



How the Employee Free Choice Act Will Affect You

Changes for Both Union and Non-Union Workplaces.

Because the proposed Employee Free Choice Act (EFCA) makes such dramatic changes in the current national labor laws, even companies that currently have a union presence need to be aware of the implications of passage. For obvious reasons, most of the attention regarding EFCA has focused on taking away from workers the fundamental democratic right of casting a ballot in a secret election, and in some cases denying workers any opportunity at all to make their voice heard on the matter of union representation. EFCA, however, also fundamentally changes the relationship between employers and employees – so companies already unionized also might be affected.

Government Intervention in Contract Negotiations.

Perhaps the greatest change card check will bring is in the area of contract negotiations. Under current law, once a union is recognized – or in cases where a union already exists, once a contract expires – the company and union work to achieve a collective bargaining agreement. In order to encourage discussion and to allow full input from both the company and the union, there is no set time period for reaching an agreement. At times, the complexity of some contract provisions requires a substantial amount of time for study and discussion. As a safeguard against unwarranted delays, the National Labor Relations Board (NLRB) can be asked by either party to decide if the other side is dragging its feet. If the NLRB concludes one side is not bargaining in good faith, it can issue an order to bargain in good faith. If negotiations break down, both sides can also agree to binding arbitration. Through this system of checks and balances, the system has protections for all parties. Under EFCA, however, if the first contract is not reached within as few as 120 days, the federal government would step in and appoint individuals who would impose a binding contract. The collaborative process that exists between a company and the union would be gone.

Increased Fines and Penalties.

In addition to this dramatic change, EFCA would provide for substantial increases in the existing penalties against employers during organizing campaigns and negotiations for the first contract – tripling them in some instances. The penalties go far beyond the traditional “make whole” remedies currently in force – and there are no comparable penalties for union wrongdoing.

Supervisors May Become Part of Bargaining Units.

Employers should also be aware that other legislative proposals have been put on the table that would change the way bargaining units could be determined. The proposed RESPECT Act would redefine who can be included in a bargaining unit, allowing current supervisors and managers to be included in bargaining units, thus removing what often is a vital communications link between management and employees.