
Employee Free Choice Act (EFCA)

Adopted: 7/24/09

Reviewed:

Revised:

Position Statement:

Background:

In 2008, the United State Department of Labor's Bureau of Labor Statistics reported that union members accounted for 12.4% of employed wage and salary workers. In 1983, the first year for which comparable union data was available, the union membership rate was 20.1%, and there were 17.7 million union workers. Thus, in the 25 year period from 1983 - 2008, union membership dropped by 1.6 million or 7.7%.

Why EFCA:

The Employee Free Choice Act (EFCA) would afford professional registered nurses, other healthcare professionals, and all other working men and women the opportunity to choose for themselves whether they want to join NFN or any other union free from common employer tactics such as intimidation, fear, and legal delays. According to the AFL-CIO, union members are 52% more likely to have job-provided health care, nearly three times more likely to have guaranteed pensions and earn 28% more than nonunion workers. Further, research shows nearly 60 million Americans would form a union tomorrow if given the chance. These are just some of the reasons why the passage of EFCA is important, as unionization rates will continue to decline (thereby leading to the further erosion of wages, benefits, and other terms and conditions of employment) until there is a leveling of the playing field for employees in a climate where employers inherently have the lions' share of the power.

Core Tenets of EFCA:

- Facilitating initial collective bargaining agreements (1st contracts)
 - Commencement of bargaining "not later than 10 days after receiving a written request for collective bargaining from an individual or labor organization that has been newly organized";
 - Use of Federal Mediation and Conciliation Service if no agreement has been reached after a minimum of 90 days from the date on which bargaining commenced in an attempt to "bring them (the parties) to agreement";
 - Referral to binding arbitration if "after the expiration of the 30-day period beginning on the date on which the request for mediation is made the parties" have not reached agreement. Unless otherwise consented to by the parties, the arbitrator's decision shall be binding upon the parties for a period of 2 years.
- Strengthening enforcement of current labor laws
 - Injunctions issued against employers for committing Unfair Labor Practices (ULPs) during organizing drives;

- Awarding triple back pay to employees should the Board find that an employer was in “violation of subsection (a)(3) of section 8 while employees of the employer were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract was entered into between the employer and the representative”;
- Assessing civil penalties not to exceed \$20,000/violation to employers who “willfully or repeatedly commits any unfair labor practice within the meaning of subsections (a)(1) or (a)(3) of section 8 while employees of the employer are seeking representation by a labor organization or during the period after a labor organization has been recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract is entered into between the employer and the representative shall”.

Update on EFCA (7/17/09):

The original version of EFCA contained a “card check” provision, allowing employees to become unionized if a majority of them signed union authorization cards. However, due to strong opposition from business groups, this key provision has been extracted from the current version of the proposed legislation. In its place are provisions requiring quick elections (5 to 10 days versus the current 30 to 42 days) and expanding the rights to access in the workplace for unions to meet with employees. It is also possible that restrictions on employers holding mandatory meetings regarding unionization may make it into the proposed legislation.

Recommendation:

While the current version of EFCA does not contain “card check”, the major piece of the legislation for many unions, in combination with the “core tenants” (as listed above), will benefit NFN and its members in organizing efforts. NFN believes card check should remain in this legislation. If, however, the final version of the bill does not include card check, the NFN will publicly support and advocate EFCA as it is a tremendous support for organizing working men and women of this country.