

No debate, no vote with Employee Free Choice Act

Doug Newman

Imagine showing up to work Monday morning to find out your job was forever changed because a bare majority of your fellow workers were convinced to sign a union card over the weekend and you never had a say in the matter.

That's what could happen if a bill now before Congress were to pass.

The so-called Employee Free Choice Act, EFCA, is organized labor's answer to its declining membership. It wants to throw out a law governing union elections that has served the interests of employers and employees alike for decades and replace it with a fast-track system that has far less oversight and fewer privacy protections.

Today, employees normally form a union with a simple majority vote in a private ballot election overseen by the National Labor Relations Board. Both unions and employers have an opportunity to talk with workers and discuss the pros and cons of unionization before the vote is held. This process has successfully held employers accountable and provided critical protections to employees for over 60 years.

Under the proposed legislation, signed cards submitted by a simple majority of employees would determine whether all employees would be represented by the union and subject to union dues. There may be no debate, no vote. The cards could be signed anywhere at anytime with virtually no oversight.

To better understand the significance of the change, consider this: The current system for voting in a union is very similar to Maine's citizen's referendum process. If enough people sign a petition, the issue goes on the ballot. After an open public debate, people vote their conscience in the privacy of the voting booth. If EFCA were applied to our referendum process, we would skip the debate and the election. Instead we would rely solely on the petition to decide the issue. Anybody who has signed a petition to avoid offending the petitioner or because they believed an issue deserves a fair hearing will recognize the folly of this approach.

Under EFCA, employees would be denied the basic American right to cast their vote in private and many employees would never get a vote at all.

The decision on whether to join a union is an important one. It fundamentally changes an individual's relationship with his or her employer, compensation and benefits, opportunities for advancement and job security. It is a decision that deserves careful thought and access to all the facts. Under EFCA, the only information an employee would get is from the union organizer handing them the card. Since the employer and other employees may not be aware that a campaign is under way, it is very unlikely an employee would hear both sides of the issue before being asked to sign the card.

Cards signed on automobile hoods and clipboards are not an adequate measure of an individual's intent when the issue is this important. There is simply no way to ensure that a signature on a card reflects an individual's free will and informed consent. There is no guarantee employees would understand the implications of what they were signing or whether the decision to sign was coerced or cajoled. Just as many successful petition campaigns fail at the ballot box, the majority of union elections go against the union even when a majority of the employees signed a card to request the vote.

The underlying fact is that EFCA is unnecessary because the current law works just fine. Over the last half century, employers have become more responsible and accountable. The vast majority of employers recognize that their business interests are best served if they provide a safe and beneficial workplace. Those employers who have not yet learned this lesson are likely to find themselves facing a successful organizing campaign.

Declining union membership is a testament to past labor reforms and responsible business owners who recognize the critical value of good employees in a competitive labor market. It does not justify the elimination of informed debate and the private ballot just to make organizing easier. If organized labor cannot make its case to the American worker, they should learn to take no for an answer instead of trying to change the ground rules.

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