

## Supply Chain News: Did Tuesday's Election Sink Card Check in the Near Term?

### Yes, says Michael Barone, as Labor Leaders Now Push for Laws at the State Level; Test Case in Oregon?

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While the political pundits spent days dissecting Tuesday's US election results, which really just involved a small number of notable races, one of those observers now says that the so-called card check legislation took a damaging hit from the triumph of the Republican candidates in the only two elections held for state governorships (Virginia and New Jersey.)

The "biggest loser of all," in the election, says **Michael Barone**, a well-known political writer and co-author of **The Almanac of American Politics 2010**, was in fact **Andy Stern**, president of the Service Employees International Union and a man Barone says "has been a guest in the White House 22 times since Barack Obama became president, more than any other single individual." His comments came in an opinion piece in the Wall Street Journal last week.

In Barone's view, the already weakening support in Congress for the "Employee Free Choice Act" was perhaps dealt a death blow by last week's results at the polls. That bill would make several important changes to existing labor law, including allowing unions to be formed at a place of work through a simple majority of workers there signing a card that signals their support for a union, rather than through a secret ballot as is the case today. Opponents of the law, such as the US Chamber of Commerce and many other groups, say that change will lead to worker intimidation by local labor leaders to sign the cards, and ultimately to a surge in unionization.

The bill would also force companies and new unions to be bound by a federal arbitrators' decision on a new contract if the two sides cannot reach an agree-

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ment between them within 90 days. Currently, there is no such mechanism, and in practice many successful unionization efforts are thwarted by companies failing to agree to a deal with the new union. This arbitrator provision is feared by business groups almost as much as the card check change itself, as in theory the arbitrator could impose almost any sort of contractual wages and terms on a business.

The bill was the top priority of labor groups after the election of the Obama administration and with a more solidly Democratic Congress going into 2009, but is now stalled amid strong resistance from business and wavering support from some Democratic representatives and senators. The support is especially tepid for politicians from Southern states, where "right to work" sentiments are strong and many of the states have benefitted from non-union businesses – and jobs – moving into their states, such as the parade foreign auto-makers setting up shop in the South.

"Support evaporated as Democrats from places as dissimilar as Arkansas and California thought hard

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about what life would be like with card check," Barone said. "Today the bill looks dead no matter how many Democrats are elected to Congress."

Barone believes with weakening overall support and the prospect of Republican gains in the 2010 Congressional elections, the chances of a card check law passing in the near term have faded dramatically.

Meanwhile, sensing a drop in card check legislation momentum in Washington DC, labor groups are now focusing more efforts on similar legislation at the state level.

This summer, for example, Oregon passed the Worker Freedom Act, which prohibits companies from holding mandatory employee meetings to talk about organizing – very similar to another of the provisions of the Employee Free Choice Act.

Employers say mandatory meetings, known as "captive audience meetings," are necessary to counter misleading information disseminated by union organizers. Unions say employers use the meetings to gauge worker sympathies and pressure workers not to join the union.

The Oregon law is scheduled to take effect in January, and business groups are mounting court chal-



lenges to its enforcement. All this is making Oregon something of a "test case" to see how such legislation plays out in the courts and the real world.

Similar legislation prohibiting mandatory workplace meetings about union organizing passed this year in the Connecticut Senate and the Michigan House, both controlled by Democrats, but stalled in the other chambers of the state legislatures.

In Hawaii, a card check provision was signed into law over the veto of the Republican governor's veto in August, though it only applies to agriculture and public-sector workers.