

## CARD CHECK: SENATE DEMOCRATS MIGHT BE RECEPTIVE TO FEINSTEIN PROPOSAL

By Kasie Hunt

Senate Democrats are seriously considering an Employee Free Choice Act compromise proposal from Sen. Dianne Feinstein, D-Calif., that would use mail-in elections to preserve the secret ballot.

Her proposal would replace the card-check provision, which would allow workers to unionize if a majority signed authorization cards and strip a company's ability to demand a secret ballot election. "It's a secret ballot that would be mailed in ... just like an absentee ballot. The individual could take it home and mail it in," Feinstein said. If a majority mailed the ballots to the National Labor Relations Board, the NLRB would recognize the union.

Sen. Tom Harkin, D-Iowa, who is leading negotiations, said Feinstein's proposal was promising. "It has the good elements of protecting the secret ballot, so people can still do it in private, but then it also takes away the harassment issue. That's why I think her proposal has a lot of merit," Harkin said.

There are already laws in place that allow unions to conduct mail-in NLRB elections if workers are scattered across a number of job sites that are far apart.

Still, the discussions are in their infancy. "I haven't discussed it with business. And I don't even know whether the labor side wants to consider it," Feinstein said.

Business groups expressed concern that Feinstein's proposal would still allow union intimidation. "The concern about the cards is that they are signed in public and are therefore subject to coercion," said Randel Johnson, vice president for labor, immigration and employee benefits at the U.S. Chamber of Commerce.

Feinstein said her proposal included an alternative to mandatory binding arbitration, which would require management and labor to use a government-appointed arbitrator to write a first contract if they can't come to an agreement themselves within 120 days. She would not discuss the details.

Sen. Arlen Specter, D-Pa., said this year in a floor statement that he would consider "last best offer" arbitration, in which both labor and management submit offers to an arbitrator who decides the one to be used. The goal is to discourage both sides from submitting extreme proposals for fear the arbitrator will accept the other side's offer.

Labor groups are receptive. "Sen. Specter seemed open to that. We're open to that," said Bill Samuel, the legislative director at the AFL-CIO.

Johnson balked. "It limits the power of an arbitrator to a certain range, but it's still turning massive amounts of power over to the arbitrator to determine a contract," he said. "We're just not going to go down that road of binding interest arbitration in the private sector."

Any compromise will likely leave both sides unhappy. "Anything that stems from EFCA we will oppose, since we see it as a fundamentally flawed piece of legislation," said Keith Smith, who directs labor policy at the National Association of Manufacturers.

"We remain confident that we will have 60 votes to pass major labor law reform this year, and that the legislation will adhere to the principles of the Employee Free Choice Act," said Mark McCullough, a spokesman for the Service Employees International Union.

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