

## **Employee Free Choice Act: Do We Need It?**

Union membership in the United States peaked in 1979 but has declined significantly in recent decades. It is now close to an all time low. Is it any wonder that the decline of the middle class is associated with this trend? Union members generally receive higher pay in the range of 10% to 30% over nonunion wages. They also enjoy more generous benefits such as healthcare insurance. Safety in the workplace has clearly become more defined as a result of unions. Because of these and other benefits, quit rates are lower and job satisfaction is higher. A number of factors have evolved since the 1980's to erode unions in the United States. The middle class is directly affected by this trend. Anything to help stabilize union membership and thus promote the middle class should be considered. One way would be to support the Employee Free Choice Act.

The latest version of the Employee Free Choice Act was introduced to the United States Congress on March 10, 2009. There are three main gains that unions can receive through the passing of this Bill. Section 2 of the bill will ensure that unions are able to be formed when the majority of employees wish to set one up. If a Union does emerge, the employer and the union must arbitrate within 120 days. Section 4 of this Bill will set higher penalties on employers for discriminating against employees of a union. All of these changes are necessary to ensure an equal playing field for all employees.

The passing of this Bill is crucial for the survival of the middle class in this current dire economy. In a time where many people are not able to make ends meet it is especially important to ensure that employers are not taking advantage of their employees. Unions are used as a means for the average employee to have a voice that is collectively more powerful than it would be individually. This particular Bill will serve to close the loopholes that are presently being used by employers as a way to weaken the strength of unions and therefore weakening each individual voice.

Unions do not just help those who choose to be active union members but have also been shown to help all employees regardless of their involvement. Without the bar that is set through Union contracts, businesses in the United States will continue to erode the average pay and benefit package until it becomes far too low to support a middle class lifestyle. This is a scary realization that many countries, including our own, have seen at one point or another in our histories. The livelihoods of all Americans are far more important than sheer profit for the few, and that is what Unions seek to protect.

In my particular field of study, Unions will ensure proper work conditions which may ultimately save my life. As a nurse I will be faced with a multitude of situations that can prove deadly both for me and for my patients. I can rest easy knowing that my union will stand up for my wellbeing and ensure that I'm not being put in unreasonable risk simply to cut corners and save money for the employer. It does not however, give me any sense of security if my union's voice is able to be covered up by red tape. To ensure my safety and the safety of all employees across the United States we will be wise to support the Employee Free Choice Act.

United We Stand:

An essay on the "Employee Free Choice Act"

Everywhere you look these days, whether it be a flip of a television channel, or a turn of a newspaper, it is a blur of the same headlines. You read or witness new lost jobs, increased health care costs, and more home foreclosures. America's middle class is beyond struggling. Wages for working men and women have declined, while bonuses and pay for CEOs have dramatically risen. The way to better living consists of co-workers bargaining their wages and benefits from employers. Unions are the best course for America's middle class.

Members of a union make up to \$10,000 more a year than non-union workers. They are 52% more likely to have employer-provided health insurance along with better costs and benefits. Also, through their jobs, 77% of union members have defined-benefit pension plans. Compare that to the 20% of workers who do not have a union. Communities who have strong unions have higher living standards for everybody. The rebuilding of the middle class, which can be referred to as the country's backbone, is dependent on the right to form unions.

When you look at the research, its hard to deny the fact that the working people of America want to form unions. Sixty million individuals would join one tomorrow if they were given the opportunity. Unfortunately, too few will ever seize the chance because of our corporate-dominated system. Companies routinely harass, intimidate, and even fire people who make the effort to form unions. Our

current legal system is too helpless to prevent this. The penalties are so slight for corporations breaking the law that they simply consider it the cost of business. There is a one in five chance that a worker in an organizing campaign will be fired for such union activity. Even after workers have successfully won their unions, 44% of workers never reach a first contract with their company.

Introduced on March 10, 2009 was the Employee Free Choice Act. The EFCA is a bipartisan legislation that would remove unfair barriers to union representation and collective bargaining. It would allow workers, not corporations, to choose whether and they want to form a union. First, it would allow unions to be certified by the National Labor Relations Board as long as the NLRB finds a majority of employees signed cards authorizing the union to act as their bargaining representative. Second, the act would provide a 90-day time limit for employers and newly formed unions to reach an agreement in bargaining their first contract, after which either party can request mediation by the Federal Mediation and Conciliation Service. If no agreement is reached after 30 days of mediation, the dispute is referred to binding arbitration. Thirdly, the EFCA stiffens the penalties against employers who violate employees' rights during campaigns and contract negotiations. This means the economy can work for everyone again.

Corporate front groups have unleashed a massive attack to end the Employee Free Choice Act. They do not want working people to have the freedom to choose for themselves. As former Wal-Mart CEO Lee Scott has said, " We like driving the car and we're not going to give the steering wheel to

anybody but us.” The very essence of the Corporate front groups’ campaign is fabrication and distortions of the EFCA. Numerous groups have misleading names to convince people that they’re on the side of the workers. Such names include the Coalition for a Democratic Workplace, Americans for Job Security, Workforce Fairness Institute, and etc. The nation should not be fooled.

In the end, by changing the rules for unionization, the Employee Free Choice Act will make it easier for workers to form a union, to win their first contract, and to strengthen penalties against companies which break the law. The backbone of America will stagnate no more. Unions are the solution to these rough economic times. Headlines could read about a more efficient economy and the reduction of wage inequality. The American dream has never been more obtainable than through the EFCA.

## **Employee Free Choice Act: Do we need it?**

"Only a fool would try to deprive working men and working women of their right to join the union of their choice." Dwight D. Eisenhower's message still applies in the United States' post-industrial society. As of 2006, 7.4 percent of Americans working in the private-sector were part of a union—that number pales in comparison to the 35.7 percent who were union members in 1953. Some argue that the decline represents the country's shift from an industrial to post-industrial economy: globalized trade, outsourcing, and supply-chaining decreases the reliance that businesses have on workers receiving minimum wages, suitable working conditions, and benefits, thus, causing labor unions to disappear. Many workers contend, however, that employers use intimidation and coercion—which are illegal—in many cases to keep employees from forming a union. The Employee Free Choice Act (EFCA) would help make the unionization process less unwieldy for workers who are subject to employer harassment.

The EFCA expedites the formation process by taking out the election process for a union in place of authorization cards to be signed by the majority of employees. A popular argument against this change is that the removal of the secret ballot election takes away the idea of a democracy in the workplace. Currently, 30 percent of employees must sign a petition just to hold the secret ballot election. In the time from when the petition requirement is met and when the election is held, both employers and employees can campaign their ideas, whether in support or against unionization. Finally, the election takes place in which unionization occurs when the majority is in favor. This might sound fair, but there are many injustices involved that favor management.

For example, employers can campaign at anytime during the workday and can hold individual meetings with workers—this is already unfair as the employer-employee power dynamic makes the workers more vulnerable to coercion. Upon facing union-organizing efforts, employers also have more liberties in voicing their opinions: 58 percent show anti-union videos; 91 percent make anti-union meetings mandatory; and 77 percent distribute pamphlets against unionization. Meanwhile, union representatives cannot even enter the workplace, and union supporters are not allowed to discuss unionization with each other while working—by law, they can get fired for doing so. This one-sided campaign is not representative of a democracy to begin with. Making the secret ballot election optional will remove the double standard in place and streamline union certification. Furthermore, it will still be a democracy because the majority will have to sign the cards, while both sides can still campaign their ideas.

Following union certification, under the EFCA the union can require that negotiations of a collective binding agreement (CBA) must begin within 10 days; if a CBA is not met after 90 days, the case is taken to the federal mediation service. If the employer and union have not reached an agreement after 30 days, they are referred to a government arbitrator who will impose a two-year binding agreement, minimally. A popular argument against this step in the EFCA is that the arbitration panel will not be experienced in the matters since it is an external party (us chamber). The panel will be carefully selected, though, and the fact that it is neutral makes it fairer for both employer and employees. The binding agreement will ensure that swift action is taken.

Presently, it is illegal for employers to threaten workers who are in favor of unionization, but many get away with doing so because it is difficult to distinguish

between free speech and intimidation measures. That is why the EFCA will increase penalties for employers, especially for repeated offenses, who violate employees' rights during organizing campaigns or first contract negotiations: employers who are found to discriminate against union supporters can be fined up to \$20,000 for each violation; triple back pay can be granted to the employees who were victimized; and the National Labor Relations Board will be required to seek federal court injunctions if there is reason to believe an employee was discriminated against (6777). This would be a greater deterrent in keeping management from using scare tactics to prevent workers from unionizing.

Since the U.S. is in a state of what is called the Great Recession, a big step toward its recovery would be an equally great strengthening of its middle class. The Employee Free Choice Act can help in this effort, since much of the middle class workers owe much of their bargaining power to the unions who helped them acquire livable wages, better working conditions, and health benefits. In the age of globalization, many of the country's jobs are outsourced to other countries, thus, making it harder for domestic workers to compete against each other for jobs. If the unionization process is made simpler and employer retaliation is kept to minimum, the economy just might return to the balance of the past.

#### **Works Cited**

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It is interesting that, in light of the circumstances which brought about the birth of the National Labor Relations Act (namely the severe economic hardships and job losses brought about by the Great Depression), we find the need to strengthen this act today when American workers again face high unemployment levels and a decline in their standard of living.

The Employee Free Choice Act is necessary to protect union workers from loopholes in the National Labor Relations Act. If passed the Employee Free Choice Act would remove the need for an additional ballot to force an employer to recognize a union, provided that a majority of the workers have previously signed cards conveying their wish to have a union. It will also require that an employer begin negotiation with a union with the goal of reaching a collective agreement within ninety days, and should that fail, both sides will have obligatory mediation with binding arbitration as a final resort if mediation should fail as well. Finally, it will also increase the penalties on employers who deter employees from being involved in a union.

It is wrong for employers to require a second vote supervised by the National Labor Relations Board. University of Oregon professor Gordon Lafer testified in front of Congress that during such votes, "while the vote does take place in a booth where nobody sees what you're doing, management is allowed to engage in a series of behaviors in the lead up to the vote that force the vast majority of workers to reveal how they're going to vote long before they ever step into the booth." The Employee Free Choice Act would allow employees to decide for themselves if they want to bargain collectively without fear of reprisal from their employer.

The Employee Free Choice Act will prevent any stalling on the employer's part by prompting negotiations as soon as possible. By delaying negotiations during a strike, many employees are kept out of work as the strike goes on. If an employer is allowed to stall for too long, employees may be forced to end the strike prematurely, simply so that they can provide for their families. Eventually, the employer will win, and the employees will lose. Through the Employee Free Choice Act a quick and mutually beneficial solution is brought about as soon as possible.

If the Employee Free Choice Act is passed, employers are liable for greater fines should they interfere with an employee's right to join a union. As of 2006, employers were only obligated to pay back pay with interest at an average of \$4,026. But, the Employee Free Choice act would triple the amount of back pay and provide civil fines of up to \$20,000. The increased fees will benefit the workers because weak penalties in the National Labor Relations Act fail to prevent widespread illegal activity among employers during National Labor Relations Board Elections, such as—according to a 2009 study—34 percent of employers faced with organizing campaigns firing pro-union workers.

Without the Employee Free Choice Act, union workers would be at the mercy of their employers, whether through influenced voting, delaying negotiations to force strikers back to work, or through simply firing a pro-union worker. So, the Employee Free Choice Act will be crucial in defending the rights and needs of those who already belong to a union or those who are seeking to form one.

Speaking from my personal experience, my father's job has been protected many times by the benefit of his being a union member (and most significantly he still has a job now because of his union

membership, unlike many thousands of others at his work who are not union members and who are losing their jobs). If my mother had been allowed to have a union at her work, she probably would still have her job (which she held for 27 years). She has been unemployed for a year and a half, and because of her unemployment income (and a technicality in Federal financial aid rules), I am not eligible for financial aid for college.

I think the political climate in the United States is becoming increasingly anti-union. You can hear it in the rhetoric spewed by members of the Tea Party movement and other conservative pulpits. Corporations are more concerned with their stockholders, management and bottom line. They don't want to be constrained by having to deal with a union or the rights of its workers (or cutting down on their profits because they actually have to pay workers a living wage). Without a union protecting the rights of the American worker, employees are left to the devices of the corporations and the legal system (which is bought and paid for by corporations—the laws which are supposed to protect workers are easily gotten around by employers and their highly paid lawyers; and there are only a very narrow set of federal and state laws for which corporations can be held liable for treading upon worker rights).

I believe the Employee Free Choice Act is essential in protecting and strengthening union membership in this country, because I'm certain that there is a concerted effort to erode and eliminate unions from the American workforce. I believe the rights of employees need to be reinforced and protected against the unfair practices of corporations. We need it to be easier for employees to form unions, not provide another reason for employers to fire workers for any reason they want to. Unions are vital to the health of the American workforce. They are the last bastion of guaranteed safety and job security employees have in the United States. Without unions protecting the rights of American workers, we can look forward to more job losses, an erosion of the economic health of the country, and more jobs going offshore to the cheapest bidder. The Employee Free Choice Act will protect American jobs, allow more workers to join unions, and help the economic recovery of our great nation.

## **Employee Free Choice Act**

I would like to share with you a story. It is about a young woman who splits her time working for a non union company dealing with sales and the other part of her time as a student. This young woman not only worries about getting good grades, she also has to worry about keeping her only source of income based on how much she sells at work. The trouble with that is this young woman is only part time, her schedule is never consistent and she is always scheduled on days that are not very busy. This young woman does get paid hourly and commission, however, minimum wage is not very much and you can't make money when no one is buying.

I would like to share with you a good month of sales at this young women's work. It was March of two thousand and ten, they just finally got a hot item in their companies' stores and they were flying off the shelves. Business was great! They had plenty of foot traffic and everyone was doing pretty well with their quotas. By the end of the month she had sold over on every one of her quotas except for one. They were getting plenty of emails saying how well the company was doing as a whole that month; however their Vice President was still upset that some employees did not hit all of their quotas. That included this young woman. He insisted those individuals be written up, which could lead to termination with the company and thus her only source of income. This young woman is lucky to still be employed, but fears that every time she goes into work it will be for the last time. She is an employee that can be easily replaced and that is why we need the Employee Free Choice Act.

The Employee Free Choice Acts' main purpose is to establish a more effective system for employees to form, join, or assist in the formation of unions. It also allows for a simpler process for existing unions to choose representation and a quicker process to bargain with management. This act proposes to amend the National Labor Relations Act and make three major pro-labor changes. The first is having employees sign blank cards and if at least half of those employees choose to have a union represent them with regard for collective bargaining with management it will be granted. Previously, if more than thirty percent of the employees signed the cards, the employer was allowed to hold a secret ballot that regarded a forming of a union. Currently when companies discover that their employees are interested in forming a union they begin to hold captive meetings with their employees to discourage union membership. They also increase discipline and terminations at this time.

The second change will be to allow unions that have been unions for at least ten days the option to begin negotiating with their management for a new bargaining agreement. If an agreement can not be made within ninety days either side may choose to have federal mediation present. This could lead to a binding decision by an arbitrator. Previously, there was no set time requirement. Finally the third change will be to enforce penalties to employers who fire pro-union employees. This will cost employers three times back pay for those employees plus the National Labor Relations Board could impose a twenty thousand dollar penalty.

President Obama was quoted saying “(he didn’t) buy the argument that providing workers with collective bargaining rights somehow weakens the economy or worsens the business environment.” Non supporters of the Employee Free Choice Act fear that this act will affect the economy and cause trouble within businesses’. I can understand why this act could affect a business. A business’s main purpose is to make a profit, and business people will be affected financially if they have to change how much they pay employees. This not only includes their hourly or yearly wages, but also their medical and dental benefits. Though how can a business truly prosper without loyal and happy employees.

Now in regards to the economy, I believe this act will in fact improve the economy. If employees are getting paid well for the work they do and also have some sort of benefits provided by their employer, then they will be able to stop focusing on paying for only their bills and be able to go out and make purchases for other things that they may want. If this was to happen the young woman would have the ability to sell more at work, not only allowing her the opportunity to make more money for herself, but to also sell her required quotas. This act will also give her the opportunity to have a better system and process to form a union in her work, without fear of losing her job or being intimidated to stop. This young woman would have a better opportunity to fight for her continued employment and also a chance to increase her hourly wages. I believe nothing but good things will come from this act. These good things will cause change, but according to Winston Churchill, “There is nothing wrong with change, if it is in the right direction.” The Employee Free Choice Act is going to make change in the right direction.