

## Two Developments on “So-Called” Employee Free Choice Act

On March 24, Senator Arlen Specter (R-Pa.) announced that he would not support EFCA, otherwise known as card check, when it is taken up in the Senate. This is notable, as Senator Specter was the lone Senate Republican to vote for the bill last Congress. Supporters of EFCA were counting on Senator Specter to vote in favor of the measure again this year as they needed at least one Republican to defeat a filibuster.

Senator Specter said he believes that changes need to be made to the labor law and he wants to develop legislation to address some of his concerns. The Senator also said he would reconsider his stance on EFCA should the economy improve or if changes were not made to the National Labor Relations Act.

In addition, recent news reports covered a proposal developed by the CEOs of Starbucks, Costco and Whole Foods, referred to as the “Starbucks proposal.” These companies oppose card check and are also big supporters of Democrats in Congress. The three companies have developed what they consider to be a third option, although it was criticized by both card check supporters and opponents. No trade associations (including AGC) have come out in support of the principles.

Senate Minority Leader Mitch McConnell (R-Ky.) said that the proposal has “unified both labor and management in opposition.” On the Democratic side, Senate Labor-HHS Appropriations Subcommittee Chairman Tom Harkin (D-Iowa) and House Education and Labor Chairman George Miller (D-Calif.) said in a joint statement that the “proposal is unacceptable. It is nothing more than a classic Washington lobbying campaign intended to confuse the issues and disguise the real agenda of maintaining the status quo.”

The real threat with either the “Starbucks proposal” or efforts by Senator Specter is not that they will become law but that it could be used as a “trojan horse” to obtain the 60 votes necessary to end a filibuster in the Senate. Passage of the “compromise” in the Senate after a filibuster has been stopped would lead to a House-Senate conference with, presumably, the House-passed original card check bill. The likely product of the conference would be the House-passed bill. Thus, the “compromise” language would be ignored in order to pass the original card check bill. AGC is making the case that there is no acceptable compromise on this issue.