposal.

Mr. Davis of Tennessee offered an amendment to provide fairness and equity in H.R. 800's remedial scheme, by ensuring that the bill's new civil penalty provisions would apply equally to employers and unions who violate the National Labor Relations Act. All Committee Democrats voted against this proposal.

Mr. Walberg offered an amendment designed to ensure that workers—whose economic livelihood and survival bear the greatest risk when union leadership calls a strike—are able to choose for themselves whether to strike, by providing that a union may not commence strike unless its members voted on management's last, best contract offer. All Committee Democrats voted against this proposal.

In light of the evidence the Subcommittee heard at its hearing on February 8, 2007 on H.R. 800 from employees who had been badgered and harassed by union organizers, Ms. Foxx offered an amendment to ensure that workers are free of intimidation, harassment, and coercion by allowing workers to notify a union that they

did not wish to be contacted in connection with a recognition drive and requiring the union to honor the worker's request. All Committee Democrats voted against this proposal.

At that same hearing, the Subcommittee also heard testimony that union organizers are routinely trained to ignore requests from employees to return signed authorization cards, despite employees' requests to do so, and that thereafter unions use these cards to seek recognition as a bargaining representative of these employees. See Testimony of Jennifer Jason, Subcommittee on Health, Employment, Labor, and Pensions Hearing "Strengthening the Middle Class Through the Employee Free Choice Act" (February 8, 2007) ("I know many workers who later, upon reflection, knew that they had been manipulated and asked for their card to be returned to them. The union's strategy, of course, was never to return or destroy such cards, but to include them in the official count towards the majority. This is why it is imperative that workers have the time and the space to make a reasoned decision based on the facts and their true feelings."). In light of this testimony, Dr. Price offered an amendment which would have made it an unfair labor practice for a union to fail to return a signed authorization card within five days of an employee's request, and prohibited the union from using them to establish a card check majority or for any other purpose. All Committee Democrats voted against the proposal.

Over the years, the Committee has heard ample testimony as to the union practice of "salting" a workforce. To ensure that newly-hired union organizers who have no interest in the long-term well-being of a company and no vested interest in their employment could not bind their bona fide coworkers to union representation, Mr. Ehlers offered an amendment to protect the right of bona fide workers. The Ehlers Amendment would simply have provided that a worker be employed with a company for 180 days before being eligible to sign a union authorization card. All Committee Democrats voted against this proposal.

To ensure that the safety and well-being of all workers are protected from the very real threat of union violence, Mr. Wilson of South Carolina offered an amendment that would have enhanced the NLRB's authority with respect to union organizers and labor organizations engaged in or encouraging violent and dangerous behavior, prohibited the NLRB from ordering reinstatement of an organizer or employee who has engaged or is engaging in union violence, and required the NLRB to decertify any union found to engage in or encourage the use of violence. All Committee Democrats voted against this proposal.

To protect the right of all workers to be protected from forced unionism, Mr. Wilson also offered an amendment which would have ensured that no employee can be forced to join a union or pay union dues or agency fees. This legislation, based on the National Right to Work Act that Mr. Wilson of South Carolina has previously sponsored, simply amends the National Labor Relations Act to prohibit the use of "union security agreements" and provide that employees may not be required to use their hard-earned pay to pay union dues, simply as a condition of keeping their job. All Committee Democrats voted against this proposal.

To address one of the widest-spread problems facing the United States—the flagrant violation of its immigration laws, and the massive and growing crisis of illegal immigration, Mr. Marchant offered an amendment that would have simply required that to be considered valid by the Board, a signed authorization card be accompanied by an attestation (supported by documentary evidence) that the employee was, in fact, a legal resident of the United States. Notably, the Marchant Amendment would have required no more of unions than is already required of employers under federal immigration law, and simply would have insured that illegal aliens are not given the right to dictate the terms and conditions of legal coworkers. All Committee Democrats voted against this proposal.

Mr. Kline offered an amendment recognizing the special and sovereign nature of our nation's Indian tribes, which would have provided that the card check provisions contained in H.R. 800 could not be used to organize employees working for businesses owned by Indian tribes and operating on their tribal lands. The Kline Amendment would have simply provided that much in the way federal labor law does not mandate "card check" agreements for sovereign state and local governments, it should not do so for sovereign Indian tribes. All Committee Democrats voted against this proposal.

Finally, recognizing the wholesale and unprecedented change to federal labor law embodied in H.R. 800's provisions mandating binding first-contract interest arbitration, Mrs. Biggert offered an amendment to strike that section of the bill. The Biggert Amendment would have at least ensured that while employees may be stripped of a right to vote on whether to unionize via H.R. 800's "card check" provisions, their right to vote on a collective bargaining agreement governing the terms and conditions of their employment could not be taken away. All Committee Democrats opposed this proposal.

Given the irremediable flaws in this politically-motivated legislation, Committee Republicans were unanimous in opposing this bill, and voting against reporting this measure to the full House of Representatives.

CONCLUSION

Despite its contortionist title, the so-called "Employee Free Choice Act" represents an egregious and frontal assault on worker rights, the likes of which have not come before the Committee in more than a decade. The bill would strip American workers of their right to vote their conscience on the question of unionization in a federally-supervised private ballot election. Instead, the bill is an open invitation to subject workers to intimidation, harassment, and deception until they "sign the card." The bill's provisions increasing damages, penalties, and remedies are unwarranted and one-sided, and unfairly tip the balance of labor law in the direction of one party. Finally, H.R. 800's mandatory, binding arbitration provisions would strip workers of the right to vote on the terms of a collective bargaining agreement, and would serve only to foster more over-promising and misleading claims, with even less fear of repercussion.

H.R. 800 represents the worst sort of legislation, and we respectfully oppose it.

HOWARD P. MCKEON.
TOM PETRI.
PETER HOEKSTRA.
MIKE CASTLE.
MARK SOUDER.
VERNON J. EHLERS.
TODD R. PLATTS.
RIC KELLER.
JOE WILSON.
JOHN KLINE.
CATHY MCMORRIS RODGERS.
K. MARCHANT.
TOM PRICE.
LUIS FORTUÑO.
C. W. BOUSTANY, Jr.
VIRGINIA FOXX.
ROB BISHOP.
DAVID DAVIS.
TIM WALBERG.

○

THE FACTS

What the Freedom to Join Unions Means to America's Workers and the Middle Class

AMERICA CANNOT BE A SUCCESSFUL LOW-WAGE CONSUMER SOCIETY. The Bush administration tried to make up for stagnant wages with consumer debt—a choice that has proven disastrous. Our country needs more money to go to America's workers and less to Wall Street speculators and CEOs. That is why a key element of our nation's economic recovery must be to restore workers' freedom to form unions, speak for themselves and negotiate a fair share of the wealth they create. Rising income, not more debt, is the only way out of the economic crisis.

America became the greatest middle class society in the world when our country respected workers' fundamental human right to represent themselves and bargain for better wages and benefits. Through bargaining, workers transform bad, dead-end jobs into living-wage jobs with opportunities for training and upgrading.[1] The long-term decline in collective bargaining coverage is a significant cause not only of wage stagnation but also of the nation's health care and retirement income security crises—crises that grow worse by the day.[2]

But the law that protects workers' freedom to bargain has been perverted. Companies routinely fire workers who stand up for themselves. Workers who want to form unions are threatened with plant closings, interrogated, offered bribes, spied on and intimidated.[3] The result? Only 8 percent of private-sector workers actually belong to unions, even though independent surveys by a leading national survey firm show that 58 percent of U.S. workers say they want a union in their workplace—the highest percentage in 25 years.[4]

Denying Americans the freedom to form unions at their place of work is not just unfair, it is destructive economic policy. Taking away workers' rights on the job has hurt the American middle class, increased economic inequality and destabilized our economy.[5] With deunionization, we have set off a long-term downward spiral of lower wages

ATTACHMENT 2

and fewer benefits. Pockets of workers with good jobs try to hold on to a middle class standard of living, even as more and more people suffer lower wages, less health care and no retirement security. As companies fight to cut costs, consumer demand falls, breeding recession and instability.

Over the past 35 years, workers' productivity has risen by more than 75 percent, but inflation-adjusted wages of America's workers—as published by the President's Council of Economic Advisors—are lower than in 1973.[6] The reality today for America's workers is:

1. Stagnant wages and rising economic inequality.
2. Pessimism and deepening worker dissatisfaction with their economic prospects.[7]

A multitude of published studies by respected and prominent economists have found that when workers have the right to come together and form unions, their lives improve and the larger economy is healthier: Productivity rises, product and service quality improves, economic inequality is reduced and wages are boosted substantially for all workers—but especially for low-wage workers and workers of color.[8] Unions and collective bargaining have been especially important in giving workers access to health insurance and defined-benefit pensions.[9]

During the 1950s and 1960s, when America's economy grew at the fastest rate since World War II, the percentage of workers who had unions was at its highest point in U.S. history. Conversely, on the eve of the worst economic crisis of the 20th century, the Great Depression, union membership had been declining for more than a decade, just as it is today.[10] The times in our history when workers have been able to come together to speak for themselves in the workplace have been times of rising real wages, economic and financial stability, rising health care coverage, rising pension coverage and rising productivity. But when workers' rights are repressed, the American economy produces gross inequality and financial instability.

Some responsible and profitable major corporations have adopted majority sign-up as standard practice and an important element of their corporations' successful high-road business plans. The result for companies like AT&T and Kaiser Permanente has been workplaces with better labor-management relations, less tension, more respect for employees and a positive impact on employee morale.[11]

Of course, there are employers that want America to be a low-wage economy. The U.S. Chamber of Commerce has issued white papers attacking workers' freedom to organize, relying on writings by a handful of far right-wing economists.[12]

What the Chamber doesn't want policymakers to know is that union membership is the route out of poverty for workers in low-wage occupations. For example, union cashiers earn 30 percent more than nonunion cashiers, union dining room and cafeteria attendants earn 49 percent more than nonunion dining room and cafeteria attendants, and union janitors earn 31 percent more than nonunion janitors.[13]

Today, states with the highest union density enjoy higher wages, higher family incomes, lower poverty rates and smaller percentages of people without health insurance than states with the lowest union density.[14]

When workers can form unions, rising wages set off a positive, upward cycle. States with the highest union density spend more per pupil on public education; pay teachers higher salaries; have more doctors per capita, lower infant mortality and lower death rates; have a lower incidence of workplace fatalities; and have better worker safety net programs such as unemployment insurance and workers' compensation than states with the lowest union density.[15] Unions not only improve the quality of worker protection programs at state and federal levels—they inform and educate workers about these programs and help them gain access to their benefits and protections.[16]

Unions also have a large positive impact on civic participation by America's workers.[17] It comes as no surprise that the states with the highest union density have higher voter participation rates than states with the lowest union density.[18]

Unions and collective bargaining are vital not only in the workplace but also in society at large. Half a century ago, the groundbreaking economist John Kenneth Galbraith identified unions as a vital source of countervailing power in an economy dominated by large corporations. That remains true today.

The Employee Free Choice Act is part of a strategy for American economic revival—for a high-wage, high-skill economy. Increasing incomes and respecting workers' rights on the job must be a central part of that strategy.

What is the plan proposed by the anti-worker voices in the business community? More consumer debt? More subprime mortgages? More jobs without pensions and health care? A vain effort to compete with low-wage countries by cutting our standard of living to their levels for all but the wealthiest Americans?

America deserves better than economic inequality and economic decline. That's why America needs to restore the freedom for all of its workers to bargain for a better life by passing the Employee Free Choice Act.

Endnotes

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[5]Annette Bernhardt, et. al (eds.), *The Gloves Off Economy: Workplace Standards at the Bottom of America's Labor Market*, Cornell Press, 2008 LERA research volume.

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[7]87 percent of Americans say they are dissatisfied with the economic situation in the country today, and 91 percent report negative personal feelings about the economic situation for people like them. Peter D. Hart Research Associates, December 2008. According to 2008 national election exit polling, voters are deeply unhappy with their economic situation. Just 1 percent rate economic conditions as excellent, 6 percent say they are good, 44 percent say economic conditions are not so good and 49 percent say they are poor, http://www.cnn.com/ELECTION/2008/results/polls/#val=USP00p5

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[11]Adrienne E. Eaton and Jill Kriesky, *"No More Stacked Deck: Evaluating the Case Against Card Check," Perspectives on Work,* Volume 7, No. 1; June 2003.

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EDWIN D. HILL
International President

LINDELL K. LEE
International Secretary-Treasurer

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS®

The Senate
Twenty-Fifth Legislature
Regular Session of 2009

Committee on Judiciary and Government Operations

Senator, Brian T. Taniguchi, Chair
Senator, Dwight Y. Takamine, Vice Chair

Hearing: Tuesday February 26, 2009
Time: 9:00 a.m.
Place: Conference Room 016

Testimony of the International Brotherhood of Electrical Workers (IBEW)

Re: S.B 1621, SD1, Relating To Collective Bargaining

The current process under the NLRB for ensuring and protecting workers rights and freedom to form and join a union is badly broken and altogether useless for ensuring fairness and democracy.

I know that it's easy for me to identify with worker's difficult plight in unionizing because I see it and live it everyday. All of us in the labor movement regularly witness the horror and tragedy that these workers and their families face in attempting to unionize. This is why we are so passionate on this issue. If you haven't personally experienced what these workers must go through, it might be hard for you to comprehend why S.B 1621, SD1 is truly necessary.

So, allow me to attempt to frame it for you in such a way that will help you better understand and identify with the almost impossible obstacles workers face in forming a union.

All of you are elected and thus familiar with the process of elections and campaigning. But, I want to now share with you what the experience would be like if the current NLRB process was applied to your election.

- First off, you would always be considered the challenger and your opponent would always be the incumbent.

- Your opponent would not have to face election until you collected signed cards from 30% of the total people living in your district saying that they want an election. However, this is made even more difficult because you wouldn't be allowed in the district to get the cards signed.

- If you were some how able to get the necessary cards signed and force an election, you would have to do all your campaigning from outside your district, because neither you nor your aides would be allowed in the district.

-Your opponent would have unlimited TV time, including several hours a day of compulsory viewing time while you would be restricted to secret door to door canvassing.

- Your opponent could encourage everyone to wear his shirts and buttons and retaliate against those wearing your shirts and buttons.

- Your supporters would have to risk losing their jobs. Your opponent could fire one of your supporters in every precinct to send voters a message.

- Your opponent could prohibit your supporters from going to rallies to state their views.

- Should your opponent or his aides get caught threatening your supporters, they would only have to sign and post a letter, after the election, saying they won't do it again.

- Only your opponent would have access to the voters list.

- Your opponent could easily delay the election if he thinks that he'll do better later.

- The election would be held in your opponent's headquarters and voters would have to file by your opponents supporters as they vote.

- And, after all that, if you were miraculously still able to win, you wouldn't be able to take office because it would take years of litigation to enforce the election results.

Just imagine what it would be like and how difficult, if not impossible, for you to succeed.

No one would consider such an election process as this fair, just or democratic. Yet, this is exactly the process that workers must endure in order to gain union representation and recognition.

You can and should help change this ludicrous process by supporting S.B 1621, SD1.

Send a strong and clear message to those in this state, across the country and around the world that we as a state, value our people and will insist that they be treated with all fairness, dignity and respect in an environment clear from intimidation and harassment and will ensure that their right and freedom to join a union is truly protected.....This is the real democratic thing to do.

Thank you for the opportunity to provide testimony.

Harold J. Dias, Jr
International Representative
IBEW

International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

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TELEPHONE (808) 847-5341 • FAX (808) 847-2224

TESTIMONY SUPPORTING SB1621 SD1 RELATING TO COLLECTIVE BARGAINING

TO: **SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS (VIA FAX 586-6659, c/o Senate Sergeant-At-Arms Office)**

For Hearing on Thursday, February 26, 2009, at 9:00 a.m., in Room 016

RE: SUPPORT FOR SB1621 SD1

Honorable Chair Taniguchi, Vice Chair Takamine, and Senate Committee Members,

My name is **Peter Akamu**, and I am the President of the International Brotherhood of Electrical Workers Local Union 1186 representing over 3,500 members of the electrical construction, telecommunication, Oceanic Cable. Our members include civil service employees at Pearl Harbor Shipyard, Kaneohe Marine Base and Hickam. IBEW Local 1186 also represents over 120 signatory electrical contractors that perform most of the electrical work in Hawaii.

SB1621 SD1 has been drafted to fix the problems and difficulties faced by workers who are regularly pressured by their employers against voting to join a union. This bill will set a level playing field and allow workers to decide fairly on union representation without threats and delays from their employers, who often take advantage of their employees due to their unequal power relationship.

Thank you for providing me with this opportunity to testify in strong support for SB1621 SD1.

Mahalo and aloha,

Peter Akamu
President
International Brotherhood of
Electrical Workers, Local Union 1186

UNITE HERE!
LOCAL 5 HAWAII

Eric Gill, Financial Secretary-Treasurer *Hernando Ramos Tan, President* *Godfrey Maeshiro, Senior Vice-President*

Wednesday, February 25, 2009

The Honorable Brian Taniguchi, Chair
and Members
Hawaii State Legislature
Committee on Judiciary & Government Operations
State Capitol
415 S. Beretania Street

Re: SB 1621, SD 1; *relating to Collective Bargaining*

Chair Taniguchi, Vice-Chair Takamine, and members of the Senate Committee on Judiciary & Government Operations:

On behalf of UNITE HERE! Local 5 – a local labor organization representing more than 11,000 hotel and health care workers throughout our State, I appreciate the opportunity to provide testimony supporting the intent of Senate Bill 1621, SD 1.

As an organization of workers, our collective experiences have informed our strong belief that the preservation of worker rights must first begin with the removal of barriers that would in any way delay an individuals ability to enjoy those very rights. We firmly believe that the intent of SB 1621, SD 1 rightfully upholds workers' fundamental human rights to organize by correctly endorsing the process of "majority sign-up." Unlike the current process in place, "majority sign-up" duly recognizes and promotes workers' rights to organize for the purposes of collective bargaining.

Thank you for the opportunity to testify.

Sincerely,

Cade M. Watanabe
Community/Political Organizer

1050 Queen Street, Suite 100 • Honolulu, Hawaii • 96814-4130 • Phone (808) 941-2141 • Fax (808) 941-2166 • www.unitehere5.org

The Senate
The Twenty-Fifth Legislature, State of Hawaii
Regular Session of 2009

Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Thursday, February 26, 2009, 9:00 a.m.
Conference Room 016, State Capitol

Re: S.B. 1621 SD1 Relating to Collective Bargaining

The Screen Actors Guild Hawaii Branch strongly supports the purpose and intent of S.B. 1621 SD1 and the proposed amendments to Chapter 377, HRS (The Hawaii Employment Relations Act). Presently, an employer does not have to recognize majority sign-up and can insist on a secret ballot election, resulting in numerous delays, threats, coercion and any other tactics to ensure union organizing drives fail. In fact, nationwide, over 86,000 workers have been fired over the past eight years for trying to unionize.

According to Kate Bronfenbrenner from Cornell University, "employers fire workers in a quarter of all campaigns, threaten workers with plant closings or outsourcing in half and employ mandatory one-on-one meetings where workers are threatened with job loss in two-thirds." Undeniably, employees are fearful of losing their jobs and therefore, vote no when the election finally occurs. This type of coercion needs to stop, and the employee free choice act can help prevent these horrible tactics from occurring.

Furthermore, opponents contend the employee free choice act would take away the sanctity of the secret ballot and as a result oppose the bill. However, opponents should try and compare a union election to a political election. In a political election, candidates have equal access to the voters, whereas in a union election, the employers have access to the employees while the union does not. This is not fair and an unfair disadvantage to unions.

In addition, the suggested additions to Chapter 377, HRS will prevent efforts by employers to stall negotiations indefinitely. The parties are required to make every reasonable effort to conclude and sign a collective bargaining agreement. If the parties are not successful after ninety days of negotiations, either party can request conciliation through the Hawaii Labor Relations Board. This will help thwart the numerous delays that employers use.

It is time to give the working class a break. The economy is nearing depression levels, unemployment numbers are up and each month more and more of our working class struggle to stay in their homes. Meanwhile, CEO's, executives, and others continue to receive multi-million dollar bonuses while the working class is laid off and or their pay continues to decrease. It is time to pass the employee free choice act and level the playing field once and for all. It is the working class that will revitalize our economy and get us out of this economic crisis we are currently in. Passage of the employee free choice act is a step in the right direction.

Thank you for the opportunity to testify in support of S.B.1621 SD1.

Glenn Cannon, President and Brenda Ching, Executive Director

SCREEN ACTORS GUILD
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Branch of Associated Actors and Artistes of America / AFL-CIO • Affiliate of International Federation of Actors

The Chamber of Commerce of Hawaii
The Voice of Business in Hawaii

Testimony to the Senate Committee on Judiciary and Government Operations
Thursday, February 26, 2009
9:00 a.m.
State Capitol - Conference Room 016

RE: SENATE BILL NO. 1621 SD1 RELATING TO LABOR

Chair Taniguchi, Vice Chair Takamine, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's strong opposition to Senate Bill No. 1621 SD1, relating to Collective Bargaining. This measure will hurt Hawaii's fledgling agricultural industry and small businesses at a time when Hawaii strives to become more sustainable.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This bill allows certification of certain employees or employee groups by signed authorization from the employee; requires collective bargaining to begin upon union certification; sets certain deadlines for initial collective bargaining agreement procedures and conciliation of disputes; sets civil penalty for unfair labor practices; extends certain authorities to labor organizations representing employees for collective bargaining; and allows labor disputes to be defenses against prosecution for certain violations of law. This bill is also known as the "card check" bill.

Under current law, the decision of whether or not to form a union is usually left to the workers — through a secret ballot election. That means that workers can choose — in private — whether they want to join a union. But in such an election, workers might not vote the "right" way.

Under Card Check, paid union organizers could unfairly pressure workers to publicly sign a card stating that they support the union.

Just as unconstructive, the Card Check bill includes a "binding arbitration" provision that mandates arbitrators dictate wages and benefits under a union contract, and then deprive workers of the chance to vote on that contract. This expansion of government power is almost like reestablishing wage and price controls in our economy, and could put many employers out of business. We cannot afford this type of legislation, especially as Hawaii weathers this economic storm.

Furthermore, at a time when the state is trying to become more self-sufficient for food and produce this legislation is counter productive. Moreover, more of us are shopping at discount stores and cutting coupons due to the rising costs. There has been a 7.5 percent jump in the price

of food consumed at home over the past 12 months. Prices for all foods and beverages are up an average of 5.9 percent. (Oct. 3, 2008 Gannett News Service).

The simple fact is that unionization would increase the cost of locally produced food, impair the growth and survival of Hawaii's shrinking agricultural industry and block new efforts to grow food locally.[1]

After decades of decline, unions have now turned to the Legislature to help them recover what is the natural progression of progressive management.

The pending Legislation will impose fast track unionization on all Hawaii agricultural operations and very small businesses[2] and non-profits not subject to the National Labor Relations Act, as well as submit their business assets and operational procedures to the dictates of a government appointed arbitrator. That is not right nor fair, and we ask that in these difficult economic times further costs not be imposed on Hawaii's businesses, particularly those affected by the proposed legislation.

To summarize, the following are key points as to why The Chamber of Commerce of Hawaii is strongly opposed to SB 1621, the "Card Check" bill.

- The heart of the current representation framework lies with the secret ballot. The bill would effectively disenfranchise thousands of Hawaii employees overnight, while we are simultaneously fighting for more democracy in the representation process overseas.

- There are rarely any "secrets" in connection with card-signing campaigns. Employees can easily be intimidated to sign a card to avoid confrontation with a union organizer. Employees cannot be expected to make a reasoned choice if they have heard only one side of the issue. The proposed legislation offers no safeguards for collateral investigation into signature authenticity, fraud, revocation and coercion.

- There is no corresponding provision extending card check to the decertification process. If it is fair for unions to win representation rights in this fashion, it's fair for them to lose those rights the same way.

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[1] Unionization can affect cost of production through increases in compensation, through shifts in technologies, and through deviations from the least-cost combination of inputs. Working Paper 8701 "Unionization And Cost Of Production: Compensation,Productivity, And Factor-Use Effects by Randall W. Eberts and Joe A. Stone, (Working papers of the Federal Reserve Bank of Cleveland January 1987). Union work rules and employment restrictions have the primary effect of distortions from the least-cost combination of inputs, or in other words, labor unions increase firms' costs of equity by decreasing their operating flexibility. "Labor Unions, Operating Flexibility, and the Cost of Equity", Huafeng (Jason) Chen, Marcin Kacperczyk, and Hernán Ortiz-Molina (May 2008).

[2] The NLRB's current jurisdictional limit for retailers is $500,000.00. Hawaii's law is going to affect a large number of small businesses.

- There is little if any evidence to suggest that the current framework is broken to begin with. The Canadian model on which this kind of legislation is based has been a failure in its own country. In response, a majority of Canadian provinces have shifted back to a secret ballot model over the past twenty years. Half of the Provinces that retain card check require a supermajority of cards prior to certification.

- This represents the first occasion in peace-time history that our State government would convey authority to a third party to essentially decide what a private sector employer must provide in terms of wages and benefits, free from the checks and balances of unit ratification.

- Dictated terms of an initial agreement give rise to the likelihood of decreased stability, as employers seek to recoup losses during renewal bargaining, only to be met with increased strike probability.

- There is a dearth of any legislative guidance pertaining to the proposed arbitration process, the method for choosing an appropriate arbitrator, and the manner for challenging any rendered decision.

- The arbitrary deadline for imposing interest arbitration is unreasonable in light of numerous surveys establishing the average length of first-contract negotiations.

- This is a time when local establishments need the flexibility with their business plans to adjust to the current economic climate. This measure will be counter-productive in the effort to stay afloat and save jobs.

- This measure unfairly removes private property rights if the union wants to trespass and picket.

- The provision that requires the Federal Mediation and Conciliation Service (FMCS) to order anyone to arbitration is probably unenforceable. We do not believe the State has the power to order a federal agency to act in any manner.

- Finally, the measure does an injustice to working men and women who are mislead or lied to by creating legal immunity for unions in actions relating to collective bargaining. No other group in our State has obtained legal immunity for their wrongful actions that harm others.

It is simply the wrong time for such legislation to be imposed on Hawaii. It would be wiser to await legislation on the federal level to evolve so that Hawaii's system would at least resemble the process used on the national level and benefit from the greater time and effort and developing a workable model that protects the rights of workers and employers alike.

Thus, The Chamber respectfully requests SB 1621 SD1 be held.

Thank you for the opportunity to testify.

KAUA'I Chamber of Commerce

February 25, 2009
To: Fax: 1-800-586-6659
Testimony for Hearing on Thursday, February 26, 2009, 9:00 a.m., room 016

Honorable Senator Dwight Takamine, Chair, Senate Committee on Judiciary & Government Operations & Senators Robert Bunda, Mike Gabbard, Clarence K. Nishihira and Sam Slom
RE: SB1621 SD1 relating to Collective Bargaining

Aloha! My name is Randall Francisco and I am President of the Kauai Chamber of Commerce which represents 460 Kauai business members and consists of approximately 87% small businesses who reflect the island's business community. Of the chamber's membership, approximately, 8000 individuals are employees who are from the construction and tourism sectors to agriculture, retail and defense industries, to name a few.

On behalf of the Kauai Chamber of Commerce, **I am writing to express the member's opposition of this bill for the following reasons:**

- Includes provisions that unfairly disadvantages workers and employers covered by Hawaii Labor Relations Act;
- Eliminates private property rights if the union wants to trespass and picket;
- Creates legal immunity for labor organizations in actions relating to collective bargaining;
- If the organization (business) misleads employees and thereby causes them harm, there is no recourse, and,
- The right for an employee or any minority group of employees in any collective bargaining unit to present grievances to their employer is removed.
- Furthermore, while the bill applies to a limited number of entities, we continue to oppose these measures because it violates the fundamental right for a person to vote in private;
- Will probably be the first in the nation and provide momentum for the federal bill, which will impact a majority of employers, hurt Hawaii's fledgling agricultural industry at a time when Hawaii is becoming more sustainable, and small businesses; will prevent flexibility with a business plans to adjust to the current economic climate and, will be counter-productive in the effort to stay afloat and save jobs.

Should I be of any assistance, please do not hesitate to contact me directly at 245-7363 or email at randall@kauaichamber.org. Aloha.

Sincerely yours,

Randall Francisco
President

The mission of the Kauai Chamber of Commerce founded in 1913 is:
"To promote, develop and improve commerce, quality growth, and economic stability in the County of Kaua'i"

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
GENTRY PACIFIC DESIGN CENTER, STE. 215A • 560 N. NIMITZ HIGHWAY, #50 • HONOLULU, HAWAII 96817
(808) 524-2249 • FAX (808) 524-6893

February 26, 2009

Honorable Senator Brian T. Taniguchi, Chair
Honorable Senator Dwight Y. Takamine, Vice Chair
Members of the Senate Committee on Judiciary and Government Operations
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: **IN SUPPORT OF SB 1621, SD1**
Relating to Collective Bargaining
Hearing: Thursday, February 26th, 2009, 9:00 a.m., Room 016

Dear Chair Taniguchi, Vice Chair Takamine and the Senate Committee on Judiciary and Government Operations:

For the Record my name is Buzz Hong the Executive Director for the Hawaii Building & Construction Trades Council, AFL-CIO. Our Council is comprised of 16-construction unions and a membership of 26,000 statewide.

The Council SUPPORTS the passage of SB 1621, SD1 which allows union certification of certain employees or employee groups by signed authorization from the employee; requires collective bargaining to begin upon union certification; sets certain deadlines for initial collective bargaining agreement procedures and conciliation of disputes; sets civil penalty for unfair labor practices; extends certain authorities to labor organizations representing employees for collective bargaining; allows labor disputes to be defenses against prosecution for certain violations of law.

Thank you for the opportunity to submit this testimony in support of SB 1621, SD1.

Sincerely,

W. Hong

William "Buzz" Hong
Executive Director

Senator Dwight Takamine, Chair
Senator Brian Taniguchi, Vice Chair
Committee on Labor

HEARING Tuesday, February 17, 2009
2:45 pm
Conference Room 224
State Capitol, Honolulu, Hawaii 96813

RE: **SB1621 Relating to Collective Bargaining**

Chair Takamine, Vice Chair Taniguchi, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH strongly opposes SB1621, which allows union certification of certain employees or employee groups by signed authorization from the employee; requires collective bargaining to begin upon union certification; sets certain deadlines for initial collective bargaining agreement procedures and conciliation of disputes; sets civil penalty for unfair labor practices; extends certain authorities to labor organizations representing employees for collective bargaining; and allows labor disputes to be defenses against prosecution for certain violations of law.

Already in place are federal and state laws that recognize employees' rights to organize and therefore provide necessary guidelines to facilitate and support that process. An integral provision of these processes is protection for an employee's right to freely choose to decide whether or not join a union. SB1621eliminates an individual's fundamental right to a secret ballot election and opens the door to the possibility of undue pressure and coercion.

Of great concern is that SB1621 would take wage and benefit negotiations away from employees and employers and place the responsibility under the purview of arbitrators with little or no prior knowledge of the business or the industry to make prudent decisions. Their rulings would then be binding for two years.

While we recognize the rights of workers guaranteed by the NLRA, namely, the right to "engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection," we are extremely concerned with §380 – Defense for protected activity in a labor dispute. Allowing such activities within the confines of a shopping mall or shopping center would undoubtedly have negative impact on innocent businesses and consumers. Companies are in close proximity to each other; oftentimes, entrances are but a mere ten to twelve feet apart. Allowing picketing at these entrances could easily impact the right of way of consumers and create an unfair disturbance to a business where there is not dispute. Additionally, the gathering of a group of picketing employees will likely create a confusing and dangerous situation for the unsuspecting public in a crowded mall. All businesses within a mall or shopping center are required to comply with the provisions of their lease agreement with the owner/manager of that mall; particularly there are strict restrictions governing the common areas accessible to the general public. Such activities would put the employer in violation of his lease and subject him to fines or other consequences that could result in his expulsion from that mall or shopping center. In this case, everyone loses.

Our businesses work diligently with their employees to address day-to-day concerns and to build camaraderie and career satisfaction. Passage of this measure would place a union representative between employers and employees thus destroying the framework by which these businesses have operated successfully for many years.

We respectfully urge you to hold SB1621. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202

Associated Builders and Contractors, Inc.

Hawaii Chapter

Senate Committee on Judiciary and Government Operations
Thursday, February 26th, 2009
Room 016

OPPOSITION TO

Senate Bill 1621 S.D. 1--Relating to Collective Bargaining

Chair and Members of the Committee:

I am Karl Borgstrom, President of Associated Builders and Contractors Hawaii, a company-based organization of construction contractors, service providers, and suppliers dedicated to the free enterprise approach to construction contracting and the rights of construction employees to freely choose whether or not and by whom to be represented in a labor negotiation.

Associated Builders and Contractors Hawaii strongly OPPOSES Senate Bill 1621 S.D. 1 for the following reasons:

1. The proposal to use an arbitration panel to render a binding settlement in a dispute in a collective bargaining process would act as a disincentive to the full and fair commitment of the parties to achieve agreement through that process, thereby defeating its intent.
2. The granting of the privilege of virtual immunity to any collective bargaining organization from public or legal scrutiny of its actions runs counter to accepted practice in the Sarbanes-Oxley era, in which corporate, non-profit, and government organizations and agencies are being held to higher standards of transparency in their operations as a matter of public policy. **It is sheer irony that this legislation would grant total secrecy to a union organization while at the same time depriving workers of their right to a secret ballot in the choice of a collective bargaining representative!**

   The bill exempts an official or organization engaged in union organizing activity from any and all charges of criminal conduct, effectively putting their actions "above the law," and gives them immunity from civil claims, including those that may be brought against them by union member employees or signatory companies.

3. As with other "card check legislation," SB 1621 S.D. 1 mandates a shortcut to the labor union certification process to facilitate labor union organizing for virtually all workers in Hawaii not currently covered under the provisions of the National

Labor Relations Act; this would include those employed by for-profit and non-profit small businesses that fall in size below the NLRA threshold, and other workers not within the purview of the NLRB. (In our own organization, approximately 30-40% of the members of ABC Hawaii would likely be impacted by SB 1621 S.D. 1) In effect, **this bill selects out these workers and denies them the right, granted to employees of larger enterprises and other NLRA-covered activities, to vote by secret ballot in choosing whether or not to be represented by a collective bargaining agent. In so doing, the bill precludes the application of one of our most fundamental of democratic principles.** In its place would be a petition or "card check" system that would allow a simple majority of signers in an employee group to "certify" a bargaining representative when there are no other competing individuals or labor organizations seeking to represent employees.

The rationale sounds simple enough--why bother to hold an election when there is no competition? This ignores the fact that the petitioning process may, and will likely, occur without the employer being aware of it; employees may never hear the employer's position or be allowed to consider whether or not they want to be represented by a union at all. This is a choice a worker will only be able to express by refusing to sign the petition. There is no place to vote "No" in a petition or "card check" process, but the possibilities for manipulation and abuse of employee rights are manifestly obvious. Lacking confidentiality, employees may for any number of reasons feel compelled to sign a petition personally circulated by an agent of either management or a labor organization, to protect their jobs or relationships with their peers.

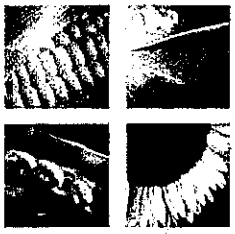
Notwithstanding the reference to "procedures to be used by the board to establish the validity of signed authorizations," **the certification of the petitioning process by the board does not stipulate any standards of conduct for petitioners or any measures that in any way are equivalent to the secret ballot** by which the board will objectively assess whether or not the "majority of the employees . . . (who) have signed valid authorizations" have done so freely and without coercion.

For more than seventy years the NLRB rules and procedures for determining employee labor affiliation and collective bargaining representation have resulted in a fair and winning solution for labor, management and employees covered under the Act. The legislature's apparent intention to abandon the time-honored and fundamental democratic principle of the secret ballot in promoting labor organizing among employees not currently covered is unwarranted and a disservice to the rights of employees who would be impacted, throughout the State of Hawaii.

Recent national polls show that as this matter of giving up the secret ballot in a labor election has come under increasing public scrutiny, almost three quarters of those surveyed indicated their opposition to similar federal legislation under the

so-called "employee free choice act." Hawaii is one of the most highly unionized states in the Union, and no case has been made for a need by the Hawaii legislature to expedite and immunize labor organizing in this state.

ABC Hawaii urges you to vote NO on SB 1621 S.D. 1!



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony By: Alicia Maluafiti
SB 1621sd1, Relating to Collective Bargaining
Senate JGO Committee
Decision Making Hearing - Thursday, Feb.26, 2009
Room 016, 9:00 am

Position: Strong Opposition

Chair Taniguchi and Members of the Senate JGO Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

HCIA strongly supports our workers' rights to secret ballot, to the inalienable privilege and right to vote in private for union certification. The current process provides this worker right, and we wholeheartedly endorse it. HCIA member companies provide competitive benefit packages, good wages and job environments where safety of the worker is the first priority. A few years ago, a union certification process was attempted on one of our member companies. In the end, after the secret ballot process, nearly 81% of the employees did not want to be union certified.

We urge you to hold this bill in committee. Thank you for the opportunity to testify.

91-1012 Kahi'uka Street
'Ewa Beach, HI 96706
Tel: (808) 224-3648
director@hciaonline.com
www.hciaonline.com

NFIB
The Voice of Small Business®

Before the Senate Committee on Judiciary and Government Operations

DATE: February 26, 2009

TIME: 9:00 a.m.

PLACE: Conference Room 016

Re: SB 1621 SD1
Relating to Collective Bargaining
Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify. On behalf of the business owners who make up the membership of the National Federation of Independent Business in Hawaii, we ask that you reject SB 1621 SD1. NFIB opposes this measure in its current form.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

More and more, employers are being forced to recognize labor unions without first holding a private-ballot employee election -- the election process that is guaranteed in law and administered by the National Labor Relations Board. To prevent intimidation or harassment, the law establishes that neither a union nor an employer may coerce, harass or restrain employees in exercising their right to choose whether or not to support the union. Each employee's choice is made in the privacy of a voting booth, with neither the employer nor the union knowing how any individual voted. We believe that a secret ballot process is essential to ensure a process that is fair to both employers and employees.

We respectfully ask that you do not advance this measure.

841 Bishop Street, Suite 2100, Honolulu, Hawaii 96813 (808)447-1840

AFFILIATE OF SHRM
SOCIETY FOR HUMAN RESOURCE MANAGEMENT

Chair, Senator Brian T. Taniguchi
Vice-chair, Senator Dwight Y. Takamine
Committee: JUDICIARY AND GOVERNMENT OPERATIONS
From: Society for Human Resource Management (SHRM) Hawaii
(808) 523-3695 or e-mail: shrmhawaii@hawaiibiz.rr.com
Testimony date: Thursday, February 26, 2009

Strongly Oppose SB 1621 SD1 Relating to Collective Bargaining

SHRM Hawaii is the local chapter of a National professional organization of Human Resource professionals. Our 1,200+ Hawaii membership includes those from small and large companies, local, mainland or internationally owned - tasked with meeting the needs of employees and employers in a balanced manner, and ensuring compliance with laws affecting the workplace. We (HR Professionals) are the people that implement the legislation you pass, on a day-to-day front line level.

SHRM Hawaii strongly opposes SB1621 SD1. The two-step process for union certification is vital for employees. Secret ballot voting protects employees against retaliation from those who disagree with their position on unionization. "Coercion" and "Intimidation" are charges made against both union organizers and business owners – secret ballot is the only way to ensure coercive and intimidating tactics are neutralized, and employees choices are protected.

Elimination of the two-step process would:

- Take away the additional time needed for employees to ask questions of multiple sources, consider the options, and make an informed choice.
- Encourage coercion and/or intimidation by those who are for and/or against union representation.

Because elimination of the secret ballot portion of the two-step certification process holds nothing redeeming for employees, SHRM Hawaii respectfully urges the committee to kill SB1621 SD1 to protect an employee's right to choose union or non-union with the protection of their identity.

Thank you for the opportunity to testify. SHRM Hawaii offers the assistance of its Legislative Committee members in discussing this matter further.

Hawai'i Alliance for Retired Americans

An affiliate of the Alliance for Retired Americans
c/o AFSCME · 888 Mililani Street, Suite 101 · Honolulu, Hawaii 96813

AFT Retirees
HGEA Retirees
HSTA – Retired
ILWU Retirees
Kokua Council
Machinists Union Retirees
UPW Retirees
ADA/Hawaii
Hawaii Family Caregivers Coalition

(Submitted by email to: JGOTestimony@Capitol.hawaii.gov *February 24, 2009)*

Statement of Al Hamai, President, Supporting SB 1621, SD 1, Relating to Collective Bargaining

Hearing of the Senate Committee on Judiciary and Government Operations

February 24, 2008, 9 a.m. Conference Room 016

Chair Brian T. Taniguchi, Vice Chair Dwight Y. Takamine and Members of the Committee,

HARA supports SB 1621, SD1. The purpose of this bill is to promote the right to organize for the purpose of collective bargaining, as recognized in Article XIII of the Hawaii state constitution.

We concur with the purpose of this bill. Approval of this bill will be a big step toward enabling workers, who want to belong to unions, a fairer chance to belong to a union, and secure a collective bargaining contract. A worker by himself alone is helpless on the job. He needs the strength on union to get better wages and working conditions for himself, for his family and really for his community.

The NY Times editorial of December 28, 2008, entitled "The Labor Agenda" in support of the national Employee Free Choice Act in 2009 stated in part:

"Even modest increases in the share of the unionized labor force push wages upward, because nonunion workplaces must keep up with unionized ones that collectively bargain for increases. By giving employees a bigger say in compensation issues, unions also help to establish corporate norms, the absence of which has contributed to unjustifiable disparities between executive pay and rank-and-file pay."

HARA, with a growing membership of 21,000, urges this Committee to support and approve SB1621, SD1. Mahalo.

HARA is a strong voice for Hawaii's retirees and seniors; a diverse community-based organization with national roots; a grassroots organizer, educator, and communicator; and a trusted source of information for decision-makers.

RALPH S. INOUYE CO LTD
GENERAL CONTRACTOR
2831 Awaawaloa Street
Honolulu, Hawaii 96819
T: 808.839.9002
F: 808.833.5971
License No. ABC-457
Founded In 1962

February 25, 2009

To: THE HONORABLE SENATOR DWIGHT TAKAMINE, CHAIR AND MEMBERS OF THE COMMITTEE ON LABOR

Subject: S.B.1621, RELATING TO COLLECTIVE BARGAINING

Dear Chair Takamine and Members of the Committee:

Ralph S. Inouye Co., Ltd. (RSI), General Contractor and a member of the General Contractors Association (GCA), is **strongly opposed** to the passage of S.B.1621, Relating To Collective Bargaining (also referred to as the **"Omnibus Union Rights Law"**) because of the increased burden that it places upon businesses at a time when they can least afford it while giving unions unfair powers and rights.

S.B. 1621 will provide unions with legal immunity and authorizes unions to engage in conduct that may be criminal if it is engaged in a labor dispute.

There is no valid public purpose in authorizing potential criminal activity. 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. At the same time the general public will be subject to criminal penalties if they try to gain public access that has been blocked.

The bill would also allow for union secrecy in the collective bargaining process. The proposed bill provides for secrecy and union immunity from actions of the courts, administrative agencies, arbitrators, legislative bodies and other tribunals. This union secrecy provision will hinder a fair collective bargaining process and allow for secret abuses of the law "as long as it is not criminal".

The bill further, does away with the employees' right to a secret ballot and is tilted in favor of union certification, potentially "strong-arm" tactics. We believe that if the majority of the employees favor organization then they will vote that way in a secret ballot.

RSI is **strongly opposed** to the passage of S.B. 1621, and respectfully asked the committee not pass this bill.

Thank you for the opportunity to testify on this measure.

Very truly yours,

RALPH S. INOUYE CO., LTD.

Lance M. Inouye
President

Hawaii Cattlemen's Council, Inc.
64-957 Mamalahoa Hwy
Kamuela HI 96743
Phone (808) 885-5599 • Fax (808) 887-1607
e-mail: HICattlemens@hawaii.rr.com

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Thursday February 26, 2009, 9:00 am Room 016

SB 1621 SD1 RELATING TO COLLECTIVE BARGAINING

Chairman Taniguchi and Members of the Committee:

The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly opposes** SB 1621 SD1. As we have all watched the demise of many segments of the Hawaii livestock industry in recent years, including poultry, dairy and the struggling hog industry, Law and policy makers have been asking the agricultural industry what we need to be sustainable. Provision of this bill, especially the Card Check provision, will hurt agricultural employers and all employers.

From personal experience, we know what the affects of SB 1621 SD1 can be to an employer. About 15 years ago, a union tried to organize a small company managed by one of our board members. They got employees to sign cards (several employees later said they didn't even know what they were signing, or were pressured by others to "just sign the card"). The employer did not even know the Union was trying to organize the company at that point. Later, when presented with the petition to organize by the union, the employer had the opportunity to remind the employees why we felt they did not need the union. Of course the employer was required to comply with all Fair Labor Standards during their campaign, and was very careful to comply. Ultimately there was an election and the employer prevailed and defeated the Union's attempt to organize the company, by a margin of over 80%. **This would not have been the case, had the employees not had one of the most basic of American rights; that to vote by secret ballot.**

We will not argue the pros or cons of having a union represent employees, only that they retain the basic right of a secret ballot to make that important decision.

Farming in the State of Hawaii is a fragile industry, and one many of our elected officials continue to say is important to support and maintain. If the employees ultimately do want a union, then they will vote that way by secret ballot too.

Thank you for giving us the opportunity to testify in strong opposition of this very important issue.

KONA-KOHALA CHAMBER OF COMMERCE

75-5737 Kuakini Hwy. Suite 208
Kailua-Kona, HI 96740
Phone: 329-1758 Fax: 329-8564
www.Kona-Kohala.com info@kona-kohala.com

February 25, 2009

TO: JUDICIARY and GOVERNMENT OPERATIONS COMMITTEE

Senator Brian Taniguchi, Chair; Senator Dwight Takamine, Vice-Chair and Committee Members

FROM: Kona-Kohala Chamber of Commerce (via email in lieu of in-person testimony)

SUBJECT: **Opposition of SB 1621, SD1 Relating to Collective Bargaining**

My name is Vivian Landrum, Executive Director of the Kona-Kohala Chamber of Commerce (KKCC). KKCC represents **620** business members and is the leading business advocacy organization on the west side of Hawai`i Island. The KKCC also actively works to enhance the environment, unique lifestyle and quality of life in West Hawai`i for both residents and visitor alike.

On behalf of our membership, I respectfully ask that you hold SB 1621, SD1. Regardless of political affiliation, we believe this Bill is opposed by the majority of people in West Hawaii. At a time when we need to strengthen and support our business community, we fell this measure will hurt business, particularly small business.

Questions arise as to the extent of this bill's effect on our already fragile agricultural industry. Unionization will increase the cost of locally produced products.

Basically, this measure removes every employee's right to a secret ballot in determining whether to have union representation. We believe this bill denies workers their fundamental right to a secret ballot to determine their employment future.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Sincerely,

Vivian Landrum

Vivian Landrum
Executive Director

Hawaii Farm Bureau
FEDERATION
2343 Rose Street, Honolulu, HI 96819
PH: (808)848-2074; Fax: (808) 848-1921

FEBRUAY 26, 2009

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

TESTIMONY ON SB 1621, SD1

Chair Taniguchi and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of its farm families and organizations is in **opposition** to SB1621, streamlining the union certification process.

We recognize the role the Unions have played in Hawaii and that they have supported agriculture. At the same time, the world is changing. Agriculture is changing – the industry is in transition with diversity being the common element across the State. It is very different from the monocrop systems that the Union has been accustomed to. Even the seed companies that may approach the size of what used to be our smaller sugarcane companies must be highly flexible at this time.

Technologies are changing rapidly and the people working in the area must be able to have maximum adaptability to do different tasks at different times in different ways, not be caught in routine as has been characteristic of traditional unions. What agriculture and everyone needs is workforce development. It is assistance in training a workforce that can meet business needs. This must be followed by the ability to continually train workers who have skills to meet the ever changing work environment and regulatory needs. We have approached the Union about this need and are willing to be the test cases in the process.....however, the condition is that the traditional union is not part of the agreement. We believe the leadership of the Unions can play a major role in changing the way labor relations occur in Hawaii. The economy dictates that change is inevitable. Everyone must be part of the change. We also recognize that what we are suggesting is difficult. But all of us in the business world are making difficult decisions. None of us is expecting to continue as we did yesterday.

Agriculture is at a very serious crossroad. Our future is in question. We respectfully request the Committee to understand our industry's needs and oppose this measure while encouraging an evolution in Labor in Hawaii. We appreciate this opportunity to provide our opinion on this important matter.

PIONEER.
A DUPONT COMPANY

Pioneer Hi-Bred International, Inc.
Waialua Parent Seed
PO Box 520
Waialua, HI 96791

Testimony by: Cindy Goldstein, Pioneer Hi-Bred International, Inc.
SB 1621, Relating to Collective Bargaining
Senate Judiciary and Government Operations Committee
Thursday, February 26, 2009
Room 016 at 9:00 am`

Position: Oppose

Chair Taniguchi, Vice Chair Takamine, and Members of the Senate Committee on Judiciary and Government Operations

My name is Cindy Goldstein, business and community outreach manager for Pioneer Hi-Bred International, Inc. Pioneer recognizes the importance of providing jobs that pay a good living wage, and the importance of benefits that will both attract employees to apply for our positions and retain our well-trained employees. Our employees have the opportunity for advancement as they gain skills on the job and as they pursue formal education.

Flexibility in job activities is a big part of our working environment, with cross training of employees, and a work force able to carry out a wide variety of tasks. Employees don't focus on the same task every day. We understand the importance of investing in the future of our work force, and provide job skills training that allows employees to switch from one activity to another during the course of the day, work week, or season. Safety is a core value for Pioneer Hi-Bred. Working safely is emphasized daily, with all employees trained to work safely, and to pay attention to the safety of others around them.

Pioneer Hi-Bred has a business philosophy based on "The Long Look". The Long Look emphasizes fair treatment of employees and recognition of the great value dedicated employees bring to our business. We have been operating in Hawaii for over 40 years, developing more productive crops for farmers. Pioneer has grown during those 40 years, with increasing numbers of employees and a broader range of good paying jobs for people with a wide range of skills.

Current law provides employees with a process for joining a union that allows them to make that decision with a vote cast in private. This legislation is not needed to allow unions to form. By not requiring a secret vote, some workers will not be comfortable expressing their true feelings either in support or opposition to forming a union in their workplace.

Thank you for the opportunity to present testimony.

From: smasamitsu@tonygroup.com
Sent: Wednesday, February 25, 2009 7:05 AM
To: JGO Testimony
Subject: SB 1621, SD1 relating to Collective Bargaining

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Stan Masamitsu of Tony Group and we employ 348 people. I respectfully request that you hold SB 1621, SD1 because the card check method if allowed for union certification would undermine an employee's democratic rights and protections to a fair and secret election to determine whether he or she really wants union representation.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

My understanding is that our state's focus has been on sustainability. While primary attention has been given to sustainability from an environmental standpoint but economic considerations for sustainability should be considered as well. This measure will undermine our efforts. We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: pkosasa@abcstores.com
Sent: Wednesday, February 25, 2009 8:49 AM
To: JGO Testimony
Subject: Take Action Now

Paul Kosasa, President & CEO
766 Pohukaina Street
Honolulu, HI 96813-5307
Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.
Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Paul Kosasa, President & CEO of ABC Stores (1,000+ employees). I oppose SB 1621, SD1 and respectfully request that you hold this bill. The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. Our state has been focused on sustainability. One of our main focuses in running our operations is employees and management working together. This measure will undermine our efforts. I believe unionization would increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry. Also, removing every employee's right to a secret ballot in determining whether to have union representation is not acceptable. It is imperative that find immediate solutions to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you very much for the opportunity to submit written comments.

Dear Senator Taniguchi,

Syngenta Hawaii strongly opposes SB 1621. Passage of this bill will eliminate one of the most basic human rights – the right to privacy. For that reason, this bill impacts everyone regardless of whether you're an employer, or an employee. Passage of this bill could divide our small Westside Kauai community into those who have signed and those who have not.

Syngenta Hawaii offers a comprehensive, extensive benefits package to all of our employees. After accepting employment, employees are entitled to three weeks vacation, two additional floating holidays, and full medical, dental and vision coverage. They are eligible to participate in our flexible spending account, legal assistance program and AD&D insurance program. They are entitled to participate in our 401K investment savings plan and our employee stock purchase plan for which Syngenta matches employee contribution up to a specified amount. We also provide educational assistance to employees for continuing education for approved job-related or degree-program coursework after only six months of employment with the Company. We offer service awards, a comprehensive health and safety program with gym reimbursements, adoption services, and many other benefits.

Syngenta Hawaii created almost 200 full-time positions in the State in 2008 and we are continuing to grow. We feel that the benefits package we offer our employees matches or exceeds what other companies or organizations can offer and still maintains flexibility and the opportunity for advancement within the Syngenta organization. We feel that the existing legislation supporting unions is a fair and just way for unions to organize.

Mahalo,

Laurie Goodwin

Laurie Goodwin
Hawaii Outreach Manager
Syngenta Hawaii
7050 Kaumualii Highway | Kekaha, HI 96752
PO Box 879| Waimea, HI 96796
office: 808-337-1408 Ext. 120 | mobile: 808-652-0768
laurie.goodwin@syngenta.com

syngenta
Hawaii

From: Lorinda Waltz [lwaltz@waltzengineering.com]
Sent: Wednesday, February 25, 2009 11:13 AM
To: JGO Testimony
Subject: SB1621,SD1

As the owners of Waltz Engineering, we wish to state that we are very, very strongly opposed to SB1621, SD1.

In it's current form, this bill even ignores the rights of the private citizen (be us employers, business owners, contractors, etc.) from select union activities. The blanket of immunity it grants unions to enter our premises and the numerous things that could go wrong while they are on site are a sure formula for disaster waiting to happen. What happened to the reason and sensibility of protecting us and the employees we already have working for us? How can I even protect them from mishaps if there are no strictures or boundaries that unions need to adhere to. We, and our employees, are honest, hard-working, taxpayers....what happened to our rights to protection?

Lord knows it's tough to turn a profit, and even more so in today's tanking economy, but how can businesses like ours be successful and pay our taxes (supporting our own State Government) if we need to worry about issues like this bill proposes.

Please do not further the progress of this bill out of committee.

Lorinda Waltz, President
Dick Waltz, Vice President/Sr. Project Manager
Waltz Engineering, Inc.
500 Alakawa Street, #119
Honolulu, HI 96817
Phone (808) 842-7955 x 223 | Fax (808) 842-3985 | Cell (808) 478-6845
Email: lwaltz@waltzengineering.com
Waltz Engineering is a Woman Owned & Operated Small Business | Visit our website @ www.waltzengineering.com

From: pbustamante@pacificlight.net
Sent: Tuesday, February 24, 2009 12:44 PM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the Committee:

My name is Patrick Bustamante and my company is Pacific LightNet, a local telephone and internet company srving all of the Hawaiian islands, and employ 87 employees in Hawaii. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: shelley@wilsonhomecare.net
Sent: Tuesday, February 24, 2009 1:44 PM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the Committee:

My name is Shelley Wilson and my company is Wilson Homecare, a home healthcare company with over 250 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Best Regards,
Shelley Wilson
President
Wilson Homecare

From: highwayinnhr@hawaiiantel.net
Sent: Tuesday, February 24, 2009 1:18 PM
To: JGO Testimony
Subject: Card Check Opposition

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the Committee:

My name is Monica Toguchi and my company is Highway Inn Inc. I respectfully request that you hold SB 1621, SD1.

When this bill was first reviewed, I wrote a personal message to legislators, but it was obviously ignored and passed.

I hope you understand the impact this bill will have upon companies (especially small business) through the creation of additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation. This is a fundamental DEMOCRATIC right belonging to each individual and should not be denied in favor of unions.

To enact a law that benefits the few at the expense of the many is wrong and unethical.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it. If businesses fail, you negatively impact our economy by:

1. loss of jobs and prevent state income taxes from being collected 2. corporate taxes from being paid 3. lost productivity and money being generated in this State 4. increased unemployment and welfare benefits having to be paid out

This is a LOSE LOSE situation and only benefits union dues and representative power. Our company alone paid over $100,000 in taxes over a 6 month period while paying the salaries of 35 employees. Accordingly, the restaurant industry in Hawaii generated about 13.3% of total employment in Hawaii generating about $3.1 billion for the State.

If small businesses like ours cannot survive by unnecessary regulation and favortism toward union advantages over employers abilities to remain profitable, EVERYONE LOSES.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Respectfully,
Monica Toguchi
VP of Planning & Administration

From: kaeo@koolinalm.com
Sent: Tuesday, February 24, 2009 2:25 PM
To: JGO Testimony
Subject: Increase barriers to building business

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the Committee:

My name is Ka'eo Gouveia and I have the good fortune of being in charge of Mokulua Contracting LLC. We are a smaller company of 68 committed to providing excellent grounds, building and janitorial maintenance services covering the entire scope of property maintenance. I respectfully request that you hold SB 1621, SD1 as I fear it may cause irreparable damage to the local business environment.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: noelle@consumerserviceanalysis.com
Sent: Tuesday, February 24, 2009 4:43 PM
To: JGO Testimony
Subject: HB1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Noelle Condon and my company is Consumer Service Analysis, Inc. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: Stephenfujioka@yahoo.com
Sent: Tuesday, February 24, 2009 11:40 AM
To: JGO Testimony
Subject: help

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the Committee:

My name is Stephen Fujioka, I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: njarlos@msn.com
Sent: Tuesday, February 24, 2009 11:53 AM
To: JGO Testimony
Subject: SB 1621, SD1 relating to Collective Bargaining

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the Committee:

My name is Jocelyn Arlos and my company is Doubletree Alana Hotel - Waikiki, and 115 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: nealw@byuh.edu
Sent: Tuesday, February 24, 2009 6:42 PM
To: JGO Testimony
Subject: Take Action Now

William Neal
55-220 Kulanui Street, BYUH #1971
Laie, HI 96762-1219

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: hubnerc@byuh.edu
Sent: Tuesday, February 24, 2009 8:00 PM
To: JGO Testimony
Subject: Take Action Now

Clayton Hubner
PO Box 41
Laie, HI 96762

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Clayton Hubner and I am a resident of La'ie, Hawaii.

I respectfully request that you hold SB 1621, SD1.

I have been a member of several different unions during my life and have benefited from this membership on every occasion. I have also filled many management and executive roles during my career. While I believe in the right of workers to organize themselves and to be represented by a union, if they so choose, I do not believe that these rights supersede those of employers and business owners. Although it is well-intended, SB 1621 has the potential to create an uneven playing field. At best, this only benefits current workers. At worst, it helps to create a climate that is hostile to business and that drives employers from our state.

For the entities that will be affected, this bill will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure has the potential to undermine our efforts. Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

I agree with those who say that we should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: jackeysalomon@asbhawaii.com
Sent: Tuesday, February 24, 2009 6:31 PM
To: JGO Testimony
Subject: Written Testimony

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [Jackey Salomon] and my company is [American Savings Bank, 4,000 plus employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: kanedavid@aol.com
Sent: Tuesday, February 24, 2009 6:31 PM
To: JGO Testimony
Subject: Hold SB 1621, SD1

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Kawika Kane of Kapolei I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: msteiner@steinerassoc.com
Sent: Tuesday, February 24, 2009 6:35 PM
To: JGO Testimony

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is michael Steiner and my company is Stiner & Associates. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: kkamauu@hawaiianhomesfoundation.com
Sent: Tuesday, February 24, 2009 6:22 PM
To: JGO Testimony
Subject: Take Action Now

Kahea Kamauu
1038 Queen St.
Honolulu, HI 96814-4167

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Carol Furtado
4330 Kukui Grove Street
Lihue, HI 96766

Testimony to the Senate Judiciary Committee
February 26, 2009
9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Carol Furtado and I was born and raised on Kauai where I still live and work today. I am employed by the King Auto Group, an automobile dealership with one dealership on Kauai and two on Oahu. We employ approximately 175 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. This bill will have a huge negative effect on small businesses that are already struggling to survive these challenging economic times.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

More importantly, **this measure removes every employee's right to a secret ballot in determining whether to have union representation.** As with all basic rights of the people in our County which was founded on the principles of democracy, we should have an opportunity to cast our individual vote on issues that affect us.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Cc; Senator Gary Hooser

Mahalo,

Carol Furtado

From: Roy T. Ogawa [rogawa@OLLON.COM]
Sent: Tuesday, February 24, 2009 9:10 PM
To: JGO Testimony
Cc: Sen. Brian Taniguchi; Sen. Clarence Nishihara; Sen. Clayton Hee; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Sam Slom; Sen. Dwight Takamine; Sen. Colleen Hanabusa; KHI@biahawaii.org; rborreca@starbulletin.com; dsegal@starbulletin.com; rdaysog@honoluluadvertiser.com; jrryburris@yahoo.com
Subject: SB 1621 SD 1 Comments

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

DATE: Thursday, February 26, 2009
TIME: 9:00 a.m.
PLACE: Conference Room 016
State Capitol
RE: SB 1621 SD1. Comments.

Dear Senators:

SB 1621 is much more than just a "Card check" bill.

I strongly oppose SB 1621 SD1 because under the guise of "fairness" it unfairly grants unprecedented rights, privileges and immunities to one favored group over all others.

In a "labor dispute" it will allow and ***authorize the following criminal activities***:

a. Criminal Trespass in the First Degree, § 708-813, a misdemeanor;
b. Criminal Trespass in the Second Degree, § 708- 814, a petty misdemeanor;
c. Disorderly Conduct, § 711-1101, a petty misdemeanor;
d. Failure to Disperse, § 711-1102, a misdemeanor;
e. Obstructing, § 711-1105, a petty misdemeanor.

Under this bill a reasonable request or order from a law enforcement officer can be defied with impunity, thereby allowing labor activity to come on your private property, obstruct walkways and driveways and totally restrict any public access. You will make law enforcement virtually powerless in a "labor dispute".

Civil Immunity. It will also give total immunity for any civil claims against a union, its officials or any member while engaging in collective bargaining activities or participating in a labor dispute. As written, there can be no civil action brought by anyone against a union, its officers, employees, members, etc. **Untruthful smear campaigns; obstruction of access to your premises, libel and slander; torts will all be protected activity if it occurs while a union or one of its members is "participating in a labor dispute".** If someone "accidentally" knocks you to the ground while participating in a labor dispute on your private property and you are injured you will not be able to bring a civil action to compensate you for your injuries. You could be an innocent bystander.

Secrecy. It allows for an absolute privilege of confidentiality of union records documents and other information, except if it involves criminal activity or fraud. It provides for this privilege before any government agency, the courts and even the legislature.

Binding Arbitration. It will require collective bargaining and binding arbitration if a union is representing employees for the first time involving a small business not subject to NLRB jurisdiction. That business will then be bound for two years by the contract as determined by the arbitrator.

It even unfairly adds provisions in favor of a union against its very own members. Why would you make a worker powerless against the very union that is supposed to be "protecting" them?

1. It allows a union to sue its own members for dues and get an award of interest and attorneys fees;
2. It takes away a minority members right to file their own grievances directly with their employer or through a representative of their own choosing;
3. It makes virtually all communications and actions that a member has with his/her union a privileged communication or action belonging to the Union not the member, so a member may have no rights to acquire or use any such information.

It is an unfair bill and should be deferred. Thank you for allowing me to provide my additional comments to this Bill.

Roy T. Ogawa
707 Richards Street
Honolulu, HI 96813
Telephone: (808) 533-3999
E-mail: rogawa@ollon.com

From: O'CONNOR, MARK [AG/2563] [mark.oconnor@monsanto.com]
Sent: Wednesday, February 25, 2009 9:34 AM
To: JGO Testimony
Subject: SB 1621 SD1: Card Check Bill

Sen. Brian Taniguchi, Chair and Sen. Dwight Takamine, Vice Chair;

I want to express my complete objection to SB 1621 SD1: Card Check Bill. I work with and manage a large group of research crew members on Maui and feel strongly that they do not need 3rd party representation. I see this bill, and any like it, as an inappropriate method for unions to gain new members.

Any attempt to organize union members in any company should be done in an appropriate manner where both the union and existing management can discuss the pros and cons of unionized labor leading to a vote where our research crew members can make an informed choice regarding 3rd party representation. I see this bill as an attempt to remove the democratic process an important decision that has the potential to dramatically impact relations within my company and other companies in Hawaii.

My company had a vote about two years ago when a union tried to organize our staff and our research crew members voted overwhelmingly to remain managed by existing staff and not by a union. Thank you very much for accepting my statement, and please do not pass this bill or any like it. The date of this is:

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
Sen. Brian Taniguchi, Chair
Sen. Dwight Takamine, Vice Chair

DATE: Thursday, February 26, 2009
TIME: 9:00 A.M.
PLACE: Conference Room 016

I am: Mark F. O'Connor, Ph.D.
1900 Pulehu Road
Kula, HI 96790

Thank you very much, and have a safe day;
Mark O'Connor, Ph.D.
Cell (808) 357-3072

From: christine@tradepublishing.com
Sent: Wednesday, February 25, 2009 6:10 AM
To: JGO Testimony
Subject: Take Action Now

Christine Hebenstreit
287 Mokauea Street
Honolulu, HI 96819-3171

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: matt.riel@aes.com
Sent: Wednesday, February 25, 2009 5:00 AM
To: JGO Testimony
Subject: Take Action Now

Matt Riel
91-086 Kaomi Loop
Kapolei, HI 96707-1710

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Matthew Riel and my company is AES Hawaii, Inc. AES Hawaii is an Independent Power Producing power plant that generates and sells 180 MW of electricity to HECO and process steam to the Chevron Refinery. AES Hawaii employs about 60 people in high paying technical jobs in the Campbell Industrial park. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Sincerely,

Matthew Riel

From: shelley@wilsonhomecare.net
Sent: Wednesday, February 25, 2009 7:40 AM
To: JGO Testimony
Subject: Take Action Now

Shelley Wilson
PO Box 2058
Honolulu, HI 96805

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Shelley Wilson and my company is Wilson Homecare, a home healthcare company with more than 250 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Best Regards,
Shelley Wilson
President
Wilson Homecare
596-4486

From: jweir@kgmb9.com
Sent: Wednesday, February 25, 2009 7:22 AM
To: JGO Testimony
Subject: Take Action Now

John Weir
1534 Kapiolani Blvd.
Honolulu, HI 96814-3715

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is John Weir and my company is KGMB9. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation. DO WE HAVE THE RIGHT TO A SECRET BALLOT WHEN WE ELECT YOU? WHY SHOULD THIS BE DIFFERENT FOR OTHER TYPES OF ELECTIONS SUCH AS WHEN VOTING ON UNION REPRESENTATION? PLEASE STOP TAKING AWAY INDIVIDUAL'S RIGHTS.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: kendra_murray@daveandbusters.com
Sent: Wednesday, February 25, 2009 7:51 AM
To: JGO Testimony
Subject: Take Action Now

Kendra Murray 1030 Auahi Street Honolulu, HI 96814-4112 Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m. Re: SB 1621, SD1 relating to Collective Bargaining Chair Taniguchi, Vice Chair Takamine and members of the committee: My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1. The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry. Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation. We shou ld be focusing on finding ways to revitalize Hawaii's economy, not hinder it. For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: lillian.sakane@hmshost.com
Sent: Wednesday, February 25, 2009 6:00 AM
To: JGO Testimony
Subject: Take Action Now

Lillian Sakane
PO Box 30428
Honolulu, HI 96822-0428

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: eshimabukuro@ameronhawaii.com
Sent: Wednesday, February 25, 2009 5:56 AM
To: JGO Testimony
Subject: Take Action Now

Eric Shimabukuro PO Box 29968 Honolulu, HI 96820 Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m. Re: SB 1621, SD1 relating to Collective Bargaining Chair Taniguchi, Vice Chair Takamine and members of the committee: My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1. The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry. Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation. We should be f ocusing on finding ways to revitalize Hawaii's economy, not hinder it. For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: rmorimoto@abcstores.com
Sent: Wednesday, February 25, 2009 6:31 AM
To: JGO Testimony
Subject: Take Action Now

Riki Morimoto766 Pohukaina StreetHonolulu, HI 96813-5307Testimony to the Senate Judiciary CommitteeFebruary 26, 20099:00 a.m.Re: SB 1621, SD1 relating to Collective BargainingChair Taniguchi, Vice Chair Takamine and members of the committee:My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1. The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it. For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: nishida@abcstores.com
Sent: Wednesday, February 25, 2009 6:47 AM
To: JGO Testimony
Subject: Take Action Now

Neil Ishida766 Pohukaina StreetHonolulu, HI 96813-5307Testimony to the Senate Judiciary CommitteeFebruary 26, 20099:00 a.m.Re: SB 1621, SD1 relating to Collective BargainingChair Taniguchi, Vice Chair Takamine and members of the committee:My name is Neil Y. Ishida and my company is ABC Stores 766 Pohukaina Street Hon., HI 96813;Resort Retailing; 1200 Employees. I respectfully request that you hold SB 1621, SD1. The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have unio n representation.We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it. For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: lredlew@pacifictransfer.com
Sent: Wednesday, February 25, 2009 5:37 AM
To: JGO Testimony
Subject: Take Action Now

Lorri Redlew
Pacific Transfer LLC
PO Box 30329
Honolulu, HI 96820-0329

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Lorri Redlew and my company is Pacific Transfer LLC. We are a transportation provider offering general trucking, freight distribution and moving services on the island of Oahu. Pacific Transfer has been in business since 1978 and currently employs just over 100 employees. I respectfully request that you hold SB 1621, SD1.

For the entities that will be affected by this measure, the measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. Pacific Transfer strives to be an employer of choice and has been largely successful to this end. The measure proposed will only overshadow efforts made by entities like ourselves and will not improve the current situation.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and services and weaken Hawaii's valuable but shrinking agricultural industry and negatively impact service industries.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: Lisa.Daijo@expresspros.com
Sent: Wednesday, February 25, 2009 4:48 AM
To: JGO Testimony
Subject: Take Action Now

Lisa Daijo
1130 N. Nimitz Highway
Honolulu, HI 96817-4579

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Lisa Daijo and my company is Express Employment Professional, a full service human resource company, with over 100 employees active. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: sgridley@intech-hawaii.com
Sent: Wednesday, February 25, 2009 5:54 AM
To: JGO Testimony
Subject: SB 1621, SD1 relating to Collective Bargaining

Samuel Gridley
1953 Beretania St. Ste. 5A
Honolulu, HI 96826-1342

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee: My name is Sam Gridley and my company is Integration Technologies, Inc., a computer services company with 18 employees.

I respectfully request that you hold SB 1621, SD1. Removing the secret ballot will allow people to coerce other people into voting for unionization. Giving this advantage to unions will tip the balance of power and promote a feeling of us vs. them in the workplace.

Also, removing private property rights during picketing is a dangerous precedent to set. Allowing unions to have more power than other citizens, or as much power as the government, opens all sorts of possibilities for union intimidation of people and businesses and will ultimately lead to an abuse of power.

Hawaii is already ranked at the bottom of business-friendly states in the U.S. and this bill would secure our place at the bottom of the list, causing further loss of jobs when we can least afford it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: Mary Pat Larsen [MLarsen@drhorton.com]
Sent: Wednesday, February 25, 2009 10:25 AM
To: JGO Testimony
Subject: Bill SB1621,SD1

Dear Sirs: I would like to register that I am strongly opposed to Bill SB1621,SD1. I believe it is against the individual interest of Union Members and against the best concerns of the general Public. I would suggest that you do not allow this bill to become law. \

Sincerely,
Mary Pat Larsen
50 Puu Anoano St.
Lahaina, HI 96761
Ph: 808-661-5202 @ work

From: dennis@businessfactoringhawaii.com
Sent: Wednesday, February 25, 2009 7:45 AM
To: JGO Testimony
Subject: Take Action Now

Dennis Kennedy
1188 Bishop St., Ste 3404
Honolulu, HI 96813-3314

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Dennis Kennedy and my company is Business Factoring Hawaii, Financing for small business with 4 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: mokumura@asipacific.com
Sent: Wednesday, February 25, 2009 7:14 AM
To: JGO Testimony
Subject: SB 1621, SD1 relating to Collective Bargaining...

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Marc Okumura and my company is Administrative Solutions, a small administrative outsourcing firm with 15 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: lwong67770@aol.com
Sent: Wednesday, February 25, 2009 9:59 AM
To: JGO Testimony
Subject: Testimony to: SB 1621, SD1 relating to Collective Bargaining

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

Aloha,

My name is Lisa Wong. I a Human Resources Manager and employ 115 employees. I respectfully request that you hold SB 1621, SD1.

I feel and have seen business affected by this measure and will increase the likelihood of not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability and attempting to grow our economy. This measure will undermine our efforts and also prohibit the desire to establish business in Hawaii. We would not like to drive our economy to the state which California now suffers. We have the chance to become different and sustain what we have. Again,unionization will increase the cost of eveything locally, but especially our local produced food. We will also diminish or weaken Hawaii's valuable but shrinking agricultural industry, which will cause Hawaii to be dependent on the mainland and the inability to sustain in the event of shipping/air strikes. Ultimately, the cost of unionization will be passed onto the tax payers, since everyone is linked in some form or manner based on the econimies of scale.

Lastly,but fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize and sustain our economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. I appreciate you giving me the opportunity to submit written comments and help make a difference in our state.

Mahalo.

From: denise.wardlow@westin.com
Sent: Wednesday, February 25, 2009 9:52 AM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Denise Wardlow and my company is The Westin Princeville Ocean Resort Villas, a new resort on the Northshore of Kauai with 125 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: tentgoddess@productionhawaii.com
Sent: Wednesday, February 25, 2009 8:25 AM
To: JGO Testimony
Subject: Take Action Now

Rea Fox
1717 Republican Street
Honolulu, HI 96819-3112

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: cindy.fujioka@hilton.com
Sent: Wednesday, February 25, 2009 9:54 AM
To: JGO Testimony
Subject: Take Action Now

Cindy Fujioka
1956 Ala Moana Blvd.
Honolulu, HI 96815-1897

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Cindy Fujioka and my company is Doubletree Alana Hotel-Waikiki, with 115 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: Richard Klemm [kaddidlehopper@gmail.com]
Sent: Wednesday, February 25, 2009 12:13 PM
To: JGO Testimony
Subject: Comment on SB 1621 SD1

Chairperson Taniguchi and members of the Committee on Judiciary and Government Operations:

Comments in opposition to SB 1621 SD1
(Decision Making - 2/26/09)

My name is Rick Klemm and I submitting these comments as an individual. In disclosure, I am engaged by Monsanto Corp. as a public affairs consultant, and I have neither sought nor has Monsanto directed my testimony in any way.

Measure SB 1621 SD1, if enacted, would deny workers the freedom to freely choose whether they wish to have union representation. The freedom to choose is denied by the coercion and threats of retaliation that will inevitably result from the union and employer's knowledge of employee preferences publicly available through the card check procedure. Black listing, black balling, black jacking = all these are so much more a reality when a worker's right to a secret ballot is obliterated.

As a former factory worker on the mainland and in Hawaii, I have experienced first hand how threatening and nasty union and employer roustabouts can be when it comes to organizing and other workplace issues.

Members of the committee, if you have never had to work in a union shop or one that a union is trying to organized, you have no idea of the pressure on workers that may be exerted by both sides.

If you have any aloha for workers, you will stand up for workers and preserve their right to a secret ballot to mitigate the coercion they may have to deal with in the work environment -- and preserve the small shred of democratic processes available to them.

Please HOLD this measure.

Thank you.

Rick Klemm
227 Uilama Street
Kailua, HI 96734

From: don.mcclarin@parsons.com
Sent: Wednesday, February 25, 2009 9:46 AM
To: JGO Testimony
Subject: Take Action Now

Don McClarin
1132 Bishop Street, Suite 2102
Honolulu, HI 96813-2844

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Donald G. McClarin Jr. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it. Further empowering organized labor/crime is counter-productive in a free society.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: ron@gimotos.com
Sent: Wednesday, February 25, 2009 10:04 AM
To: JGO Testimony
Subject: SB1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [Ronald Victorino, Jr.] and my company is [Garden Island Motorsports, Inc., Motorcycle-retail, 10 employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: Villahermosa Aldrin [aldrinvillahermosa@mac.com]
Sent: Wednesday, February 25, 2009 1:51 PM
To: JGO Testimony
Subject: SB 1621
Attachments: NEW AMV LOGO since 19972.jpg

Aloha my name is Aldrin M. Villahermosa, I am the President and RME of AMV Air Conditioning Inc. based on the facts I have stated below I am stating my opposition to this SB 1621 and ask that you vote "no" on SB 1621.

SB 1621 is much more than just a "Card check" bill.

In a "labor dispute" it will allow and ***authorize the following criminal activities***:

a. Criminal Trespass in the First Degree, § 708-813, a misdemeanor;
b. Criminal Trespass in the Second Degree, § 708- 814, a petty misdemeanor;
c. Disorderly Conduct, § 711-1101, a petty misdemeanor;
d. Failure to Disperse, § 711-1102, a misdemeanor;
e. Obstructing, § 711-1105, a petty misdemeanor.

Under this bill a reasonable request or order from a law enforcement officer can be defied with impunity, thereby allowing labor activity to come on your private property, obstruct walkways and driveways and totally restrict any public access.

Civil Immunity. It will also give total immunity for any civil claims against a union, its officials or any member while engaging in collective bargaining activities or participating in a labor dispute. As written, there can be no civil action brought by anyone against a union, its officers, employees, members, etc. Untruthful smear campaigns; obstruction of access to your premises, libel and slander; torts will all be protected activity if it occurs while a union or one of its members is "participating in a labor dispute". If they "accidentally" knock you to the ground while participating in a labor dispute on your private property and you are injured you will not be able to bring a civil action to compensate you for your injuries.

Secrecy. It allows for an absolute privilege of confidentiality of union records documents and other information, except if it involves criminal activity or fraud. It provides for this privilege before any government agency, the courts and even the legislature.

Binding Arbitration. It will require collective bargaining and binding arbitration if a union is representing employees for the first time in a small business not subject to NLRB jurisdiction. That business will then be bound for two by the contract as determined by the arbitrator.

It even has provisions in favor of a union against its own members. 1. It allows a union to sue its own members for dues and get interest and attorneys fees; 2. It takes away a minority members right to file their own grievances directly with their employer or through a representative of their own choosing; 3. It makes virtually all communications that a member has with his/her union a privileged communication belonging to the Union not the member, so a member may have no rights to acquire or use any such information.

Respectfully,

Aldrin M. Villahermosa, President
AMV Air Conditioning Inc.

AMV Air Conditioning Inc.
2290 Alahao Place #402
Honolulu, Hawaii 96819
845-3149 (office) / 847-3148 (fax) / aldrin@amvair.com (email)

From: GetEfficient@hawaii.rr.com
Sent: Wednesday, February 25, 2009 9:19 AM
To: JGO Testimony
Subject: Take Action Now

Sumner Howard
126 Queen Street, Suite 310
Honolulu, HI 96813-4415

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: maylynn.wong@halekulani.com
Sent: Wednesday, February 25, 2009 9:23 AM
To: JGO Testimony
Subject: Take Action Now

Maylynn Wong
Halekulani
700 Bishop Street, Suite 600
Honolulu, HI 96813-4107

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [Maylynn Wong] and my company is [Halekulani, Hotel & Resort, and 820 employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: charlie@alohanursing.com
Sent: Wednesday, February 25, 2009 8:23 AM
To: JGO Testimony
Subject: We want Secret Ballot

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Charles Harris and my company is Aloha Nursing Rehab Centre and we employee 180 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: DILL JR, GERALD M [AG/2111] [gerald.m.dill.jr@monsanto.com]
Sent: Wednesday, February 25, 2009 1:41 PM
To: JGO Testimony
Subject: Opposition to Bill SB 1621 SD1

Dear Senator Taniguchi,

I am writing to express my opposition to senate bill SB 1621 SD1. I work in the seed industry and despite tough times we are a growing business here in Hawaii. I oppose this bill for a simple reason; it takes away the employee vote and thus negates their right to choose their representation or negotiated benefits package. The "card check" legislation would convey authority to a third party to essentially decide what a private sector employer must provide in terms of wages and benefits. There is no opportunity for employee ratification.

I strongly urge the committee to consider alternative legislation that would allow all workers in the work place to voice their opinion on union representation and the contracts they will work under.

This legislation is counter to the democratic process we have chosen as the basis of our government. Please join me in opposing this legislation.

Respectfully,

Gerry Dill

Kapolei, HI

From: Mark Stoutemyer [mstoutemyer@hotmail.com]
Sent: Wednesday, February 25, 2009 1:11 PM
To: JGO Testimony
Subject: Oppose Bill SB1621: Card Check Bill

Position: Oppose bill SB1621: Card Check Bill

Date: Thursday, February 26 2009

Time: 9:00am

Place: Conference Room 016

Chairman Taniguchi, Vice Chair Takamine, and members of the committee,

My name is Mark Stoutemyer and I live on the island of Oahu in Kailua. I oppose bill SB 1622 because I don't believe my right to a secret ballot should be taken away when choosing whether to join a labor union. There already is an opportunity to join a labor union through a process that allows workers to indicate an interest in an election followed by a vote that is cast privately. If more than half of the workers sign a petition, the labor board certifies the union and we wouldn't have a chance for a private ballot election if we want one.

Working for a seed company, we are provided a good living wage for me and my family, with generous vacation and benefits. I don't think a union would get me and my family better pay and benefits than what we already have.

In my current job I can work hard, be recognized for that and get promoted to a job with higher pay. In a Union environment, people get promotions based on how long they have been working at a job. This creates a culture of work mediocrity, because there are no incentives to achieve beyond the minimum. Innovation and flexibility are critical for business in these difficult economic times.

Respectfully yours,

Mark Stoutemyer

From: mike.austin@syngenta.com
Sent: Wednesday, February 25, 2009 1:02 PM
To: JGO Testimony
Subject: RE: Opposition to SB 1621 SD1

Please accept my testimony below in opposition to SB1621 SD1

From: Austin Mike USKU
Sent: Wednesday, February 25, 2009 7:38 AM
To: 'JGOTestimony@Capitol.Hawaii.gov'
Subject:

2/25/2009

Committee Chair,
Senate Committee on Judiciary and Government Operations
Hawaii State Capitol
Brian Tanaguchi, Chair
Dwight Takamine, Vice Chair

Dear Committee Chair,

RE: Opposition to SB 1621 SD1

This letter in in Opposition to SB1621 SD1 which is being heard in committee on 26 February 2009 in conference room 016. The right to vote in America is sacrosanct and the Card Check Bill as proposed destroys this fundamental right of democracy. If allowed to pass, Unions will have authority to intimidate and harass workers. The only counter to this tactic is to have a vote on the matter. By not allowing people to cast ballots, this bill opens the door to harassment and will create a situation that could lead ultimately to the Supreme Court.

Please, with all due respect, kill this bill.

Sincerely,

Michael Austin
PO Box 1006
Lihue, Hawaii 96766

From: Frank Rogers [frogers1@mac.com]
Sent: Wednesday, February 25, 2009 12:54 PM
To: JGO Testimony
Subject: We oppose SB 1621, SD1

Aloha,

It seems like a very one sided bill that we harm our industry. We oppose it.

Mahalo

Frank T. Rogers
2957 Kalakaua Ave. Apt. 601
Honolulu, Hawaii 96815
frogers1@mac.com
Phone: 808 383 6932

From: jerry@kauainursery.com
Sent: Wednesday, February 25, 2009 11:45 AM
To: JGO Testimony
Subject: Testimony on SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Jerry Nishek and my company is Kauai Nursery & Landscaping Inc. of Kauai which employes 125 people. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: frank.guarin@westin.com
Sent: Wednesday, February 25, 2009 10:52 AM
To: JGO Testimony
Subject: SB 1621, SD1 relating to Collective Bargaining

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Francis (Frank) Guarin and my company is The Westin Princeville which is a 346 key resort property on the north shore of Kauai that employs about 125 full/part time associates. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

At the end of the day, this is not just about union avoidance, but that this bill circumvents the checks and balances that sometimes aids in countering some of the coercion and misrepresentation tactics used by unions to 'acquire the signatures' necessary to move the process forward.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Frank Guarin
Director of Operations
The Westin Princeville Ocean Resort Villas

From: kaupena.kinimaka@marriott.com
Sent: Wednesday, February 25, 2009 11:56 AM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [Kaupena Kinimaka] and my company is [Kauai Marriott Resort and Beach Club, a Hotel on Kauai with 550 employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: kahau.manzo@westin.com
Sent: Wednesday, February 25, 2009 10:55 AM
To: JGO Testimony
Subject: oppose card check

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Edward kahaunani Manzo and my company is Westin Princeville Ocean Resort Villas, Executive chef, 16 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: jeff@earthworkspacific.com
Sent: Wednesday, February 25, 2009 11:18 AM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Jeffrey Fisher and my company is Earthworks Pacific, Inc., a site work construction company that employs 55 people. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: amy@hawaiicareandcleaning.com
Sent: Wednesday, February 25, 2009 12:08 PM
To: JGO Testimony

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Amy M. Galtes and I work at Hawaii Care and Cleaning, Inc. with 700 plus team members. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: gtakenou@hawaiigas.com
Sent: Wednesday, February 25, 2009 11:34 AM
To: JGO Testimony
Subject: SB 1621 - Oppose

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Glen H. Takenouchi and my company is The Gas Company, LLC, the propane distributor for the island of Kauai, and we presently employ (20)employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: dolphinangel@hawaiian.net
Sent: Wednesday, February 25, 2009 12:16 PM
To: JGO Testimony
Subject: Take Action

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: kamikas@aloha.net
Sent: Wednesday, February 25, 2009 11:06 AM
To: JGO Testimony
Subject: Testimony Re: SB 1621, SD1 relating to Collective Bargaining

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Kamika Smith and our family business, Smith's Motor Boat Service, Inc. has been in business for 63 years. We currently employ 140 Kauai residents providing two visitor attractions on the Wailua River. I respectfully request that you hold SB 1621, SD1.

As a Small Business in the State of Hawaii, I feel that the entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: pauleens@hawktree.net
Sent: Wednesday, February 25, 2009 10:51 AM
To: JGO Testimony
Subject: No to card check

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Donald Takaki and my company is Island Movers, Inc., a full-service moving and transportation company, with 375 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: grogrn@hawaiian.net
Sent: Wednesday, February 25, 2009 11:24 AM
To: JGO Testimony
Subject: SB1621, SD1

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [Liz Ronaldson and my company is Growing Greens Nursery and have 6 employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: colette@hawaiicareandcleaning.com
Sent: Wednesday, February 25, 2009 12:03 PM
To: JGO Testimony
Subject: SB 1621, SD1 relating to Collective Bargaining

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Colette Buis and I am Secretary/Treasurer of Hawaii Care & Cleaning, Inc. employing approximately 700+ employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. I also do not agree with the seniority system taking precedence over rewarding a newer employee, who has proven to be more dependable & who always does quality work.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: Lani.Aranio@vacationclub.com
Sent: Wednesday, February 25, 2009 12:25 PM
To: JGO Testimony
Subject: Opposition to SB 1621, SD1

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is S. Lani Aranio and my company Kauai Lagoons has 120 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: donald.h.wilson.ctr@navy.mil
Sent: Wednesday, February 25, 2009 12:15 PM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Donald H. Wilson and my company is Manu Kai, a Native Hawaiian Organization supporting the Pacific Missile Range Facility, Barking Sands, with more than 500 full and part-time employees. I respectfully request you hold SB 1621, SD1.

Entities affected by this measure, if passed, will likely incur additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state should be focused on sustainability, and this measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, this measure removes every employee's right to a secret ballot in determining whether to have union representation - and is therefore fundamentally and profoundly - un-democratic.

Senators Hooser and Taniguchi, I have worked diligently with IBEW 1260 representatives to better support the union, and to ensure my actions as the Project Manager are uniformly and consistently fair, objective, and in accordance with our existing Collective Bargaining Agreement. Moreover, I have sought their counsel and advice on how to help craft the next CBA for the same reason: my concern for the individual is paramount and I'm confident from union leadership down through rank and file, they'd agree. This proposed bill does nothing to help union members because it does not allow an individual or a minority group to present grievances directly to me. I ENCOURAGE such feedback, convinced that I can address whatever the problems faster and better than if presented with a formal grievance that may or may not necessarily have merit, but in the interim, the individual is either being wronged or believes he or she is being wrong. I salute the efforts of IBEW 1260 leadership for alerting me to potential problems before the fact, so I can address them right away. And anything that adversely impacts that relationship does a disservice to the individuals, not just the union as a whole.

Focus on revitalizing Hawaii's economy through its best assets - its people - and not through legislation that has the oppostie effect.

Finally, Senator Hooser, a personal note: you may recall you met me at your request in May or June 2002, asking that I not hinder your political ambition for higher office. You may recall that my response, as Commanding Officer, PMRF, was to wish you well in your political goals, and to underscore the fact I would not hinder or obstruct you in any way. And I didn't, for the reasons stated: PMRF is a national asset, and as the Commanding Officer, one of my missions was to restore and then maintain the goodwill of the Kauai community. I still believe that's the right thing to do, and have faithfully followed that direction since returning to Kauai in July 2007. I strongly believe PMRF is not only the 3rd largest non-

government employer on Kauai and the largest employer on the westside, we are a model employer in our concern for our employees. It starts with each individual and works its way up to union leadership. This bill proposes to inhibit and eventually erode trust and mutual support built over that time and is, frankly, at odds with your professed concern for Kauai and its residents. Help employers help their employees and equally important, do not strip from union members the opportunity to appeal directly to management to address problems. I assure you the solution will be applied uniformly - and the relationship between union and employer strengthened, not weakened.

Strongly recommend you hold this bill.

Thank you for the opportunity to submit written comments and if you'd like, I'd be happy to respond to your call(s).

Sincerely,

Don Wilson

From: palmer@palmshawaii.com
Sent: Wednesday, February 25, 2009 10:08 AM
To: JGO Testimony
Subject: Chamber Position Support

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Palmer W. HAfdahl, AIA and my company is Palms Hawaii Architecture. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: laura@hawaiicareandcleaning.com
Sent: Wednesday, February 25, 2009 10:12 AM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: palmer@palmshawaii.com
Sent: Wednesday, February 25, 2009 10:07 AM
To: JGO Testimony
Subject: Chamber Position Support

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: david.jones@waikikiparc.com
Sent: Wednesday, February 25, 2009 11:09 AM
To: JGO Testimony
Subject: Take Action Now

David Jones
700 Bishop Street, Suite 600
Honolulu, HI 96813-4107

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is David Jones, HR Manager and my company is Waikiki Parc Hotel with 119 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: todd.oldham@westin.com
Sent: Wednesday, February 25, 2009 10:47 AM
To: JGO Testimony
Subject: SB 1621

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Todd Oldham and my company is The Westin Princeville Ocean Resort Villas,a 346 room hotel with 120 employees. I respectfully request that you hold SB 1621, SD1. I believe that this bill will add to an already unbalanced system of regulations designed to unfairly assist the labor union.

The entities that will be affected by this measure will increase the likelihood of many businesses not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: pbustamante@pacificlight.net
Sent: Wednesday, February 25, 2009 12:24 PM
To: JGO Testimony
Subject: Take Action Now

Patrick Bustamante
1132 Bishop Street, Suite 800
Honolulu, HI 96813-2854

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Patrick Bustamante and my company is Pacific LightNet a local telephone and internet company that provides services throughout the Hawaiian islands with offices on Oahu, Maui and in Kona. Pacific LightNet has 87 full time employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Respectfully,
Patrick Bustamante

Dear Senator Taniguchi,

I strongly oppose bill SB1621 for the reasons that will follow. I was a very unhappy member of a prominent union here on Kauai. I never had a choice to join the union but was told that if I didn't sign with the union I could not work at the company. So I joined the union because I needed the job. It was a down hill relationship from then on. I got union dues deducted directly from my paycheck without any permission from me. I couldn't get a promotion because the union said that somebody at the top of my section had to leave for me to get promoted. My point is that the most qualified person who deserves the promotion can not get it because he /she has to wait your turn and put in the time with the company regardless of how good or qualified they are. When a company has to slim down they keep the people with seniority, not the most qualified.

In my experience with unions I always had to fight for my own rights and I felt that a lot of my rights were taken away by the union. Syngenta is a very good company and I have experienced what a hard working person can achieve when a company acknowledges you for your performance. Syngenta offers their employees more opportunities for advancement than a union could and I am proof to that effect. So please consider my opposition to bill SB1621. Removing the secret ballot will only create division in our community. I have the right to choose in secret whether I want to be part of a union or not. Don't take that away from me.

Sincerely,

Robert Gandia
Research Technician
Syngenta Hawaii
PO BOX 879
Waimea, HI
96796
808-482-0004

From: dan barnett [dan@hwthawaii.com]
Sent: Wednesday, February 25, 2009 3:12 PM
To: JGO Testimony
Subject: opposed to bill SB1621, SD1

I am strongly opposed to the passing of bill SB1621, SD1 due to the many clauses that were added that will allow the union to not only perform illegal activities with impunity on private property but also the taking away of the rights of the union members. Please read and understand the full consequences of this bill and do not pass it.

Thank You,
Dan Barnett
Vice President Operations
Honolulu Wood Treating
Phone: 808-792-6436
Fax: 808-682-4436

Emil Remigio
4330 Kukui Grove Street
Lihue, HI 96766

Testimony to the Senate Judiciary Committee
February 26, 2009 - 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Emil Remigio. I am employed by King Auto Center, an automobile dealership on Kauai. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. This bill will have a huge negative effect on small businesses that are already struggling to survive these challenging economic times.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

More importantly, **this measure removes every employee's right to a secret ballot in determining whether to have union representation.** This kind of law is unfair to employees who may not want union representation and will not be offered the right to vote in a secret ballot election, like they would in any National, State or County election. We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Cc: Senator Gary Hooser

Mahalo,

Emil Remigio

Ron Valencia
4330 Kukui Grove Street
Lihue, HI 96766

Testimony to the Senate Judiciary Committee
February 26, 2009 - 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Ron Valencia. I am employed by King Auto Center, an automobile dealership on Kauai. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. This bill will have a huge negative effect on small businesses that are already struggling to survive these challenging economic times.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

More importantly, **this measure removes every employee's right to a secret ballot in determining whether to have union representation.** This kind of law is unfair to employees who may not want union representation and will not be offered the right to vote in a secret ballot election, like they would in any National, State or County election. We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Cc: Senator Gary Hooser

Mahalo,

Ron Valencia

Jose Aguayo
4330 Kukui Grove Street
Lihue, HI 96766

Testimony to the Senate Judiciary Committee
February 26, 2009 - 9:00 a.m.
Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Jose Aguayo. I am employed by King Auto Center, an automobile dealership on Kauai. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. This bill will have a huge negative effect on small businesses that are already struggling to survive these challenging economic times.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

More importantly, **this measure removes every employee's right to a secret ballot in determining whether to have union representation.** This kind of law is unfair to employees who may not want union representation and will not be offered the right to vote in a secret ballot election, like they would in any National, State or County election. We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Cc: Senator Gary Hooser

Mahalo,

Jose Aguayo

Carol Furtado
4330 Kukui Grove Street
Lihue, HI 96766

Testimony to the Senate Judiciary Committee
February 26, 2009 - 9:00 a.m.
Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Carol Furtado and I was born and raised on Kauai where I still live and work today. I am employed by the King Auto Group, an automobile dealership, with one dealership on Kauai and two on Oahu. We employ approximately 175 employees. I have worked in the Human Resources field for over 30 years in both union and non-union environments and have also been a union member. I find even the thought of government taking away my right to vote in secret appalling. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure. This bill will have a huge negative effect on small businesses that are already struggling to survive these challenging economic times.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

More importantly, **this measure removes every employee's right to a secret ballot in determining whether to have union representation.** As with all basic rights of the people in our County which was founded on the principles of democracy, we should have an opportunity to cast our individual vote on issues that affect us. This kind of law is unfair to employees who may not want union representation and will not be offered the right to vote in a secret ballot election, like they would in any National, State or County election. We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

Cc: Senator Gary Hooser

Mahalo,

Carol Furtado

From: Dee Montgomery-Brock [brock002@hawaii.rr.com]
Sent: Wednesday, February 25, 2009 3:53 PM
To: JGO Testimony
Subject: RE: Opposition to SB 1621 SD1

Dear Committee Chair,

RE: Opposition to SB 1621 SD1

I am writing this letter in Opposition to SB1621 SD1. I think this bill will have a negative effect as it will no longer allow working people the chance to cast a ballot. Please do not allow this bill to pass and don't fix something that is not broken.

Sincerely,

Diana Brock

95-430 Kamahana Place

Mililani, HI 96789

From: jerry.jamesson@resortquesthawaii.com
Sent: Wednesday, February 25, 2009 12:34 PM
To: JGO Testimony
Subject: Take Action Now

Jerry Jamesson
69-1035 Keana Place
Waikoloa, HI 96738

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: jeff@earthworkspacific.com
Sent: Wednesday, February 25, 2009 1:21 PM
To: JGO Testimony

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Jeffrey Fisher and my company is Earthworks Pacific, Inc. a construction company specializing in site/excavation work and have about 75 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: buff@poipukapili.com
Sent: Wednesday, February 25, 2009 1:36 PM
To: JGO Testimony
Subject: SB 1621 SD1

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Buff Toulon and my company is Poipu Ocean View Resorts, Inc, located at 2221 Kapili Road, Koloa, HI 96756 and we employ 14 people. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: info@johnmullen.com
Sent: Wednesday, February 25, 2009 12:42 PM
To: JGO Testimony
Subject: Take Action Now

Leona Christensen, SPHR
VP - Human Resources
John Mullen & Co., Inc.
PO Box 2096
Honolulu, HI 96805

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Leona L. Christensen and my company is John Mullen & Co. - a local owned third party claims administrator with approximately 70 employees. This is our 50th year of business in Hawaii. I respectfully request that you hold SB 1621, SD1.

Most businesses in Hawaii take care of their employees and realize that the staff is the most important part of any company's success.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation. Employees should have freedom to vote without duress.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

From: jerry.jamesson@resortquesthawaii.com
Sent: Wednesday, February 25, 2009 12:46 PM
To: JGO Testimony
Subject: Take Action Now

Jerry Jamesson
69-1035 Keana Place
Waikoloa, HI 96738

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is Jerry Jamesson and my company is Shores at Waikoloa, 30 employees. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.

My employees specifically feel that they should have the concideration of a secret ballot for any decision of this sort.

From: info@johnmullen.com
Sent: Wednesday, February 25, 2009 12:38 PM
To: JGO Testimony
Subject: Take Action Now

J.T. Mullen
PO Box 2096
Honolulu, HI 96805

Testimony to the Senate Judiciary Committee February 26, 2009 9:00 a.m.

Re: SB 1621, SD1 relating to Collective Bargaining

Chair Taniguchi, Vice Chair Takamine and members of the committee:

My name is [state full name] and my company is [name, description, and number of employees]. I respectfully request that you hold SB 1621, SD1.

The entities that will be affected by this measure will increase the likelihood of them not surviving the additional costs, lost productivity, and bureaucratization of the workplace that come with procedures mandated by this measure.

Our state has been focused on sustainability. This measure will undermine our efforts. Simply, unionization will increase the cost of locally produced food and weaken Hawaii's valuable but shrinking agricultural industry.

Also, fundamentally, this measure removes every employee's right to a secret ballot in determining whether to have union representation.

We should be focusing on finding ways to revitalize Hawaii's economy, not hinder it.

For the above reasons, I strongly ask that you hold this bill. Thank you for the opportunity to submit written comments.