

EMPLOYEE FREE CHOICE ACT DEBATED IN SENATE

Controversial legislation that would amend the National Labor Relations Act to make it easier for employees to form unions through a card-check authorization process is introduced in Congress by Sen. Tom Harkin (D-Calif.), chair of the House Education and Labor Committee.

Supporters argue that the legislation, the Employee Free Choice Act (EFCA) (H.R. 1409, S. 560), which is certain to provide some of the largest congressional fireworks this year, would allow for the creation of more unions, which would lead to greater protections for workers. Opponents argue that the bill would cost millions for businesses and lead to increased cost for products and services.

On one side of the debate are labor unions and others, including American Rights at Work, the Sierra Club, the National Organization for Women, People for the American Way, the National Partnership for Women and Families, the National Resources Defense Council, the National Baptist Convention of America, the National Consumers League, and the National Association of Consumer Advocates. On the opposing side are organizations led by the U.S. Chamber of Commerce and including the National Association of Manufacturers, the Center for Union Facts, the National Right to Work Committee, the Heritage Foundation, and the HR Policy Association.

The EFCA has three key components:

- The legislation would amend the National Labor Relations Act to require the National Labor Relations Board (NLRB) to certify a union as the representative of employees if a majority of employees signs valid union authorization cards. The proposed legislation also would allow unions to continue to petition for NLRB-supervised secret ballot elections, if they choose, once 30 percent of the workers have signed union authorization cards.
- The measure would allow parties unable to reach a first contract within 90 days to refer the dispute to the Federal Mediation and Conciliation Service (FMCS). If the FMCS is unable to bring the parties to agreement within 30 days, the dispute then would be referred to binding arbitration.
- The legislation would provide triple back pay to employees who are unlawfully discharged or discriminated against while involved in union activities during an organizing campaign or in the period leading up to a first contract. Civil fines of up to \$20,000 per violation could be imposed if an employer is found to have willfully or repeatedly violated employees' rights during an organizing campaign or while bargaining for a first contract. Under the measure, the NLRB could seek an injunction in federal court when there is reasonable cause to believe that the employer has discharged or discriminated against employees, made threats to discharge or discriminate, or interfered with employee rights to organize or negotiate a first contract.

The legislation is available at <http://op.bna.com/dlrcases.nsf/r?Open=vros-7pztqy>.

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