

ECONOMIC FREEDOM ALLIANCE



FACT SHEET: Employee Free Choice Act (EFCA)

Provisions of the EFCA

- Unions would be formed once 50% of those working at a particular site sign cards.
- **Eliminates a secret ballot vote** by employees; workers' votes would be made public to employer, union organizers and co-workers.
- Requires that upon union certification, the business and union would have 120 days to reach an agreement before facing **"binding arbitration."**
- If labor agreement not reached and referred to arbitration, a federal government official, without a vote by union employees or approval by the employer, would make binding decisions regarding employee pay, health care, vacation policy, and other work-related conditions.
- Does not limit size or scope of employers who may be the subject of unionization, affecting both large and small businesses alike.
- While unions can continue to engage in all union organizing activities without increased penalties, the EFCA **increases penalties** on employers who violate the Act, tripling back pay for the firing of union supporters during organizing and creating fines of up to \$20,000 for repeat violations, among other things. Unions could use the threat of increased fines as an organizing tactic and file unfair labor practices against businesses. Businesses would have to legally defend themselves against the complaints or face fines up to \$20,000 per incidence. The legal fees could be enormous and could literally force some businesses to fail or accept a union.

Congressional History of EFCA

- 2007: EFCA (S1041) introduced in Senate and co-sponsored by Indiana Sen. Evan Bayh.
- 2007: EFCA (H.800) co-sponsored by Indiana CD members: J. Carson, Donnelly, Ellsworth, Hill, Visclosky.
- 2007: EFCA passed the House and narrowly failed in the Senate.
- 2009: EFCA (S.560) introduced in Senate
- 2009: EFCA (H.1409) introduced in House and co-sponsored by Indiana CD members: A. Carson, Donnelly, Visclosky.

Economic Consequences if EFCA Becomes Law

- Studies on the effect on jobs reveal steep job losses, higher unemployment, and stifled job creation. A March 2009 assessment of the economic implications of the EFCA by noted economist Dr. Anne Layne-Farrar (Director, LECG Consulting) reveals that 600,000 jobs per year could be lost if unionization goals set by labor leaders are met, totaling more than 5 million lost jobs in the next decade.

- One study on the EFCA's impact on Hoosier jobs by Ball State University estimates that a *minimum* of 15,000 jobs would be lost. However, the number could be significantly higher because of Indiana's reliance on manufacturing.
- The nation has already lost 2 million manufacturing jobs since January, 2008. Indiana lost nearly 114,000 manufacturing jobs during that same period.
- Indiana's total employment is down about 153,000 in June 2009 over June 2008.
- Indiana's unemployment rate in June 2009 of 10.7 percent exceeds the national rate of 9.5 percent.
- Indiana, already hard hit by the economic recession, would be hit even harder than many states if EFCA passes because of its high number of manufacturing jobs.

Supporters and Opponents of EFCA

- EFCA is supported by President Obama and labor leaders.
- EFCA is opposed by organized business, from the US Chamber of Commerce to multiple state and local chambers, manufacturing associations, and economic development groups.
- It is opposed by individual business owners, workers, and citizens.
- According to a recent national Rasmussen poll, 52 percent of Americans (adults) do not believe it is fair to form a union without a secret vote, 30 percent believe it is fair and 18 percent are unsure.
- The same Rasmussen poll revealed 56 percent of Americans are opposed to the binding arbitration mandate in EFCA, with only 21 percent in favor.
- In an *HR Daily Advisor* survey of 500 human resources managers, 95 percent say that American businesses would be hurt – both employers and employees alike -- if the EFCA were to become law, 73 percent said the EFCA would hurt American workers, and 84 percent said EFCA would hurt their employer's business.
- In an Indiana poll sponsored by the Economic Freedom Alliance and conducted by *We Ask America*, 66 percent of Hoosiers oppose any legislation that could take away the secret ballot for workers in union elections, and 71 percent oppose giving the federal government power to intervene in small business labor disputes.
- Results among respondents who are union members or live in a household with a union member in the *We Ask America* poll showed a higher opposition level to the primary tenets of the EFCA: nearly 80 percent oppose eliminating the secret ballot and more government intrusion into employment matters.