

The Employee Free Choice Act

Background

The Employee Free Choice Act is bipartisan legislation introduced March 10, 2009, by Sen. Edward Kennedy (D-Mass.) in the U.S. Senate and Rep. George Miller (D-Calif.) in the U.S. House.

These are tough economic times—lost jobs, home foreclosures, unaffordable health care, a crisis of debt and shattered retirement security. Wages for working men and women have stagnated, while pay and bonuses for CEOs have skyrocketed. As the recent financial crisis has shown, the decline of workers' purchasing power has undermined our economy.

The best opportunity for working men and women to get ahead economically is by uniting with co-workers to bargain with their employers for better wages and benefits.

Unfortunately, current federal labor law isn't protecting workers' freedom to form unions and bargain. Companies intimidate, harass, coerce and even fire people who try to organize unions. Workers are fired in one-quarter of private-sector union organizing campaigns, and most workers who try to form unions are subjected to repeated, coercive, one-on-one, anti-union meetings with their supervisors. Even after workers successfully form unions, 44 percent of the time they can't get a first contract. This is an urgent crisis not only for individual workers, but for the economy as a whole.

The Employee Free Choice Act will remove unfair barriers to union representation and collective bargaining so that workers can get their fair share. It will help workers achieve the American Dream by giving them the freedom to choose a union and bargain collectively for better benefits and wages. It will mean the economy can work for everyone again.

Provisions

The Employee Free Choice Act remedies these problems in three specific ways:

1. Removes Current Barriers that Prevent Workers from Forming Unions to Bargain Collectively

Requires that when a majority of employees has signed authorizations designating the union as its bargaining representative, the union will be certified by the National Labor Relations Board (NLRB). Requires the Board to develop model authorization language and procedures for establishing the validity of signed authorizations. Changes the current corporate-dominated representation process that encourages companies to coerce and intimidate workers who seek to form a union and pressure them to influence their choice.

2. Guarantees Workers a Contract When They Form a New Union.

Provides that when an employer and newly formed union are unable to bargain a first contract within 90 days, either party can request mediation by the Federal Mediation and Conciliation Service (FMCS). If no agreement has been reached after 30 days of mediation, the dispute is referred to binding arbitration. All time limits can be extended by mutual agreement. This change eliminates current incentives for employers to delay and stall negotiations and will dramatically reduce the delay, frustration and animosity generated by the company-dominated system.

3. Strengthens Penalties against Companies which Break the Law During Organizing Campaigns and First Contract Negotiations.

Company violations have become epidemic in large part because remedies for corporate misconduct, such as illegal firings of union supporters, are so weak that companies treat them as a cost of doing business and a cheap way to scare workers away from their union support. New, tougher remedies will provide more protection for workers' rights.

a. Civil Penalties: Up to \$20,000 per violation against companies found to have willfully or repeatedly violated employees' rights during an organizing campaign or first contract negotiations.

b. Treble Back Pay: Increases to three times back pay the amount a company is required to pay when an employee is discharged or discriminated against during an organizing campaign or first contract negotiations.

c. Mandatory Applications for Injunctive Remedies: Requires the NLRB to seek a federal court injunction when there is reasonable cause to believe a company has discharged or discriminated against employees, threatened to do so, or engaged in conduct that significantly interferes with employee rights during an organizing campaign or first contract negotiations. Equalizes remedies by making mandatory injunctive remedies against companies