

# COALITION FOR A DEMOCRATIC WORKPLACE

February 25, 2015

Dear Chairman Alexander:

On behalf of millions of job creators concerned with mounting threats to the basic tenets of free enterprise, the Coalition for a Democratic Workplace (CDW) thanks you for introducing S. J. Res. 8, which provides for congressional disapproval and nullification of the National Labor Relations Board's (NLRB or Board) rule related to representation election procedures. This "ambush" election rule is nothing more than the Board's attempt to placate organized labor by effectively denying employees' access to critical information about unions, trampling on employee privacy rights and stripping employers of free speech and dues process rights. As such, the rule poses a threat to both employees and employers alike. We support S. J. Res. 8 and urge the Senate to approve it.

CDW is a broad-based coalition of more than 600 organizations united in opposition to the tenets of the misnamed "Employee Free Choice Act" (EFCA) and alternatives that pose a similar threat to workers, businesses, and the American economy. In recent years, the NLRB has attempted to enact many EFCA-like policies that threaten jobs and our economy through administrative rulings and regulations. In response, much of CDW's focus has been directed toward the NLRB.

On December 12, 2014, the Board published the final ambush election rule, which is designed to artificially speed up the existing union representation election process. The rule, which goes into effect on April 14, 2015, will shorten the time between the union filing a petition for election and NLRB holding of an election from the current median time of 38 days to as few as 14 days. This reduced timeframe effectively limits employers' ability to communicate with employees prior to a representation election and encourages the kind of "back door" organizing that unions sought to achieve through EFCA. In addition, in order to meet the new truncated election period, the rule deprives employers of many due process rights. It also requires employers to provide, within two business days of the election agreement or decision directing an election, employees' personal telephone numbers and e-mail addresses. Employees would not have the opportunity or the right to prevent the release of this information to the union and would not have the ability to determine which contact information would be handed over to the paid union organizers. This mandatory release of employee information invites harassment and intimidation and opens the door to identify theft and other privacy concerns. The changes made by the rule are similar to those the NLRB attempted to push through in a 2011 rule, which was struck down by a federal court on procedural grounds shortly after it was implemented.

In many cases, employers, particularly small ones, will not have enough time under the rule's timeframe to secure legal counsel, let alone an opportunity to speak with employees about union representation or respond to promises union organizers may have made to secure union support, even though many of those promises may be completely unrealistic. Given that union organizers typically lobby employees for months outside the workplace without an employer's knowledge, these "ambush" elections would often

result in employees' receiving only half the story. Employees would hear promises of raises and benefits that unions have no way of guaranteeing, without an opportunity for the employer to explain its position and address the possible inaccuracies put forward by the union.

The NLRB's own statistics reveal that for the last 10 years the median time from petition to election was 38 days, with nearly 95% of elections occurring within 56 days in 2013 and 95.7% percent within 56 days in 2014. There is no indication that Congress intended a shorter election time frame; indeed, based on the legislative history of the 1959 amendments to the National Labor Relations Act, it is clear Congress believed that an election period of at least 30 days was necessary to adequately assure employees the "fullest freedom" in exercising their right to choose whether they wish to be represented by a union. As then-Senator John F. Kennedy Jr. explained at the time, a 30-day period before any election was a necessary "safeguard against rushing employees into an election where they are unfamiliar with the issues." Senator Kennedy stated "there should be at least a 30-day interval between the request for an election and the holding of the election" and he opposed an amendment that failed to provide "at least 30 days in which both parties can present their viewpoints."

The current election timeframe is not only reasonable, but permit employees time to hear from both the union and the employer and make an informed decision, which would not be possible under the ambush election rule. In fact, in other situations involving important employment decisions, Congress requires that employees be given at least 45 days to review relevant information in order to make a "knowing and voluntary" decision. (This is required under the Older Workers Benefit Protection Act when employees evaluate whether to sign an age discrimination release in the context of a program offered to a group or class of employees).

For these reasons, we thank you for introducing S. J. Res. 8 and urge the Senate to immediately adopt this much-needed resolution. If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of employers, U.S. workers they have hired or would like to hire, and consumers.

Sincerely,

ACCA- The Indoor Environment & Energy Efficiency Association  
Aeronautical Repair Station Association  
Agricultural Retailers Association  
Alabama Restaurant & Hospitality Alliance  
Alaska Hotel & Lodging Association  
American Apparel & Footwear Association  
American Bakers Association  
American Council of Engineering Companies  
American Fire Sprinkler Association  
American Foundry Society  
American Home Furnishings Alliance  
American Horticulture Industry Association (AmericanHort)  
American Hospital Association

American Hotel & Lodging Association  
American International Automobile Dealers Association  
American Moving and Storage Association  
American Pipeline Contractors Association  
American Rental Association  
American Society of Employers  
American Staffing Association  
American Supply Association  
American Truck Dealers  
American Trucking Associations  
American Wholesale Marketers Association  
Arizona Lodging & Tourism Association  
Arkansas Hospitality Association  
Arkansas State Chamber of Commerce  
Asian American Hotel Owners Association  
Assisted Living Federation of America  
Associated Builders and Contractors  
Associated Builders and Contractors- Carolina Chapter  
Associated Builders and Contractors- Central Florida Chapter  
Associated Builders and Contractors- Delaware Chapter  
Associated Builders and Contractors- Eastern PA Chapter  
Associated Builders and Contractors- Florida East Coast Chapter  
Associated Builders and Contractors- Greater Houston Chapter  
Associated Builders and Contractors- Hawaii Chapter  
Associated Builders and Contractors- Indiana/Kentucky Chapter  
Associated Builders and Contractors- Inland Pacific Chapter  
Associated Builders and Contractors- Iowa Chapter  
Associated Builders and Contractors- Keystone Chapter  
Associated Builders and Contractors- Michigan Chapter  
Associated Builders and Contractors- Mississippi Chapter  
Associated Builders and Contractors- Pelican Chapter  
Associated Builders and Contractors- Rhode Island Chapter  
Associated Builders and Contractors- Rocky Mountain Chapter  
Associated Builders and Contractors- Southern California Chapter  
Associated Builders and Contractors- South Texas Chapter  
Associated Builders and Contractors--Southeast Texas Chapter  
Associated Builders and Contractors- Virginia Chapter  
Associated Equipment Distributors  
Associated General Contractors  
Associated Industries of Arkansas  
Association For Manufacturing Technology  
Association of Equipment Manufacturers  
Auto Care Association

California Delivery Association  
California Hotel & Lodging Association  
CAWA - Representing the Automotive Parts Industry  
Cement Employers Association  
Coalition of Franchisee Associations  
Colorado Association of Commerce & Industry  
Colorado Hotel & Lodging Association  
Connecticut Lodging Association  
Consumer Electronics Association  
Farm Equipment Manufacturers Association  
Federation of American Hospitals  
Florida Independent Concrete and Associated Products  
Florida Restaurant & Lodging Association  
Food Marketing Institute  
Forging Industry Association  
Foundry Association of Michigan  
Franchise Business Services (representing Buffalo Wild Wings® franchisees)  
Georgia Hotel & Lodging Association  
Global Cold Chain Alliance  
Hawaii Lodging & Tourism Association  
Heating, Air-Conditioning & Refrigeration Distributors International (HARDI)  
HR Policy Association  
Illinois Chamber of Commerce  
Illinois Hotel & Lodging Association  
Independent Electrical Contractors  
Independent Office Products and Furniture Dealers Association  
Indiana Cast Metals Association  
Indiana Chamber of Commerce  
Indiana Restaurant & Lodging Association  
Industrial Fasteners Institute  
Industrial Supply Association  
International Foodservice Distributors Association  
International Franchise Association  
International Warehouse Logistics Association  
Louisiana Hotel & Lodging Association  
Maine Innkeepers Association  
Maryland Hotel & Lodging Association  
Massachusetts Lodging Association  
Metals Service Center Institute  
Michigan Lodging and Tourism Association  
Mid-America Lumbermens Association  
Minnesota Grocers Association  
Minnesota Lodging Association

Montana Lodging & Hospitality Association  
Motor & Equipment Manufacturers Association  
National Apartment Association  
National Association of Chemical Distributors  
National Association of Electrical Distributors  
National Association of Home Builders  
National Association of Manufacturers  
National Association of Truckstop Operators  
National Association of Wholesaler-Distributors  
National Automobile Dealers Association  
National Club Association  
National Council of Chain Restaurants  
National Council of Textile Organizations  
National Federation of Independent Business  
National Franchisee Association  
National Grocers Association  
National Lumber and Building Material Dealers Association  
National Marine Distributors Association  
National Mining Association  
National Multifamily Housing Council  
National Pest Management Association  
National Precast Concrete Association  
National Ready Mixed Concrete Association  
National Restaurant Association  
National Retail Federation  
National Roofing Contractors Association  
National Stone, Sand and Gravel Association  
National Tooling and Machining Association  
Nebraska Chamber of Commerce & Industry  
Nebraska Hotel & Motel Association  
Nevada Hotel & Lodging Association  
New Hampshire Lodging & Restaurant Association  
New York Hospitality & Tourism Association  
North American Die Casting Association  
North American Equipment Dealers Association  
Northeastern Retail Lumber Association  
North Carolina Restaurant & Lodging Association  
Ohio Hotel & Lodging Association  
Ohio Manufacturers' Association  
Oklahoma Hotel & Lodging Association  
Oregon Restaurant & Lodging Association  
Outdoor Power Equipment and Engine Service Association  
Pennsylvania Foundry Association

Pennsylvania Restaurant & Lodging Association  
Precision Machined Products Association  
Precision Metalforming Association  
Printing Industries of America  
Retail Industry Leaders Association  
Rhode Island Hospitality Association  
Snack Food Association  
Society for Human Resource Management  
Society of American Florists  
South Carolina Restaurant & Lodging Association  
SPI: The Plastics Industry Trade Association  
Tennessee Hospitality Association  
Texas Cast Metals Association  
Texas Hotel & Lodging Association  
Textile Rental Services Association  
Truck Renting & Leasing Association  
U.S. Chamber of Commerce  
United Motorcoach Association  
Utah Hotel & Lodging Association  
Vermont Chamber of Commerce  
Virginia Hospitality & Travel Association  
Washington Lodging Association  
West Virginia Hospitality & Travel Association  
Western Equipment Dealers Association  
Window and Door Manufacturers Association  
Wisconsin Cast Metals Association  
Wisconsin Hotel & Lodging Association  
Wyoming Lodging & Restaurant Association