

The Employee Free Choice Act in the United States

More than 77 percent of Americans support strong laws that give employees the freedom to make their own choice about whether to have a union in the workplace without corporate interference. Allowing working women and men to choose for themselves is the key step toward rebuilding America's middle class, allowing union membership that brings better wages and benefits and a voice on the job.

Why Does the United States Need New Federal Legislation?

The current labor law system does not work for U.S. workers. The National Labor Relations Act (NLRA), which governs union formation and collective bargaining practices for most of the U.S. private sector, requires that a majority of workers (at least 50 percent plus one) in the bargaining unit must authorize the union if it is to have any legal right to bargain a collective contract with the company. The failure to establish this majority means the union cannot exist legally for collective bargaining purposes.

Even if 50 percent plus one of the workers authorize the union to represent them for collective bargaining purposes by freely signing authorization cards, the struggle rarely ends there. Although the company legally can recognize the union for collective bargaining purposes by means of the authorization cards, the company also legally can refuse such recognition and collective bargaining, forcing the issue of a representation election conducted by the National Labor Relations Board (NLRB).

Companies deny workers the freedom to make their own choice about whether to have a union in the following ways:

- In 25 percent of union organizing campaigns, employees are fired for their pro-union sympathies and activity;
- Some 78 percent of companies require supervisors to deliver anti-union messages during organizing campaigns; and
- Even if the workers manage to successfully form a union, they are unable to achieve a collective contract from the company 44 percent of the time because of delays, stalling tactics and other forms of bad-faith bargaining.

What Would the Employee Free Choice Act Do?

Reliable and comprehensive research reveals that well over 50 percent of unorganized workers in the United States would join a union, but are unable to because of intimidation and retribution by the company.

The Employee Free Choice Act would begin to break this vicious cycle by doing the following:

- *Removing current barriers that prevent workers from forming unions for collective bargaining purposes.*

The act provides that once a majority of employees has signed authorizations designating the union as the collective bargaining representative, the union will be certified by the NLRB without the need for an election. However, contrary to the current corporate propaganda against the Employee Free Choice Act falsely alleging it will take away so-called democratic, secret-ballot elections, an NLRB-conducted election still can take place if one-third of employees want it to happen. The difference is that it is the workers who will decide whether an election will take place—not the company.

- *Guaranteeing workers a collective bargaining contract upon forming a union.*

The act provides that when a company and a newly formed union are unable to bargain a first contract within 90 days, either party can request mediation by the Federal Mediation & Conciliation Service. If no agreement is reached after 30 days of mediation, the dispute is referred to binding arbitration. This will eliminate the current employer incentives for delays, stalling and bad-faith bargaining.

- *Strengthening penalties against companies that break the law during organizing campaigns and first contract negotiations.*
 - Civil penalties—Up to \$20,000 per violation against companies found to have willfully or repeatedly violated workers' rights during an organizing campaign or first contract negotiations.
 - Treble back pay—Triples the back pay amount a company would be required to pay if an employee is discharged for union activity during an organizing campaign or during first contract negotiations.
 - Mandatory and equal application of injunctive remedies—Requires the NLRB to seek federal court injunctions on a company if there is a reasonable cause to think such company has discharged or discriminated against employees on the basis of anti-union animus.