



International Council of Shopping Centers

ISSUE PAPER

Card Check

- 88% of union workers believe a worker's vote in a union organizing election should be kept private.
- 85% of union workers believe the secret ballot is the best way to protect the individual rights of workers.
- If EFCA results in a 10% increase in organized workers, up to 5.4 million Americans will become unemployed.

Position: ICSC believes that removing the secret ballot from union organizing efforts strips employees of a fundamental American right. Workers are better protected from interference and intimidation by casting their vote in a federally supervised private election. ICSC is also concerned about the dangerous economic implications of the binding arbitration provisions. Therefore, ICSC opposes the "Employee Free Choice Act."

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Background: The number one issue on organized labor's legislative agenda is passage of the "Employee Free Choice Act" (EFCA), also known as "card check" legislation. This legislation would dramatically change labor law in three ways.

First, it would eliminate an employee's right to a private election run by the National Labor Relations Board (NLRB) when deciding whether to unionize. Existing law triggers an NLRB-sanctioned election once one-third of workers demonstrate a desire for union representation. The proposed "card check" measure would enable unions to represent employees as soon as a majority of workers signed a card stating their intention to join the union, a process overseen by union members.

Second, it would impose a strict 90-day time limit for reaching an initial contract agreement. Under EFCA, after a union is certified by the NLRB, the union and employer must begin first contract negotiations within 10 days. After 90 days, either party may notify the Federal Mediation and Conciliation Service (FMCS) and request mediation if an agreement is not met.

Third, the legislation would permit the FMCS to impose a 2-year contract on employers and employees – even if neither party consents to the contract terms. Neither the employees nor the employer could appeal the decision.

Current Activity: EFCA has been introduced in the 111th Congress as H.R. 1409 by Representative George Miller (CA-7) and as S.560 by Senator Ted Kennedy (MA).

Rationale: While organizing by "card check" is cheaper and faster than an NLRB election, it takes away an employee's ability to vote privately, a privilege Americans cherish. Unions claim that workers can still request a secret ballot election under EFCA; however peer pressure and intimidation may discourage them from asking for one. Federally supervised private ballot procedures originated more than 60 years ago to protect workers from this type of intimidation or coercion by either employers or unions.

EFCA provisions would also effectively ban employers from the playing field during the contract negotiations due to the strict time limits within which a collective bargaining agreement must be reached and the binding arbitration that would follow thereafter. The 2-year forced contract would prevent businesses from responding to competition or other changes in the economy, causing a potentially disastrous result for employers, employees and their families. Nothing in EFCA protects employees or the employer if the arbitrator's decision forces the company out of business.

Summary: Unions want to grow their membership quicker and cheaper by sacrificing private elections for employees. In addition to removing safeguards for employees, the bill could also have a serious negative impact on a business's operations due to the binding arbitration provisions. As a result, ICSC opposes EFCA.