



The Realities of the Employee Free Choice Act

Proponents of the Employee **Forced** Choice Act often mischaracterize the current process of union organizing as well as the implications of this dangerous legislation. Several of these frequently cited statements along with valid responses are outlined below:

The EFCA is needed now more than ever.

- Data released in January 2009 by the Department of Labor's Bureau of Labor Statistics (BLS) shows that union membership has grown for the second year in a row in 2008. This information shows that workers that wish form a union are able to do so, as 428,000 more workers became union members in that year alone.
- A recent public opinion survey performed for the Coalition for a Democratic Workplace shows that four out of five voters felt Congress should not be focusing on EFCA, but should instead focus on issues like jobs.
- At a time when employers are struggling to create and retain jobs, provisions in the EFCA that result in government determination of wages, benefits and work rules would be further threat to our economic competitiveness.

The EFCA is a means to labor law reform.

- EFCA represents a radical restructuring of the carefully crafted labor law balance that has served both unions and employers well for more than 60 years.
- Each of the major provisions of the EFCA seek to change the rules to make our labor law system even more biased in favor of union bosses over job providers.
 - Cards can be used to certify a union, but not to decertify
 - Penalties are targeted towards employers, not unions

Union members support the EFCA.

- A recently commissioned poll by the Coalition for a Democratic Workplace shows that three out of four voters (74%) oppose the EFCA.
- This same survey highlights that the most union members share this opinion; 74 percent union households also strongly oppose the EFCA, oppose to only 20 percent support.
- Most union members value their right to secret ballot union representation elections. Nine out of ten union members surveyed feel strongly that their decision to join a labor union should be kept private.

Employers have an unfair advantage during union representation elections.

- Under current law, only labor unions may make promises of increased benefits during organizing campaigns. Employers on the other hand may not. Employers can not promise to increase wages, improve benefits, or change working conditions if workers choose to remain non-union. Employers are even unable to give employees a raise during these

campaigns, unless they can prove that they previously intended to before the campaign started.

- Within one week of the determination that a union election will be held, employers are required to submit detailed information regarding their employees, such as complete employee lists. These lists are then provided to the union.

EFCA supporters claim that employer interference often deters employees from joining a labor union.

- The latest National Labor Relations Board (NLRB) data shows that in the first half of 2008, labor unions won **66.8 percent** of private ballot representation elections conducted by the NLRB. This high win rate clearly shows that labor unions are and have been winning the vast majority of unions for some time now.

*The EFCA makes it **easier** for an employee to join a labor union.*

- The passage of EFCA may lead to a quicker intended result (higher unionization); however, eliminating a worker's right to privately decide whether or not to join a union creates more pressure for a worker, not less. The EFCA would result in a system that exposes workers to unwanted intimidation and coercion.
- The best way to guarantee worker protection is through the continued use of a federally supervised private ballot so that personal decisions about whether to join a union remain private. Private ballots protect free choice.

The current process to form a union is too long.

- Recent NLRB data shows that elections are held promptly, as 95.1 percent of all initial elections were conducted within 56 days of the filing of the petition.

Employers often intimidate and fire employees who wish to join a labor union.

- Analysis by several groups of NLRB data show that employers rarely fire workers during organizing drives and that unions win most organizing elections. Companies improperly fired workers in just 2.7 percent of organizing campaigns in 2005.
- Current law protects employees that are illegally fired during an election campaign. The company would be required to reinstate that worker in addition to providing back pay.

EFCA does not take away secret ballot elections.

- The EFCA clearly states "If the Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations...the Board shall not direct an election but shall certify the individual or labor organization as the representative..."