

## CONGRESS SHOULD PROTECT THE SECRET BALLOT IN LABOR ELECTIONS

By Dave MacIver, President, ND Chamber of Commerce

Congress is considering legislation known as the Employee Free Choice Act (EFCA). While few people have heard of this bill, it is the most sweeping rewrite of federal labor law in 70 years.

EFCA would essentially abolish the protection of a private or secret ballot during union organizing campaigns, eliminate workers' ability to vote on a union contract, and make it almost impossible for employers to talk to employees about unionization.

Over the past 50 years, union membership has declined sharply. Unions view EFCA as critical to their future growth. Unfortunately, this method would come at the cost of workers' and employers' rights.

The legislation has three principal sections. The first deals with union organization. Traditionally, union organizers ask workers to sign cards indicating an interest in an election. Once more than 30% have signed, the union can ask the federal government to hold a secret ballot election. In the month prior to the election, both the union and the employer make their cases to workers, and then the government supervises the election. If the union wins more than 50% of the vote, it is certified, and collective bargaining begins.

Under EFCA, union organizers could skip the election and would need only to collect signature cards. Once more than 50% of the employees have signed cards, the union would automatically be certified and a secret ballot election would be prohibited. The signature cards would be signed publicly-making a worker's "vote" public. Union organizers would know who had, or hadn't, signed a card and could relentlessly pursue those who refused to sign until they got their majority. It's not difficult to imagine the tactics that might be used to get those workers to sign a card.

The second provision of the bill deals with the collective bargaining process once a union is certified. Under current law, the parties meet, negotiate the terms and conditions of employment and reach a contract. Workers then vote to ratify the contract.

EFCA would undermine this collective bargaining process through binding arbitration. Under binding arbitration, the parties must reach a deal within 120 days. If they can't, a government arbitrator would step in and impose a contract on both sides. Because the contract is binding, workers would be denied a ratification vote. Additionally, employers could be stuck with a contract that they can't afford, driving many to bankruptcy.

Finally, binding arbitration removes any incentive to compromise. Instead, the incentive is to submit the most extreme proposals possible and hope that the arbitrator gives you most of what you want.

The final provision of the bill could impose substantial penalties on employers who attempt to tell their workers about the impact of unionizing. Workers would be denied equal information, and employers would be denied their right to free speech.

EFCA is clearly flawed, but Senators Dorgan and Conrad are under tremendous pressure by big unions to support this bill. Contact Senators Dorgan and Conrad and let them know that EFCA isn't right for North Dakota or for this country.

Senator Kent Conrad  
530 Hart Senate Office Building  
United States Senate  
Washington, DC 20510-3403  
Phone: (202) 224-2043  
Fax: (202) 224-7776  
Online: <http://conrad.senate.gov/contact>  
E-mail: [Senator@conrad.senate.gov](mailto:Senator@conrad.senate.gov)

Senator Byron Dorgan  
Washington, DC  
322 Hart Senate Office Bldg  
Washington, DC 20510  
Phone (202) 224-2551  
Fax (202) 224-1193  
E-mail: [Senator@Dorgan.senate.gov](mailto:Senator@Dorgan.senate.gov)