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## Union Card Check Legislation Provides Powerful Tool for Unions

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(Mercury Emissions, continued from page 1)

Combating this theory, Segal points out that under the “cap and trade” regime to control acid rain, the highest emitting facilities had the greatest reductions because of the economic incentives to reduce emissions created by the program.<sup>14</sup>

Segal further points out that the new rule does not limit state options for regulating mercury emissions.<sup>15</sup> “The rule is perfectly consistent with the notion of cooperative federalism in the Clean Air Act,” Segal said.<sup>16</sup>

While many individual states have adopted more stringent restrictions, the coalition of states argues that a stricter national standard is necessary because a bulk of mercury deposits can come from out of state.<sup>17</sup> For example, New Jersey’s regulations aim to reduce mercury emission from in-state power plants by 90 percent.<sup>18</sup> However, more than a third of mercury deposits in New Jersey come from out-of-state sources.<sup>19</sup> The coalition asserts that the new federal rule has a very local impact that will usurp state efforts to reduce emissions.<sup>20</sup>

<sup>1</sup> Darren Samuelson, *Mercury: Court rejects pleas from enviros to stop EPA rule*, 10 GREENWIRE 9 (Aug. 5, 2005).

<sup>2</sup> New Jersey Department of Law & Public Safety News Release, *Attorney General Harvey Files Suit for Nine-State Coalition Against EPA Rule that Fails to Protect Children From Dangerous Mercury Emissions* (Mar. 29, 2005), <http://www.state.nj.us/lps/newsrelease05/pr20050329a.html>.

<sup>3</sup> United States Environmental Protection Agency, *Mercury: Frequent Questions About Mercury* (last updated Mar. 15, 2005), <http://www.epa.gov/mercury/faq.htm>.

<sup>4</sup> New Jersey Department of Law & Public Safety News Release, *supra* note 2, at 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Darren Samuelson, *supra* note 1.

<sup>9</sup> *Court denies stay, utilities to trade mercury*, IN THE NEWS, Aug. 9, 2005, at 11.

<sup>10</sup> Darren Samuelson, *supra* note 1.

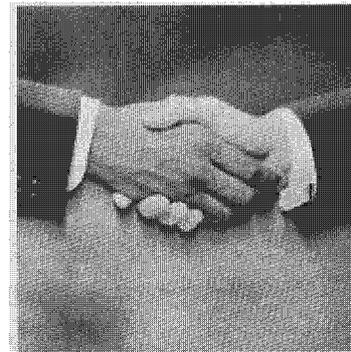
<sup>11</sup> *Id.*

(Mercury Emissions, continued on page 8)

## Union Card Check Legislation Provides Powerful Tool for Unions

By Claire Mariano

A recent Illinois law allowing public sector employees to form a union through majority sign up or “card check verification” has resulted in several major union certifications in Illinois.<sup>1</sup> Similar legislation at the federal level has stalled



Illinois’ new check card verification law is a boon to union organizers.

for the past several years, but labor unions have had increasing success at the state level, as New York, California and New Jersey have enacted similar card check verification laws.

The law provides a powerful organizing tool for labor unions. When a majority of employees in a public sector unit sign a card indicating their wish to join a union, the law requires that the employer recognize the union, allowing the union to avoid an election.<sup>2</sup>

Opponents argue that the legislation will limit the democratic process of union elections.

At the federal level, the Employee Free Choice Act<sup>3</sup> was introduced on April 19, 2005, to allow card check on a nation-wide basis, and the Secret Ballot Protection Act<sup>4</sup> was introduced to prohibit card check. Both measures await committee consideration and have not moved to the full House or Senate.

The U.S. Chamber of Commerce has fought any national legislation allowing card check legislation and has lobbied in support of the Secret Ballot Protection Act. The legislation would require the use of secret ballot for union elections conducted by the National Labor Relations Board.<sup>5</sup> The bill would also make it an unfair labor practice for a union to attempt to achieve union recognition through card check procedure.<sup>6</sup>

“We feel that the secret ballot process is good for employees and employers,” said Michael Eastman, Director of Labor Policy for the U.S.

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Chamber of Commerce.<sup>7</sup> “It ensures that employees vote in private and free from coercion.”<sup>8</sup>

With Republican control of the U.S. Congress, state action is more important than ever to labor unions. “We are forced to do these actions on the state level because the current administration is regressing on many of these fronts: minimum wage, overtime, and card check legislation,” said Jason Keller, Legislative Director of the Illinois AFL-CIO.<sup>9</sup>

Proponents say that the Illinois law allows employees to form a union without duplicating the process of gaining majority support and without delays or employer interference.<sup>10</sup> “In our case, we’ve found that the ability of employees and unions to use card check has removed barriers,” said Anders Lindall, spokesman for the American Federation of State, County, and Municipal Employees (“AFSCME”) Council 31.<sup>11</sup> Lindall also noted that in these public sector situations, anti-union tactics and time-consuming elections can cost taxpayers’ funds unnecessarily.<sup>12</sup>

Gail Purkey, spokesperson for the Illinois Federation of Teachers (“IFT”), also observed that card check “streamlines” the process.<sup>13</sup> The employer never sees the employee’s authorization card, so there is privacy built into the card check procedure.<sup>14</sup> “When you file 50 percent plus one, and clearly have a majority, you don’t have the expense of an election,” said Purkey.<sup>15</sup> “It is the most democratic way to go, both for the process and result, which is a negotiated contract.”<sup>16</sup>

Illinois unions representing public sector employees have had several major successes since card check verification went into effect in August 2003. After a long struggle to gain union recognition for graduate employees at the University of Illinois Urbana-Champaign, the card check law was used to more easily certify 1,200 graduate employees at the University of Illinois-Chicago as members of the IFT.<sup>17</sup> In addition, AFSCME achieved success when 600 employees at the Southern Illinois School of Medicine in Springfield were certified using card check verification in 2004.<sup>18</sup>

<sup>1</sup> Department for Professional Employees, ALF-CIO, *Organizing Victories for 2004*, [http://www.dpeaflcio.org/pros/organizing/org\\_ytd.cfm?YM=2004](http://www.dpeaflcio.org/pros/organizing/org_ytd.cfm?YM=2004) (last visited Mar. 7, 2006); Pub. Act No. 93-044.

<sup>2</sup> Pub. Act No. 93-044.

<sup>3</sup> Employment Free Choice Act, S. 842, H.R. 1696, 109<sup>th</sup> Congress (2005).

<sup>4</sup> Secret Ballot Protection Act, S. 1173, H.R. 874, 109<sup>th</sup> Congress (2005).

<sup>5</sup> U.S. Chamber of Commerce, *The Secret Ballot Protection Act Reduce Coercion in Union Organizing; Protect Employee Privacy*, <http://www.secretballotprotection.com/issues/index/labor/cardchecksecrbal.htm> (follow “Secret Ballot Protection Act Policy Paper”) (last visited Apr. 26, 2006).

<sup>6</sup> *Id.*

<sup>7</sup> Interview with Michael Eastman, Director of Labor Policy, U.S. Chamber of Commerce (Oct. 12, 2005).

<sup>8</sup> *Id.*

<sup>9</sup> Interview with Jason Keller, Legislative Director, Illinois AFL-CIO (Oct. 12, 2005).

<sup>10</sup> Interview with Anders Lindall, AFSCME Council 31 (Oct. 12, 2005).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Interview with Gail Purkey, Illinois Federation of Teachers (Oct. 12, 2005).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> American Federation of Teachers, *UI-Chicago Graduate Employee Union Certified*, [http://www.aft.org/higher\\_ed/news/2004/grademp\\_chicago.htm](http://www.aft.org/higher_ed/news/2004/grademp_chicago.htm) (last visited Mar. 7, 2006).

<sup>18</sup> Press Release, AFSCME Council 31, *More than 600 employees at SIU School of Medicine file to join AFSCME* (Nov. 19, 2004), <http://www.afscme31.org/articleDetail.asp?objectID=803>.

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