Employee Free Choice Act Seeks to Provide More Options for Unionization

The need for better laws to protect workers who choose to unionize is the basis for legislation that has been introduced in House and Senate. The Employee Free Choice Act (EFCA) is a response to decades of practices that have made it easier for employers to resist unions and that have resulted in diminished rates of unionization generally.

A recent briefing from the Economic Policy Institute describes the shift in unionization and its effects, and makes the following points:

- The rate of unionization has fallen dramatically, beginning in the 1980’s. Lower rates of unionization have the effect of lowering wages for employees generally, not just for workers who would otherwise be union members, but also for non-union workers. When unions are a larger factor in the economy, many of the benefits of union membership become more generalized in the workplace, as employers respond to the threat and/or the standards established by unions.
- Unions are particularly effective at raising the wages of minorities. An estimate of the union wage premium (the difference in hourly wages between comparable union and non-union workers) reveals that union workers earn 14.1 percent more than non-union workers. For African-American workers, the difference is 18.5 percent and for Hispanic workers it is 21.9 percent.
- Union workers are more likely to be covered by better employer-provided health insurance, are more likely to have pension coverage, and get more paid time off.
- Unionization fell dramatically from 1978 to 2005, from 37.9 percent to 19 percent, for high school graduates.
- The drop in unionism accounts for 65 percent of the 11.1 percent growth in the blue-collar/white-collar wage gap over the 1978-2005 period.
- In a comparison of 14 countries, the United States was revealed to have the highest level of income inequality and, at 14 percent, the lowest level of union coverage; countries with higher levels of unionization tended to have higher levels of productivity.

The EFCA is designed to address this shift and allow for greater parity between employers and union representatives in the workplace. The bill was introduced in the House (H.R. 1409) and the Senate (S. 560) on March 10, 2009. Identical legislation
had the support of a majority of the Senate in June 2007, but was blocked at that point by the threat of a filibuster. The Act would:

• **Empower workers to form unions through majority sign-up.** Currently, unions are formed either through elections administered by the National Labor Relations Board (NLRB), or through majority sign-up, but majority sign-up is only allowed with the consent of the employer. This system creates a disproportionate advantage for employers, who can, within NLRB rules:

  o Campaign against the union on their premises, with every worker, throughout the workplace and around the clock.
  o Require workers to attend anti-union meetings, while unions have no comparable access to employees.
  o Appeal any union vote to five different levels within the NLRB, often delaying a decision for several years.

Employers are also advantaged by an industry of lawyers, public relations experts, and management consultants who run their anti-union campaigns. By the 1980’s, this industry netted $300 million per year.

The EFCA provides that if a majority of employees sign union authorization cards that are validated by the NLRB (referred to as the “card check” provision), the company must recognize and bargain with the union. This avoids the current management-dominated election process. If a majority of employees prefer to have an election, they will retain their right to one.

• **Increase penalties for the illegal firing of employees, and for retaliation against pro-union workers during organizing efforts or during the period when employees are seeking to negotiate a first contract.** Penalties would be tripled compared to current law, which provides that an employer who fires a worker for union activity in violation of the worker’s rights must pay the worker’s back pay minus the wages earned in the meantime, usually a very small amount. The Act seeks to increase the penalty in order to deter violations by employers.

• **Give employees equal access to injunctive relief.** Currently, if the National Labor Relations Board (NLRB) finds that unions have engaged in certain prohibited activities, it must seek injunctive relief against the union in federal district court. Employees do not have access to such mandatory injunctive relief, however.

• **Ensure that employers and employees negotiate a contract after workers form a union.** If an employer and a new union are unable to negotiate a first contract within 90 days, either party can request mediation by the Federal Mediation and conciliation Service.
The EFCA is likely to be considered by Congress this session, but support from some legislators is weakening under pressure from employers who oppose the “card-check” provision in the bill.

**Update:** Rep. Joe Sestak (D- PA) introduced the *National Labor Relations Modernization Act* as an alternative to the EFCA on March 16. The bill is identical to the EFCA except that it eliminates the “card-check” provision described above, and requires that employers provide unions with equal access to employees during a union campaign and election instead.


For summaries and updates on the legislation, see [www.aflcio.org](http://www.aflcio.org).

**ARRA and 2009 Budget Bill Provide Funding for Criminal Justice Projects**

The American Recovery and Reinvestment Act (ARRA) and the 2009 Omnibus appropriations bill were both signed into law in recent weeks. Both contain significant funding specific to criminal justice activities.

ARRA includes the following criminal justice funding:

- $2 billion for the Byrne Justice Assistance Grant (JAG) formula grant program. The JAG Program allows states and local governments to support a broad range of activities to prevent and control crime and improve the criminal justice system. JAG grants are allocated according to a formula based on population and violent crime statistics, providing for a minimum allocation to ensure that each state and territory receives an appropriate share of funding. Sixty percent of the allocation is awarded to the state and 40 percent is designated for units of local governments.
- $225 million for Byrne competitive grants. Byrne Competitive Grants are similar to JAG grants and are focused on ensuring job growth and job retention, but instead of providing grants based on a formula, funds are awarded based on a competitive application process. The grants help state and local communities improve the capacity of local justice systems and may be used for national efforts such as training and technical assistance.
- $225 million for Violence Against Women programs, including $175 million for STOP (Services, Training, Officers, and Prosecutors) grants and $50 million for the transitional housing assistance grants program.
- $1 billion for the COPS Office for the hiring and rehiring of additional career law enforcement officers and civilian public safety personnel.
- $225 million for Indian Country grants, $100 million to be distributed by the Office for Victims of Crime, $125 million for assistance to law enforcement in rural areas, and $50 million for Internet Crimes Against Children initiatives.
- $40 million for competitive grants to provide assistance and equipment to local
law enforcement to combat criminal narcotics activity stemming from the Southern border.

President Obama signed the fiscal year 2009 Omnibus Appropriations Act into law on March 11. The Act represents funding for the fiscal year ending June 30, 2009; it is last year’s budget. The budget includes funding for the following criminal justice priorities:

• an additional $532 million for the Byrne Justice Assistance Grant (JAG) Program;
• $108,493,000 for Department of Labor ex-offender activities;
• $25 million for Second Chance Act programs, including $15 million for state and local reentry demonstration projects and $10 million for grants to nonprofit organizations for mentoring and other transitional services;
• $10 million for the Mentally Ill Offender Treatment and Crime Reduction Act, which represents a $3.5 million increase over the fiscal year 2008 appropriation;
• an additional $30 million for the Byrne Competitive Grant Program;
• $400 million for the State Criminal Alien Assistance Program (SCAAP), which reimburses states for costs associated with incarcerating undocumented immigrants who commit felonies;
• $40 million for drug courts; and
• $10 million for Residential Substance Abuse Treatment (RSAT).

In the preliminary budget for fiscal year 2010 released on February 26, 2009, President Obama requested $109 million for prisoner reentry programs, including $75 million for Second Chance Act programs, $90 million less than the $165 million that was originally included in the legislation to fund the program. For more information and updates, see www.reentrypolicy.org.

Resource for Accessing Income Tax Credits

The Center on Budget Policy and Priorities (CBPP) National Tax Credit Outreach Campaign promotes the Earned Income Credit (EIC), the Child Tax Credit (CTC) and free tax filing assistance for low- and moderate-income workers. The campaign states that millions of eligible workers risk missing out on important federal tax benefits because they do not know they qualify, do not know how to claim the credits or do not know where to find free tax filing assistance. The campaign encourages outreach efforts to ensure that eligible workers can receive the tax credits they have earned.

The website provides information to assist in developing a Tax Credit Outreach Campaign, and contains an updated 2009 Tax Credit Outreach Kit, as well as updated flyers in 19 languages in addition to English and Spanish.

For more information, visit the website at http://www.cbpp.org/eic2009/. If you have
questions or need further assistance, contact campaign staff at eickit@cbpp.org or 202-408-1080.

**Child Support in the News**

- Officials in Alberta, Canada, will begin implementing a new program for the recalculation of “child maintenance” payments (known in the U.S. as child support payments) on an annual basis, in response to the current economy and a resulting increase in layoffs of noncustodial parents. The recalculation will occur automatically, based on income tax documentation, eliminating the need for parents to appear in court to request an adjustment to their child support order. According to Rick Fowler, a director with the Equitable Child Maintenance and Access Society, "In today's economic climate where men seem to be taking the brunt of the layoffs, the need for recalculation has never been greater."

- In addition to restoring cuts to the child support enforcement program that were part of the Deficit Reduction Act of 2005 (see the February 2009 Policy Briefing for details), the American Recovery and Reinvestment Act (ARRA) allows for administrative offset of a one-time, $250 economic recovery payment to recipients of Social Security, SSI, Railroad Retirement Benefits, and Veterans disability compensation or pension benefits. The offset would be directed to any unpaid child support obligations.

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