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722 12<sup>TH</sup> STREET NW. - FOURTH FLOOR - WASHINGTON, D.C. 20005 - 202-785-0266 - WWW.WORKERFREEDOM.ORG

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## BIG LABOR'S CHRISTMAS WISH LIST

### *Legislation to Monitor in the Second Session of the 111th Congress*

With Big Labor giving over [\\$60 million](#) in political contributions to Democrats, according to OpenSecrets.org, the Alliance for Worker Freedom (AWF) has compiled a “Christmas Wish List” of their legislative demands. As unemployment increases and union membership continues to decline, expect Big Labor to do whatever it takes to get what they want – which has been surprisingly little from this Administration.

We provided the previous bill numbers for legislative language viewing purposes, understanding that legislation will need to be re-introduced and will therefore have different numbers.

#### **[H.R. 1409](#) / [S. 560](#) – Employee Free Choice Act of 2009 (EFCA)**

**Common Name:** “Employee Free Choice Act” or “Card Check”

**Introduced by:** Rep. George Miller (D-CA) / Sen. Edward Kennedy (D-MA)

**Cosponsors:** [288](#) / [40](#)

**What it will do:** Replace secret ballot on unionization elections with “card check”; create additional employer penalties for unfair labor practices; and create mandatory arbitration when parties disagree on union contract.

**Last Action:** H.R.1490 Apr 29, 2009: Referred to the Subcommittee on Health, Employment, Labor, and Pensions; S. 560 Mar 10, 2009: Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

#### **[H.R. 1644](#) / [S. 969](#) – THE RE-EMPOWERMENT OF SKILLED AND PROFESSIONAL EMPLOYEES AND CONSTRUCTION TRADEWORKERS ACT**

**Common Name:** “The R.E.S.P.E.C.T. Act”

**Introduced by:** Rep. Robert Andrews (D-NJ) / Sen. Christopher Dodd (D-CT)

**Cosponsors:** [163](#) / [31](#)

**What it will do:** Dramatically limit which workers the National Labor Relations Act classifies as supervisors, thus allowing unions to collect dues from those formerly classified as supervisors.

**Last Action:** H.R. 1644 ordered to be reported by committee (26-20) (9/19/2007) / S. 969 referred to Senate committee (3/22/2007).

#### **[H.R. 413](#) / [S.1611](#) – Public Safety Employer-Employee Cooperation Act of 2009**

**Common Name:** “Firefighters’ Bill”

**Introduced by:** Rep. Dale Kildee (D-MI) / Sen. Judd Gregg (R-NH)

**Cosponsors:** [178](#) / [8](#)

**What it will do:** Provide collective bargaining rights for public safety officers employed by states or local governments.

**Last Action:** H.R. 413 Jan 9, 2009: Referred to the House Committee on Education and Labor; S. 1611 Aug 6, 2009: Read twice and referred to the Committee on Health, Education, Labor, and Pensions

**[H.R. 980 / S. 2123](#) – PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT****Common Name:** “Firefighters’ Bill”**Introduced by:** Rep. Dale Kildee (D-MI) / Sen. Judd Gregg (R-NH)**Cosponsors:** [280](#) / [36](#)**What it will do:** Provide collective bargaining rights for public safety officers employed by states or local governments.**Last Action:** H.R. 980 passed House (314-97) (Vote # 633, 7/17/2007); Senate cloture motion withdrawn by unanimous consent (5/15/2008) / S. 2123 referred to Senate committee (10/1/2007).**[H.R. 6477](#) – “TO REPEAL A LIMITATION IN THE LABOR-MANAGEMENT RELATIONS ACT . . .”****Common Name:** “Right to Work Repeal”**Introduced by:** Rep. Brad Sherman (D-CA)**Cosponsors:** [8](#)**What it will do:** Repeal the provision of federal law that allows individual states to pass Right to Work laws, which grant workers the freedom to remain employed at union shops without becoming union members.**Last Action:** H.R. 6477 referred to House committee (7/10/2008).**[S. 2044](#) – INDEPENDENT CONTRACTOR PROPER CLASSIFICATION ACT****Common Name:** “Independent Contractor Reform”**Introduced by:** Sen. Barack Obama (D-IL)**Cosponsors:** [6](#)**What it will do:** Restrict workers that can be classified as independent contractors and allow IRS collect back taxes from businesses that previously “misclassified” workers.**Last Action:** S. 2044 referred to Senate committee (9/12/2007).**[H.R. 6111](#) – EMPLOYEE MISCLASSIFICATION PREVENTION ACT****Common Name:** “Independent Contractor Reform”**Introduced by:** Rep. Robert Andrews (D-NJ)**Cosponsors:** [23](#)**What it will do:** Create new requirement that businesses maintain records of all hired independent contractors and create new penalties for businesses that misclassify independent contractors.**Last Action:** H.R. 6111 referred to House subcommittee (6/2/2008).**[H.R. 5804](#) – TAXPAYER RESPONSIBILITY, ACCOUNTABILITY, AND CONSISTENCY ACT****Common Name:** “TRAC Act”**Introduced by:** Rep. James McDermott (D-WA)**Cosponsors:** [37](#)**What it will do:** Amend the Internal Revenue Code to restrict the kinds of workers who can be classified as independent contractors.**Last Action:** H.R. 5804 referred to House subcommittee (4/15/2008).**[H.R. 7233](#) – FAMILY AND MEDICAL LEAVE ENHANCEMENT ACT****Common Name:** “FMLA Expansion”**Introduced by:** Rep. Carolyn Maloney (D-NY)**Cosponsors:** [5](#)**What it will do:** Expand the scope of the Family and Medical Leave Act to allow employees to take, as additional leave, parental involvement leave to participate in or attend their children’s and grandchildren’s educational and extracurricular activities and to extend leave for routine family medical needs and to assist elderly relatives.**Last Action:** H.R. 5804 referred to House subcommittee (9/29/2008).

**S. 1894 – SUPPORT FOR INJURED SERVICEMEMBERS ACT****Common Name:** None**Introduced by:** Sen. Christopher Dodd (D-CT)**Cosponsors:** [10](#)**What it will do:** Expand the scope of the Family and Medical Leave Act to provide family and medical leave to primary caregivers of service-members with combat-related injuries.**Last Action:** S. 1894 referred to Senate subcommittee (7/26/2007).**H.R. 1542 / S. 910 – HEALTHY FAMILIES ACT****Common Name:** None**Introduced by:** Rep. Rosa DeLauro (D-CT) / Sen. Edward Kennedy (D-MA)**Cosponsors:** [106](#) / [24](#)**What it will do:** Require employers with more than 15 employees to offer full-time employees 7 days of paid sick leave per year. Mandate that the sick time could be used for the employee's illness or to care for a child, parent, spouse, blood relative or domestic partner.**Last Action:** H.R. 1542 referred to House subcommittee (3/15/07) / S. 910 referred to Senate subcommittee (3/15/2007).**H.R. 4301 / S. 2419 – WORKING FAMILIES FLEXIBILITY ACT****Common Name:** None**Introduced by:** Rep. Carolyn Maloney (D-NY) / Sen. Edward Kennedy (D-MA)**Cosponsors:** [7](#) / [4](#)**What it will do:** Requires employers to “consider” employee requests for flexible work terms and conditions. Creates employer penalties for failure to sufficiently “consider” these requests.**Last Action:** H.R. 4301 referred to House subcommittee (2/05/2008) / S. 2419 referred to Senate subcommittee (12/06/2007).**S. 1945 – PATRIOT EMPLOYERS ACT****Common Name:** None**Introduced by:** Sen. Richard Durbin (D-IL)**Cosponsors:** [3](#)**What it will do:** Create a new Federal income tax credit for businesses deemed “Patriot employers.” Patriot employers are those that: 1) Pay at least 60% of employees' health care premiums; 2) Have a position of “neutrality in employee [union] organizing drives”; 3) Maintain or increase the number of workers in the U.S. relative to the number of workers outside the U.S.; 4) Pay a salary to all employees at least equal to the federal poverty level; and 5) Provide a pension plan.**Last Action:** S. 1945 referred to Senate subcommittee (8/02/2007).**S. 1725 – RESTORING PENSION PROMISES TO WORKERS ACT****Common Name:** None**Introduced by:** Sen. Thomas Harkin (D-IA)**Cosponsors:** [1](#)**What it will do:** Amends the tax code to require employers to consider as gross income previous pension contributions that do not meet certain participation, vesting, and minimum benefit requirements. Amends ERISA to: 1) Deny businesses the right to recover overpayments made to pensioners in cases of hardship or insignificant amounts; 2) Impose a three-year limitations period for employers to bring an action to recover an overpayment; and 3) Create a new Department of Labor board to oversee pension administration by employers.**Last Action:** S. 1725 referred to Senate subcommittee (6/28/2007).

**[H.R. 2320](#) / [S. 1107](#) – A BILL TO AMEND THE NATIONAL LABOR RELATIONS ACT AND THE RAILWAY LABOR ACT TO PREVENT DISCRIMINATION BASED ON PARTICIPATION IN LABOR DISPUTES****Common Name:** “Striker Replacement Act”**Introduced by:** Rep. John Tierney (D-MA) / Sen. Tom Harkin (D-IA)**Cosponsors:** [28](#) / [17](#)**What it will do:** Prohibit employers from offering replacement workers permanent jobs on the same terms as striking workers. Require employers to fire any replacement workers whenever the strikers choose to return.**Last Action:** H.R. 2320 referred to House subcommittee (3/11/2002) / S. 1107 referred to Senate committee (6/27/2001).**[H.R. 3685](#) – EMPLOYMENT NON-DISCRIMINATION ACT OF 2007****Common Name:** “Striker Replacement Act”**Introduced by:** Rep. Barney Frank (D-MA)**Cosponsors:** [9](#)**What it will do:** To prohibit employment discrimination on the basis of sexual orientation.**Last Action:** H.R. 3685 passed House (235-184) (Vote # 1057); placed on Senate legislative calendar until General Orders (11/13/2007).**[H.R. 1322](#) – EMERGENCY RETIREE HEALTH BENEFITS PROTECTION ACT OF 2007****Common Name:** None**Introduced by:** Rep. John Tierney (D-MA)**Cosponsors:** [86](#)**What it will do:** Amend ERISA to prohibit group health plans from reducing retiree health benefits after the retirement of a plan beneficiary. Require group health plan sponsors to grant retired plan participants the option of benefit restoration.**Last Action:** H.R.1322 referred to House subcommittee (6/05/2007).**[S. 1792](#) – FOREWARN ACT OF 2007****Common Name:** None**Introduced by:** Sen. Sherrod Brown (D-OH)**Cosponsors:** [9](#)**What it will do:** Amend the Worker Adjustment and Retraining Notification Act, which requires employers large employers warn employees of impending plant closings or mass layoffs, by: 1) Making WARN apply to small businesses over 50 employees; 2) Reduce the size of “plant closings” which require notice from 50 to 25 employees; 3) Increase the notice requirement from 60 to 90 days; and 4) increase the penalty from its present amount of back pay and benefits for 60 days to 90 days.**Last Action:** S. 1792 referred to Senate committee (7/16/2007).**[H.R. 3010](#) / [S. 1782](#) – ARBITRATION FAIRNESS ACT OF 2007****Common Name:** None**Introduced by:** Rep. Henry Johnson (D-GA) / Sen. Russ Feingold (D-WI)**Cosponsors:** [103](#) / [7](#)**What it will do:** Prohibit pre-dispute binding mandatory arbitration agreements in all contracts involving employees, consumers or franchisees, and “in disputes arising under any statute intended to protect civil rights or to regulate contracts or transactions between parties of unequal bargaining power.”**Last Action:** H.R. 3010 referred to full House committee by voice vote (7/15/2008) / Judiciary Committee hearings held on S. 1782 (12/12/2007).

**H.R. 1338/ S. 766 – PAYCHECK FAIRNESS ACT OF 2007****Common Name:** None**Introduced by:** Rep. Rosa DeLauro (D-CT) / Sen. Hillary Clinton (D-NY)**Cosponsors:** [230](#) / [24](#)**What it will do:** Amend the Fair Labor Standards Act of 1938 to increase employer penalties and employee remedies for wage discrimination on the basis of sex.**Last Action:** H.R. 1338 passed House (247-178) (Vote # 556, 7/31/2008); referred to Senate committee (8/01/2008) / S. 766 referred to Senate committee (03/06/2007).**CONCEPTS NOT YET FORMALLY INTRODUCED BUT SUPPORTED BY LABOR****Mini-Unions:** Unions have already filed a live petition before the National Labor Relations Board to authorize “mini-unions,” – tiny cells of workers who could demand recognition as a union even though they don’t represent a majority of any bargaining unit – forcing the employer to bargain with them on wages and benefits, and allowing them unfettered access to other employees for organizing.**Return of the \$8 Billion Ergonomics Regulation:** Unions are drawing up plans to resurrect the Clinton Administration’s sweeping ergonomics regulation, which imposed strict controls on virtually all physical activity by employees in nearly every U.S. workplace, costing the economy an estimated \$8 billion. Hardest-hit industries would be health care, hospitality, transportation, construction, manufacturing and clerical support. The regulation was blocked by a bipartisan majority in Congress in 2001.**Aggressive OSHA and Wage and Hour Enforcement:** Unions want Congress to increase funding for both OSHA and the Wage and Hour Division to launch aggressive enforcement campaigns targeting key industries. In addition, unions back legislation that would increase civil fines – and even impose new criminal penalties – on employers for OSHA violations.**Hasta La Vista, Free trade:** Unions have imposed a *de facto* moratorium on new trade agreements which they intend to make permanent. Organized labor also wants to reopen past agreements (such as NAFTA) to add more stringent labor provisions. In addition, unions are pushing to secure greatly expanded, and far more costly, benefits under the Trade Adjustment Assistance program.**Union Takeover of the SEC...and Corporate Boards:** Unions have exploited the power of their members’ pension funds to become the most prolific instigator of shareholder proxy resolutions – and the dominant special-interest authority on corporate governance. Unions will take shareholder activism to another level by demanding labor-friendly appointments to the SEC, and using regulatory power to grant “proxy access” and force companies to reimburse union pension funds for the “campaign costs” of running minority director slates.**Expanded Class Action Liability for Employers:** Working hand-in-glove with the plaintiffs’ bar, unions want to repeal the existing caps on compensatory and punitive damages for most employment discrimination lawsuits. Through the “Ledbetter Fair Pay Act,” unions also seek to effectively eliminate the statute of limitations for discriminatory compensation claims under Title VII. Unions want to unlock another treasure trove for plaintiffs’ lawyers by enacting “comparable worth” legislation, holding employers liable if they fail to provide “equal pay” to workers performing completely different kinds of jobs.

**“Blacklisting” of Federal Contractors:** Unions have already drafted proposals to resurrect and expand the Clinton Administration’s proposed “blacklisting” rules. These regulations would ban firms cited for violations of labor, environmental, tax or other laws from receiving federal contracts. Unions could use the rules to exert enormous influence over employers, for example, by threatening to file an unfair labor practice or wage-and-hour complaint against an employer during an organizing campaign or collective bargaining process.