

EFCA/Card Check

- The deceptively named “Employee Free Choice Act” (EFCA), would permit union **elections by ambush**, or so-called “card check,” such that an employer could be informed that a union had been formed before the employer even knew an election had been held, much less had any opportunity to make a case against unionization.
- Under the current union-organizing process, overseen by the National Labor Relations Board (NLRB), workers decide whether to unionize by a **private-ballot** election. This time-tested process allows workers to vote their conscience in private without fear of intimidation or reprisals when deciding to join a union.
- EFCA’s main provision would strip workers of the private ballot—one of the most fundamental tenets of our democracy. Under the card check system, union organizers merely would have to collect signed authorization cards from a simple majority of workers to declare union representation.
- Federally supervised private-ballot elections are the best way to guarantee worker protection from both business and union strong-arm tactics. Under the “card check” system, workers’ votes are made public to the employer, union organizers and coworkers. As a result, workers are exposed to **coercion, intimidation and retaliation**.
- According to the Center for Union Facts, **thousands of unfair labor practice cases** have been filed against unions since 2000, including 1,417 for coercive statements, 416 for violence and assaults, 546 for harassment, and 1,325 for threatening statements. Most presumably go unreported.
- EFCA would further increase penalties against companies that retaliate against workers who try to unionize, but it **does not increase penalties against union organizers** who violate labor laws.
- Another business-damaging provision in EFCA would give government arbitrators final authority over the collective bargaining process. If a union and an employer cannot reach agreement on contract terms within a 120-day period, a federally appointed arbitrator would impose a two-year binding labor contract that dictates wages, benefits, hours of work, and other terms of employment on both workers and businesses. Any perception that government arbitrators might favor labor would **eliminate union incentive to bargain in good faith**.
- Forced arbitration by a third-party federal official unfamiliar with business operations and local conditions is dangerous for employers and workers. Employers would be unable to appeal the arbitrator’s decision, while workers would have no right to reject the terms of the contract.
- Several key senators have dropped their support for the measure, diminishing its chances of passage. Some lawmakers, however, are hoping to broker compromise legislation.
- Former U.S. Senator **George McGovern** (D-SD), a champion of organized labor, said EFCA, “runs counter to ideals that were once at the core of the labor movement. Instead of providing a voice for the unheard, it risks silencing those who would speak.”
“My Party Should Respect Secret Union Ballots,” *The Wall Street Journal*, August 8, 2008
- In March 2010, President Obama announced recess appointments for EFCA supporters Craig Becker and Mark Pearce to serve on the NLRB. Becker formerly served as Associate General Counsel of the Service Employees International Union, while Pearce is a pro-union labor attorney. Business groups are concerned that the Board under Becker could adopt rules recognizing minority unions, implement “quickie” elections, grant unions greater access to employees, restrict employer options during union campaigns and elections, recast supervisors’ roles during election campaigns and increase the use of mail-ballot elections.