



NALC FACT SHEET

Department of Legislative and Political Affairs — National Association of Letter Carriers, AFL-CIO

100 Indiana Ave. NW — Washington, DC 20001-2144 — 202-393-4695 — www.nalc.org © NALC

February 1, 2010

Employee Free Choice Act (EFCA) *The Key to Economic Recovery and a Growing Middle Class*

The U.S. economic crisis is the natural result of decades of neglect and hostility toward Middle Class working families. Free trade, deregulation, financial liberalization and, most of all, a sustained attack by business interests on the rights of workers to organize unions to bargain for better pay and benefits have led to an economic catastrophe. An economy based on keeping wages low and easy credit to finance the consumption of goods produced in outsourced overseas factories has collapsed on itself. Tens of millions of workers are without health insurance, decent pensions or job security and millions of others are now losing their jobs and their homes.

The last time such a crisis happened, in the 1930s, empowering workers to defend their interests by joining unions was a key part of the solution. The New Deal's National Labor Relations Act made it the policy of the United States to "encourage collective bargaining." More than any part of the New Deal, this law helped create the largest and most productive Middle Class society in history. Union density soared to more than 33 percent of the workforce between 1935 and 1955, improving conditions for union and non-union workers alike and setting the stage for the longest economic boom in U.S. history. According to the Labor Department data, median household income doubled along with labor productivity between 1945 and 1979.

In the face of today's economic calamity, we need to once again give workers a voice at work to begin the long process of rebuilding the Middle Class and laying the groundwork for an economy based on shared prosperity. For this reason, NALC strongly supports enactment of the Employee Free Choice Act.

Background

America's official labor policy has not changed—it still calls for encouraging collective bargaining—and according to polling by Peter Hart Associates a clear majority of Americans would join a union if one were available where they work. But in practice, it has become extremely difficult for workers to organize. Over the past 30 years,

organized business interests and their political supporters have fostered deep hostility toward union organizing, in the courts, in the Congress and in the administrations of several Republican presidents. A multi-billion dollar industry dedicated to fighting unions has developed to interfere with workers' rights to form unions and to engage in collective negotiations. These union busters employ sophisticated campaigns to intimidate workers—illegally firing thousands of union organizers each year, threatening to out-source jobs, spreading scurrilous anti-union propaganda—in order to defeat union organizing drives.

The results of this historical trend have been devastating. Over the past three decades, union density has declined to less than 8 percent in the private sector and the Middle Class has been in retreat. Good jobs were exported, health coverage declined and retirement security evaporated as insured pensions were replaced by risky 401(k)s. Wages stopped rising along with labor productivity and all the gains from economic growth flowed to the wealthy elite, increasing income inequality in America to levels not seen since the 1920s.

Our solid Middle Class economy was replaced by a Walmart-style economy based on low wages, cheap credit and rising trade deficits. It eventually imploded in the face of greed and corruption on Wall Street and the failure of our government to regulate the financial markets. Working people are now paying the consequences.

Giving Workers the Free Choice to Organize

Like workers, owners of small businesses and managers of American corporations (who represent the owners of their firms) have a legitimate interest in the level of employee pay and benefits and the terms and conditions of employees in their companies. However, under U.S. and international law, they have no right to interfere with their workers' freedom of association or their right to union representation for purposes of negotiating wages, benefits, or terms and conditions of employment.

Yet in the United States, unlike any other industrialized democracy in the world, employers are deeply involved in the union selection process and are effectively given the choice of how workers can choose to organize—firms can recognize a union when a majority of workers sign union cards (card check) or they can demand a workplace election. This choice is rightfully the workers to make.

Only in the U.S. is it acceptable to undemocratically tilt the balance in favor of employers by allowing them to fire and intimidate organizers with virtual impunity, threaten job losses and spread anti-union fear among workers without giving unions any opportunity to respond. And only in America do companies simply refuse to bargain in good faith and refuse to sign a first contract once a union wins an election against all odds.

The Employee Free Choice Act will address these anomalies:

- It will give workers, not employers, the choice of how to form a union—through a secret ballot election after 30 percent of workers sign union cards OR through a majority 'card check' process.
- It will stiffen the penalties against companies that use illegal tactics in organizing campaigns. Fines would be increased dramatically on top of the existing law's back pay provisions.
- And it will encourage good faith bargaining by providing for mediation and binding arbitration for first contracts. After 90 days of bargaining and 30 days of mediation, the parties would settle first contracts through binding arbitration—using a process much like the one that has been used successfully by the USPS and its unions for 38 years.

The Employee Free Choice Act would not create any new rights for workers and their unions—it merely enforces the intent of existing federal law (to encourage collective bargaining) and protects workers' universally recognized human rights to associate freely, organize unions and to bargain collectively.

Big Business Myths

Big Business has amassed a \$100 million war chest to defeat the Employee Free Choice Act. It has created a wide variety of corporate front groups to spread propaganda and misinformation about the proposed reform of our nation's labor law. These shadowy organizations claim to represent American workers but are in reality financed by groups like the U.S. Chamber of Commerce and the National Association of Manufacturers. In their attempt to dismantle unions and limit worker's rights, these groups employ dishonesty to win over lawmakers and the public. They are peddling three huge myths:

Myth #1: Passage of EFCA will eliminate a worker's right to a secret ballot union election

Reality: The Employee Free Choice Act will not abolish secret ballot elections. The proposed legislation maintains the choice between majority sign-up and government-supervised elections—but gives the choice to workers, not their employers. Once 30 percent of workers sign union authorization cards, they can request a secret ballot election—OR—they can seek immediate recognition for the union by collecting union cards from more than 50 percent of the workers in a workplace.

Myth #2: Secret ballots are essential to union organizing elections just like they are for elections to public office

Reality: Choosing a union to represent you is a worker's decision—it is the exercise of one's freedom of association. It is not at all like the choice between two opposing political candidates. Indeed, as currently practiced, union recognition elections are not at all democratic. Only the employers have access to workers at the workplace and unions are not given any opportunity to respond to the often bogus information given to workers. Union busters operate in the shadows without the standards of decency and transparency that apply to political elections.

Myth #3: Majority sign-up campaigns subject workers to intense coercion from union organizers

Reality: Under the existing system, workers face exponentially more coercion from their employers than they do from union representatives. Coercion stems from an imbalance of power. In non-union workplaces, employers have all the power—they can unilaterally raise and lower pay and benefits, increase or decrease work hours, and hire and fire at will. An unrecognized union has little power to coerce workers to join. Data on complaints filed by workers with the National Labor Relations Board show that workers are far more likely to complain about employer threats than union threats and that unwanted coercion is much more likely in NLRB elections than card check organizing drives.

Conclusion:

NALC members support EFCA because it will strengthen America and its working families. But we also support labor law reform to preserve our bargaining power as a union. In negotiations with the United States Postal Service, private sector wage comparability is always a major issue. Rising wages and benefits in the private sector are crucial to a rising standard of living for America's city letter carriers.

The Employee Free Choice Act legislation is pending in the 111th Congress. The House version, H.R. 1409, was introduced by Rep. George Miller (D-CA) on March 10, 2009. It has 228 co-sponsors. S. 560, which has 40 co-sponsors, was also introduced March 10, 2009 by Sen. Tom Harkin (D-IA).

For further information, please contact the NALC office of Legislative and Political Affairs 202-662-2833.