

## WHY WORKERS NEED THE EMPLOYEE FREE CHOICE ACT

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Unions are good for workers.

Today, median weekly pay for union members is \$886, compared to \$691 for non-union workers. Moving cargo on the Oakland waterfront pays three times what stocking shelves does at WalMart, because longshore workers have had a union contract since 1934. WalMart has fought down every effort its workers have made to organize.

That longshore union contract came at great cost. Nick Bordoise and Howard Sperry were shot down on Rincon Hill in the 1934 waterfront strike. All work in San Francisco stopped for three days in protest. When companies couldn't load ships for weeks on the whole Pacific coast, they finally settled the first contract.

Two years later, Congress passed the National Labor Relations Act, setting up a legal system in which private sector, non-farm workers could join unions and bargain without paying that terrible price

The preamble declares the law's purpose: "encouraging the practice and procedure of collective bargaining and...protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

Those high ideals remain, but today the law itself is virtually unable to fulfill its intended function. Contra Costa County Congressman George Miller has proposed common-sense measures that would restore the law's effectiveness - the Employee Free Choice Act.

Employers are mounting a hysterical campaign against it. One corporate CEO even called the proposal "bolshevism." Suddenly they claim to be protectors of their workers' rights.

We need a reality check about what actually happens when workers try to organize. EFCA is a practical and necessary way to reestablish workers' rights in practice, not just on paper.

First, it would require employers to repay three times the back pay of a worker fired for organizing a union, with \$20,000 fines for willful or repeated violations. Even though today it's illegal to fire a worker for union activity, pro-union workers were fired in 30% of union-representation elections in 2007, according to the Center for Economic and Policy Research, up from 26 percent in 2001-2007, and 16 percent in the last half of the 1990s.

There are no fines or penalties for employers who fire workers for union activity - just reinstatement and back pay, and employers even get to deduct unemployment benefits. The NLRA is the only Federal law where violators get no punishment. That just

encourages employers to fire workers. Legal bills are less than the cost of a union contract, so it's cheaper. And workers, knowing they can be fired so easily, are understandably afraid to join unions.

EFCA would also bring back the process for forming unions used in the years after the labor act was first passed (and used today in Canada). Workers would be able to sign union cards, and employers would have to recognize their union if a majority signed.

Today employers demand secret ballot elections, and then wage an anti-union fear campaign that peaks on election day. According to the International Longshore and Warehouse Union, at Blue Diamond in Sacramento, for instance, the company told workers two days before the election that many might lose their jobs if the union won, because growers wouldn't bring any more almonds into the plant.

In the weeks before these tainted elections, 51% of employers threaten to close if the union wins; and, 91% force employees to attend one-on-one anti-union meetings with supervisors. Companies use outside "union-busters", who've created a billion-dollar industry managing these anti-union campaigns. This conduct is effectively unpunishable. On top of anti-union firings, it makes free elections a mockery.

Signing cards is a safer, calmer process that workers control themselves, and workers keep the option of using either the cards or the election - their choice, not their employer's. Anyone who's ever signed a union card at work knows it takes much more courage and real commitment than a brief moment in a polling booth. That signing process challenges unions also -- to create strong organizations of committed employees, rather than making election-time promises.

Last, when workers do make this commitment and form their union, and a majority supports it, companies should negotiate a contract. That's what the law says now. The reality? Even when workers win elections, companies don't negotiate in half the cases. After a year, they can legally walk away. When workers at the Rite-Aid warehouse in Lancaster won an election, the most important agreement they could achieve after eighteen bargaining sessions was the location of the union bulletin board.

With EFCA, after 120 days of fruitless bargaining of a first-time contract, an arbitrator can step in and resolve the issues still in dispute. Companies say they fear an outsider, with no knowledge of its operations, imposing unrealistic conditions. In reality, with no mechanism to force agreement, companies know it's lots cheaper to wait out the year than to raise wages and provide better benefits.

Many employers just do not accept the law's intention - encouraging workers to organize. They created the need for EFCA by undermining the process and rights established in 1936. But they should remember 1934. When the law did not provide an effective way to organize, reaching agreement took death on the picketline and huge losses by shipping companies. By first undermining the law, and then resisting Congressman Miller's common-sense changes, they are pushing for a return to that era, when organizing a union had no protection at all.

