

Employee Free Choice Act

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Bill Status:

The right of workers to organize and bargain collectively is a fundamental human freedom. It is a core principle that the United States applies as a benchmark to measure adherence to democracy in nations throughout the world.

Yet abuse of this basic human right runs rampant across America.

Twenty-five (25) percent of employers fire at least one worker for supporting a union during organizing campaigns. Seventy-five (75) percent of employers hire union busting "consultants" to help defeat organizing drives. Ninety-two (92) percent of employers compel their workforce to attend captive audience meetings to hear anti-union propaganda. In one-third of all representation elections won by unions, workers still do not have a collective bargaining agreement two years after the election.

The current condition of labor law is that it puts employers in control of what should be workers' concerns. Even when a large majority of

workers indicate clearly that they want to join a union, employers can compel a government-run vote. In the weeks it takes to set up the election, employers can carry out a poisonous campaign that includes intimidating, coercing and even firing workers who want to join a union.

During the election campaign, employers have unlimited access to harangue workers against voting for the union, while union representatives are relegated to passing out flyers to workers as they speed out of their employer's parking lot at the end of the workday. Union representatives are often forced to ask time-stressed workers to attend evening or weekend meetings.

Employers have unlimited power to hold captive audience meetings where they can legally "predict" the shuttering of the workplace as

long as they don't illegally "threaten" it, according to a confusing Supreme Court decision.

Proposed Remedies

To remedy the injustices that have chilled the aspirations of thousands of workers who want to join a union, CWA is vigorously pursuing enactment of the Employee Free Choice Act.

The House of Representatives took a major step toward passage of this much-needed measure when on March 1 it passed the bill, H.R. 800, by a vote of 241-185.

The Employee Free Choice Act provides for the certification of a union as the bargaining representative if the National Labor Relations Board (NLRB) finds that a majority of workers in an appropriate bargaining unit have signed authorization cards designating the union as their bargaining agent. This method of union certification is known as **card-check**.

The card-check procedure has been legal throughout the life of the National Labor Relations Act (NLRA). But under existing law, management can undermine card-check by refusing to recognize a union as the bargaining agent even when 100 percent of the workers have signed authorization forms. Instead, management can demand an NLRB election that enables bosses to fear monger their workers. Requiring union certification when a majority of workers have signed recognition cards would prevent this abuse.

Card-check recognition has been part of Canada's national labor law for many years and has worked successfully. Closer to home, CWA used the card-check procedure to attain recognition as the bargaining agent for workers employed by Cingular Wireless.

In addition to requiring union certification through card-check, the Employee Free Choice Act mandates first contract mediation and arbitration. The bill specifies that if no agreement on a first contract has been reached after 90 days of bargaining, then either the workers or the employer can request the intervention of the Federal Mediation and Conciliation Service (FMCS). If the FMCS is unable to bring the parties to an agreement after 30 days of mediation, then the dispute

may be referred to binding arbitration and the results of the arbitration will be binding on the parties for two years. This remedy is necessary because current law provides no meaningful recourse against management's refusal to bargain or to reach an agreement.

The Employee Free Choice Act stipulates stronger penalties for employer violations while workers are attempting to organize or are seeking a first contract. The bill requires the NLRB to seek a federal court injunction against an employer whenever there is reasonable cause to believe that the employer has discharged workers or discriminated against them or engaged in conduct that interferes significantly with workers' rights during an organizing campaign or when bargaining a first contract.

The Employee Free Choice Act authorizes an award of three times the amount of back pay for illegal discrimination that occurs during efforts to organize or when workers are seeking a first contract. The bill provides for penalties up to \$20,000 per violation against employers found to have willfully or repeatedly violated workers' rights during an organizing campaign or pursuit of a first contract.

Business opponents claim that the Employee Free Choice Act deprives workers of their right to have an election conducted by the National Labor Relations Board. But what companies prize is their power to exploit the NLRB election procedure to mount one-sided attacks on workers' freedom of association.

Workers are entitled to decide whether they want union representation without experiencing intimidation, indoctrination or misinformation.

Many companies in addition to Cingular Wireless have agreed to the card-check procedure. These employers find that this method leads to a more peaceful and productive relationship with their workers than one resulting from an NLRB election.

Congress should build the positive labor relations that card-check produces into the architecture of American labor law by passing the Employee Free Choice Act.