

WebMemo



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Employee Free Choice Act Would Disenfranchise 105 Million Workers

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In the presidential primaries, Americans vote in secret ballot elections for who they want to be the Democratic and Republican nominees. Voters can publicly urge their friends, neighbors, and co-workers to support their favored candidate; but on Election Day, they cast votes in private. American workers decide whether to join a union by the same method. However, Congress is now considering a little-known bill that would strip millions of workers of this fundamental right.

The Employee Free Choice Act (EFCA) would disenfranchise 105 million American workers. For union organizing elections, the legislation would replace the secret ballot with a system of “card checks,” where union organizers pressure workers to publicly sign a card stating they want to join a union. Workers would never have the option of voting against union membership, and millions of workers could be forced into a union without ever getting the chance to vote on the matter. Congress should preserve a worker’s right to vote in privacy on union membership.

The Right to Vote in Privacy. A fundamental principle of American democracy is that votes are private choices. Secret ballot elections ensure that voters can choose the candidate who truly represents them, not the candidate whom their friends or neighbors want them to support. Millions of Americans cherish this freedom, but many Members of Congress want to take it from American workers.

For more than 60 years, American workers have decided whether to form a union with a private

vote. When enough workers at a company sign union authorization cards, the government supervises a secret ballot election. Workers vote “yes” or “no” on union membership. If a majority of workers vote “yes,” a union is formed, but neither management nor union organizers know how each individual worker voted. The secret ballot lets workers vote their conscience without risking job loss or physical assault for making the “wrong” choice.

Employee “Free Choice” Act Strips Workers’ Rights. The EFCA would make it easier for union officials to pressure workers. Under the card-check process, union organizers would publicly solicit signatures on union authorization cards. After a majority of workers at a company sign the cards, the union becomes the bargaining representative of all the workers at the company.

Without secret ballots, union organizers know exactly who has signed union cards and who has not. In the past, union organizers have repeatedly approached and pressured—and, in some cases, threatened—reluctant workers.¹ They have also used pro-union co-workers to solicit signatures, putting peer pressure on “holdouts” to change their minds.

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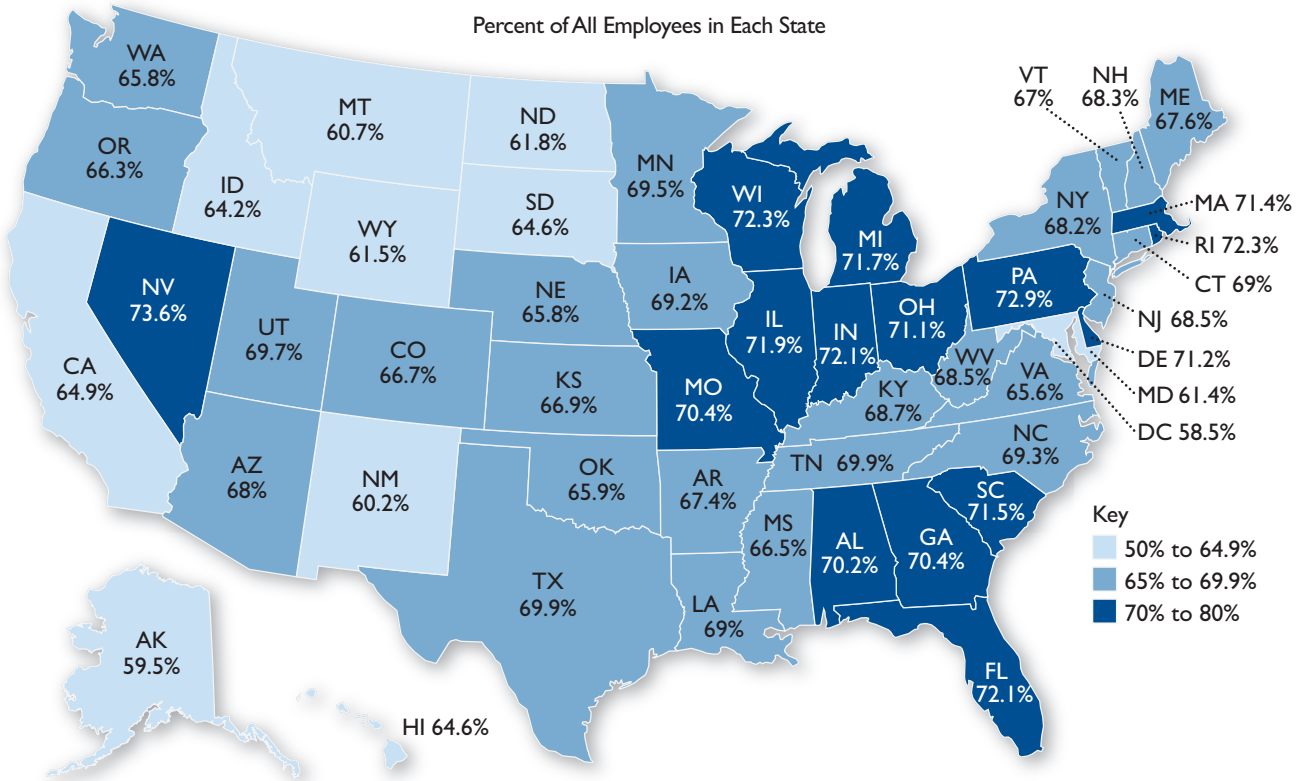
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Chart 1

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Workers Disenfranchised by the Employee Free Choice Act

Percent of All Employees in Each State



State-By-State Totals

State	No.	Pct.	State	No.	Pct.	State	No.	Pct.
Alabama	1,546,240	70.2	Kentucky	1,406,168	68.7	North Dakota	227,908	61.8
Alaska	206,508	59.5	Louisiana	1,373,962	69.0	Ohio	4,285,879	71.1
Arizona	2,069,222	68.0	Maine	477,892	67.6	Oklahoma	1,141,951	65.9
Arkansas	926,834	67.4	Maryland	1,827,893	61.4	Oregon	1,285,284	66.3
California	11,792,815	64.9	Massachusetts	2,435,146	71.4	Pennsylvania	4,615,123	72.9
Colorado	1,777,028	66.7	Michigan	3,606,930	71.7	Rhode Island	417,828	72.3
Connecticut	1,301,357	69.0	Minnesota	2,020,797	69.5	South Carolina	1,540,440	71.5
Delaware	316,403	71.2	Mississippi	872,424	66.5	South Dakota	285,175	64.6
District of Columbia	184,548	58.5	Missouri	2,156,870	70.4	Tennessee	2,142,334	69.9
Florida	6,652,444	72.1	Montana	310,292	60.7	Texas	8,051,298	69.9
Georgia	3,417,342	70.4	Nebraska	648,921	65.8	Utah	934,486	69.7
Hawaii	418,926	64.6	Nevada	987,880	73.6	Vermont	238,912	67.0
Idaho	490,751	64.2	New Hampshire	508,497	68.3	Virginia	2,645,436	65.6
Illinois	4,823,153	71.9	New Jersey	3,090,954	68.5	Washington	2,248,123	65.8
Indiana	2,309,478	72.1	New Mexico	570,889	60.2	West Virginia	560,422	68.5
Iowa	1,156,314	69.2	New York	6,437,959	68.2	Wisconsin	2,230,440	72.3
Kansas	999,831	66.9	North Carolina	3,116,544	69.3	Wyoming	176,947	61.5

U.S. Total: 105,267,194 (68.8%)

Source: Heritage Foundation calculations using data from the December 2006 to November 2007 Current Population Survey, conducted by the Bureau of Labor Statistics. Workers covered by the Employee Free Choice Act are those subject to the National Labor Relations Act (NLRA). Consequently, any worker who reported working for the government, for railways, for airlines, in agriculture, or as a self-employed person is not covered by the Act. Since the NLRA does not cover supervisors, managers were also excluded from EFCA coverage. Union members were not considered covered by EFCA since they already belong to unions and Congress rejected amendments to the bill to extend card-check procedures to workers leaving unions, not those joining.

The card-check process also denies workers the right to vote “yes” or “no” on joining a union. Workers can only vote “yes” by signing the card. *Not* signing a card simply means “not yet.” Organizers are free to return again and again until they get the result they want. That is not voting, which by definition is a choice between two or more options.

Even the limited freedom of saying “not yet” would be denied to some workers. Under card check, all workers in a company must join the union after organizers collect cards signed by a majority, even if some of those workers did not know about the organizing drive and were never asked to sign a card. A worker has a right to express his or her views with a ballot, even if that vote does not change the results of the election. Card check takes that right away.

Disenfranchising 105 Million Workers. The EFCA applies only to workers covered by the National Labor Relations Act (NLRA), which does not cover government employees, agricultural workers, the self-employed, or railway or airline workers. The Act also excludes supervisors. Still, the EFCA would disenfranchise 105 million American workers, which encompasses more than two-thirds, or 68.8 percent, of the American workforce.

Chart 1 shows, by state, how many workers would lose their right to a private vote on union membership.

Politicians Against Voting. Every major Democratic presidential candidate wants to end secret

ballots for union organizing elections. Senator Hillary Clinton (D–NY) and Senator Barrack Obama (D–IL) voted for the bill, while former Senator John Edwards co-sponsored the EFCA during his time in the Senate.

Under the EFCA, millions of workers in key primary states would lose the right to a private vote on joining a union. The act would disenfranchise:

- 508,497 workers in New Hampshire;
- 1,540,440 workers in South Carolina;
- 3,606,930 workers in Michigan; and
- 6,652,444 workers in Florida.

Even as they campaign to win a secret ballot election, many presidential candidates would take the right to vote away from American workers.

Conclusion. Few Americans are aware that many leading presidential candidates want to take away their right to vote privately on joining a union. The little-known and misnamed Employee Free Choice Act would disenfranchise 105 million American workers by replacing secret ballots for union organizing elections with the card check system. This process would expose workers to union pressure and intimidation, while denying them the option of voting “no” on union representation. The President and Members of Congress are elected by secret ballots. Congress should reject any effort to deny workers the right to vote.

—James Sherk is Bradley Fellow in Labor Policy in the Center for Data Analysis at The Heritage Foundation.

1. James Sherk, “How Union Card Checks Block Workers’ Free Choice,” Heritage Foundation *WebMemo* No. 1366, Feb. 21, 2007, at www.heritage.org/Research/Labor/wm1366.cfm.