Collective Bargaining Coverage: U.S. Lags Behind Other Democracies

- Australia: 50%
- Brazil: 36%
- Canada: 32%
- France: 95%
- Japan: 24%
- South Africa: 42%
- Spain: 81%
- Sweden: 92%
- U.K.: 35%
- U.S.: 12%
As Bargaining Coverage Declines, Income Inequality Grows

- Collectively Bargaining Coverage (Percent of Workforce)
- Inequality (Gini Coefficient)

From select OECD countries
Union coverage is now half of what it was 30 years ago.

Obstacles to Employee Free Choice

- NLRA: Stated purpose to “encourage collective bargaining”
- But strong employer opposition and weak legal protections make it difficult for workers to exercise their collective rights
<table>
<thead>
<tr>
<th>Company</th>
<th>Actions</th>
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<tbody>
<tr>
<td></td>
<td>Decides how workers will form their union</td>
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<tr>
<td></td>
<td>Delays and denies workers’ free choice</td>
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<tr>
<td></td>
<td>Fires one in four union activists</td>
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<td></td>
<td>Forces workers into meetings with supervisors (78%)</td>
</tr>
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<td></td>
<td>Uses work time to intimidate workers</td>
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<td></td>
<td>Threatens to close if workers unionize (51%)</td>
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<tr>
<td></td>
<td>Delays contract negotiations</td>
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<td>Treats penalties as a cost of doing business</td>
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</table>
Employee Free Choice Act

- Union recognition on basis of majority sign-up or NLRB election
- Conciliation and arbitration of first contract disputes
- Increase in penalties for employer ULPs during organizing campaigns
Employee Free Choice Act

Bill Introduced on March 10, 2009

A “Defining Moment in History” (Sen. Tom Harkin)

- HR 1409 in House
- S 560 in Senate
- 223 co-sponsors in the House (233 in 2007)
- 40 co-sponsors in the Senate (46 in 2007)
- No longer a “Free Vote” for centrist Democrats and Arlen Specter
WE SUPPORT THE
EMPLOYEE
FREE
CHOICE ACT

Join a broad range of organizations who believe that we need to make the economy work for everyone again by passing the Employee Free Choice Act.

To learn more, visit www.americanrightsatwork.org/allies
Who Opposes the Employee Free Choice Act?

“We’re going to crush labor as a political entity and ultimately break unions....” Grover Norquist
How Labor Views the Opposition to EFCA
Attacks Against Employee Free Choice Act: $200M Organized Opposition

“...an undemocratic power grab by special interest union lobbyists...” Employee Freedom Action Committee

“...a threat to ... democracy.” John McCain

The “demise of civilization” ... Retailers not fighting it “should be shot.”

Bernie Marcus, Founder and Former CEO of Home Depot

“...serious implications [to] the ... stability of the economy....” The “coming fight in Congress” is a “firestorm bordering on Armageddon.”

US Chamber of Commerce
THE GLOVES COME OFF: Corporate America's Assault on EFCA

- Wal-Mart warns employees about the “danger” of EFCA if Obama wins (October 2008)
- McDonald’s president urges franchisees to lobby Congress on EFCA (November 2008)
- Bank of America hosts anti-EFCA conference call of corporations three days after receiving $25 billion in bailout funds (January 2009)
- FedEx threatens to cancel billions in orders with Boeing if EFCA passes (March 2009)
- CitiGroup downgrades its rating of Wal-Mart on day that EFCA is introduced in Congress due to threat of higher labor costs (March 2009)
Liberal media advocates a hostile takeover of small business... or does it?

Where do the Nation's Papers Stand on Card Check?

"Job creators don't need policy prescriptions from out-of-touch, Hollywood elite who want to drive up costs and encourage hostile takeover of American small businesses."

Workplace Fairness Institute, April 2009
What Opponents Say: The Attack on EFCA and How to Respond to It

✖ Card check is anti-democratic
✖ Arbitration will lead to unreasonable settlements and bankrupt firms
✖ Unionization will destroy already fragile economy – look at General Motors
✖ Current NLRB election system works well

When Voting Isn’t Private: The Union Campaign Against Secret Ballot Elections
HOFFA asks:
“Since when is the secret ballot a basic tenet of democracy?”

On the ROAD TO
Odd question from someone elected by secret ballot.

The right to vote in private. It's a cornerstone of our democracy. The secret ballot allows Americans to express their true wishes on important decisions like who should be our president and whether they want to join a union.

The American people revere the secret ballot. A recent

“There's no reason to subject the workers to an election.” *

Kim Jong Il
North Korean Leader

Fidel Castro
Cuban Leader

Bruce Raynor
American Union Leader

Who said it?
Find out how union leaders are trashing elections and democracy.


UnionFacts.com
The facts they don't want you to know
But is it really elementary?

- “Card check” has given opponents a hook with which to attack the bill
- Most people don’t follow the issue closely, and intuitively support the idea of the “secret ballot”
- This has given an “out” to swing Senators who fear alienating big business
EFCA Does Not Eliminate NLRB Elections, It Gives the Choice to Workers

"The [Employee Free Choice Act] doesn’t remove the secret-ballot option from the National Labor Relations Act..."

THE WALL STREET JOURNAL CATCHES BIG BUSINESS IN A LIE

Let’s Pass the Employee Free Choice Act.

www.FreeChoiceAct.org
# Management-Dominated Elections:
Democratic Standards For Free and Fair Elections Compared with NLRB Elections

<table>
<thead>
<tr>
<th></th>
<th>Federal Elections</th>
<th>NLRB Elections</th>
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<tbody>
<tr>
<td>Unequal Access to Voter Lists</td>
<td>Illegal</td>
<td>Legal</td>
</tr>
<tr>
<td>Vote Takes Place at One Party's Premises</td>
<td>Illegal</td>
<td>Legal</td>
</tr>
<tr>
<td>Voters Forced to Discuss Their Political Views</td>
<td>Illegal</td>
<td>Legal</td>
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<tr>
<td>Media Dominated by One Party; unavailable to the other</td>
<td>Illegal</td>
<td>Legal</td>
</tr>
<tr>
<td>Voters Forced to Attend Partisan Speeches</td>
<td>Illegal</td>
<td>Legal</td>
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<tr>
<td>Voters Forced to Watch Partisan Videos</td>
<td>Illegal</td>
<td>Legal</td>
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<tr>
<td>Employers predict layoffs if one side wins</td>
<td>Illegal</td>
<td>Legal</td>
</tr>
<tr>
<td>Corporations tell employees which way to vote</td>
<td>Illegal</td>
<td>Legal</td>
</tr>
<tr>
<td>Supervisors tell subordinates how to vote</td>
<td>Illegal</td>
<td>Legal</td>
</tr>
<tr>
<td>Election results not implemented for years</td>
<td>Illegal</td>
<td>Legal</td>
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</table>
In public, they say democracy
In private, they say “WAR”

A UNION ORGANIZING CAMPAIGN
IS A DECLARATION OF

WAR
ARE YOU USING THE MOST POWERFUL WEAPON IN YOUR ARSENAL?

IN SHORT, UNION ORGANIZING IS WAR!
Don’t be lulled into a false sense of security — this is war -- and the vulnerability upon which a union may capitalize always exists within an organization.
FORCED
EMPLOYEE FREE CHOICE ACT
A TWO-HEADED MONSTER THAT'S BAD FOR BUSINESS
AND BAD FOR EMPLOYEES

Without my union friends...
I wouldn't know how to vote.
Do Unions Intimidate?

- NRTW: 113 cases of union coercion, 1935-2007
- Only 42 real cases of coercion (or about 2 per year)
- Ontario: 5 decades of card check – zero cases of coercion (Arthurs)
- Compare with 20,000 per year cases of employer coercion

Worker Privacy? “Fuggeddaboutit.”
Dropping the Ax: Illegal Firings During Union Elections, 1951-2007

Percent of Union Election Campaigns with an Illegal Firing, 1951-2007

<table>
<thead>
<tr>
<th>Decade</th>
<th>Percent</th>
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<tbody>
<tr>
<td>1951-55</td>
<td>5</td>
</tr>
<tr>
<td>1956-60</td>
<td>4</td>
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<tr>
<td>1961-65</td>
<td>8</td>
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<tr>
<td>1966-70</td>
<td>8</td>
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<tr>
<td>1971-75</td>
<td>8</td>
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<tr>
<td>1976-80</td>
<td>14</td>
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<tr>
<td>1981-85</td>
<td>31</td>
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<tr>
<td>1986-90</td>
<td>25</td>
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<tr>
<td>1991-95</td>
<td>24</td>
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<tr>
<td>1996-00</td>
<td>16</td>
</tr>
<tr>
<td>2001-07</td>
<td>26</td>
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</tbody>
</table>
EFCA is a “Job Killer” (just ask Arlen Specter)

“It is an idea that would have devastating impact on the economy... It would lead ... jobs to relocate elsewhere... Card check is a very bad idea under any circumstances. In these circumstances, it would be calamitous.”

Mitt Romney, Congressional testimony, Jan. 2009
The New Union Label.

Brought to you by the union “leaders” who helped bankrupt steel, auto, and airline companies.

UnionFacts.com
What they don’t want you to know

The Economics of Card Check: 600,000 Americans will lose their jobs in year one.

Millions more will lose their jobs in years to come.

In a time of deep recession, the last thing Congress should do is pass legislation that will cost more Americans their jobs.

But that’s exactly what the Employee Free Choice Act would do. A new economic study finds that the card check scheme favored by labor unions will eliminate 600,000 jobs by 2010 and lead to similar job cuts in subsequent years.

The economic report, which was conducted by noted economist Dr. Anne Layne-Farrar, concludes that every three percent increase in unionization will result in a one percent increase in the unemployment rate.

Massive jobs cuts. Rising unemployment. Card check is a poison pill for our ailing economy.

A complete analysis of Dr. Layne-Farrar’s study is available at: www.myprivateballot.com
The Two Faces of Arbitration

Mandatory Binding Arbitration Ties up Workers and Jobs.

Now that Americans overwhelmingly oppose the Employee Free Choice Act, some in Congress want to compromise on workers' rights and jobs by insisting on Mandatory Binding Arbitration. This would give the federal government ultimate authority to set wages and work rules for Main Street businesses if they don't give into union demands.

A recent nationwide survey found that voters oppose giving government such broad powers over workplaces and denying workers a vote on their own pay and working conditions. It's time Congress started paying attention to workers and businesses back home instead of union political pressure in Washington.

Tell Congress: Don't Compromise on Workers' Rights and Jobs.

There's only one case where Big Business opposes the use of arbitration.

Big Business favors arbitration when it's in their interest to do so:
- Consumer disputes
- Real estate transactions
- Personal injury claims
- Credit card disputes
- Banking disputes
- Home construction contracts
- Health insurance claims
- Nursing home injuries

Big Business opposes arbitration when they can use unfair delay tactics to their advantage:
- Contracts dictated by an arbitrator will make workers and employers etc.
- Government-dictated wages and work rules will bring the economy to its knees.

It's time our economy worked for everyone again.

Say NO to Card Check "Lite" — NO to Forced Government Arbitration
EFCA: Recapturing the Middle Class We’ve Lost

“EFCA will enable America to take a huge step toward recapturing the middle-class society we've lost.”


America’s Middle Class is Falling Apart

America Needs the Employee Free Choice Act
Here's the key: workers' compensation has lagged productivity growth for a generation and the biggest divergence was in the 2000s. It wasn't always this way.

Prominent economists – including three Nobel Laureates – say the Employee Free Choice Act is critical to our economy

Washington Post Ad, Feb. 25, 2009
The NLRA Prolonged the Depression

“If the mislabeled Employee Free Choice Act becomes law, it will likely have a similar effect on the economy as the original Wagner Act, transforming what could have been a recovery into a lengthy, deep recession, or worse.”

Did Unions Prolong the Depression?

**No:** Economists and historians agree that collective bargaining was not responsible for recession of 1937-38, but it was responsible for Great Compression of 1940s, when modern American came as close as it has ever been to income equality, and for creation of the blue collar middle class in the 1950s and 1960s.

“I regard collective bargaining as essential.”

John Maynard Keynes, letter to FDR, 1938
Unions Cause Unemployment

“The unionization of 1.5 million existing jobs under EFCA in year one would lead to the loss of 600,000 jobs by the following year. Job losses directly attributed to the passage of EFCA would be equal to the entire population of Boston, MA.”

Dr. Anne Layne-Farrar, Congressional Testimony, March 10 2009

“Another cause of long-term unemployment is unionization. High union wages that exceed the competitive market rate are likely to cause job losses in the unionized sector of the economy.”

Professor Lawrence “Larry” Summers, Concise Encyclopedia of Economics, 2007
Do Unions Cause Unemployment?

- In the 1950s, union density was in the mid-30s, yet unemployment was, on average, 4.5 percent.

- Union density has fallen by at least 20 percent points since then. According to the logic of EFCA critics, we would expect to find negative unemployment by the end of recovery in 2007.


- The claim that unions are responsible for unemployment cannot be reconciled with experiences of actual countries, many of which have far greater or lower levels of unionization and collective bargaining, but comparable or lower levels of unemployment.
Do Unions Cause Unemployment?

Collective Bargaining Coverage (Percent of Workforce), 2000

Unemployment, 2007

Austria, Sweden, France, Australia, Denmark, Netherlands, Italy, Norway, Germany, Switzerland, Ireland, Canada, United Kingdom, New Zealand, United States
The Current System of NLRB Elections Works Well

- Bureau of Labor Statistics: Unions winning 66.8% of NLRB elections in first 6 months of 2008
- Labor Policy Association: “This new data clearly demonstrates that the current system … is working to the unions’ advantage.”
- National Association of Manufacturers: “The system is increasingly stacked in favor of unions.” March, 2009
The NLRB System is Broken

“Commentators describe the NLRA....as dead, dying ... a doomed legal dinosaur.... Meanwhile, the Board's case intake has plummeted. Increasingly disillusioned with the law's inability to protect worker rights, unions have turned away from the Board. This disenchantment has intensified in recent years.”

NLRB Chair Wilma Liebman
Through the Eye of the Needle: Sequential Failures in the NLRB Election Process

- 30-50 million Americans who are not now union members say they wish they had a union in their workplace.

- Almost 500,000 workers gain union recognition each year, but fewer than 60,000 do so through NLRB elections.

- Only about 44 percent of these workers will ever gain a first contract – a tiny proportion of those who want bargaining.
EFCA is "Radical" Legislation

"EFCA would put a union noose around the neck of every business in the nation, large and small...."
Prof. Richard Epstein
October 2008

EFCA is the most radical piece of legislation before Congress....
Sen. Lamar Alexander (R-TN)
March 2009

"Binding arbitration is about as un-American a thing as I can imagine."
Mitt Romney
April 2009
Is EFCA Radical?

Hint: it AMENDS existing legislation in only three ways

- Many states and several employers already use majority sign up in workers’ choice of representatives
- Half a million employees have chosen unions and collective bargaining through majority sign up in past five years
- Majority sign up was used extensively in early years of NLRA
- EFCA would be considered modest and uncontroversial legislation in virtually any other developed democratic nation
Is EFCA Radical?

Many states and several employers already use majority sign-up
EFCA Violates the Principles of the International Labor Organization

“EFCA is inconsistent with... the principles of freedom of association and effective recognition of the right to collective bargaining as set forth in the 1998 ILO Declaration on Fundamental Principles & Rights at Work.”

Chamber of Commerce & USCIB, March 2009
EFCA Would Move US Closer to ILO core labor standards

“The Employee Free Choice Act would, in fact, move the United States considerably closer to being in conformity with the human rights standards of the ILO.”

ITUC, March 2009
Workers Don’t Want Unions

“Only 9% of non-union workers would like to join a union.... Instead of replacing secret ballots with intimidation, union bosses could try some new tactics, like not bankrupting entire industries.”

Center for Union Facts, March 2009
Do Workers Want Unions?

More than Ever!
The proportion of workers who want unions has risen substantially over the last 10 years, and a majority of nonunion workers in 2005 would vote for union representation if they could.

~ Richard Freeman, Harvard University, February 2007

“DO WORKERS STILL WANT UNIONS?
MORE THAN EVER”
If workers were provided the representation they desired in 2005, then the overall unionization rate would have been about 58% instead of the actual rate of about 13% -- an astonishing 45 point difference.

~ Richard Freeman, Harvard University, February 2007

“DO WORKERS STILL WANT UNIONS?
MORE THAN EVER”
What EFCA Opponents Really Want

• No Elections
• No Unions
• No Collective Bargaining
• Ever!
Consultants’ Goal: NO ELECTIONS

“Winning an NLRB election undoubtedly is an achievement; a greater achievement is not having one at all!”
Corporate America’s Ultimate Goal: Complete Control of Union Elections

“We like driving the car, and we're not going to give the steering wheel to anybody but us.”

Lee Scott, Wal-Mart Ex CEO
Nov 2008
The Politics of Free Choice: A Permanent Democratic Majority?

“If you know anything about politics, it is total game changer for the next 40 to 50 years if the Democrats are able to get this legislation.”

Sen. John Ensign (R-NV), Jan 2009

But some Democrats are determined to prevent that from happening....

“I think the question is, is there a need for this legislation right now. And for multiple reasons, I don’t think there is.”

Sen. Blanche Lincoln (D-AR), December 2008
Chasing Arlen Specter

“This is a particularly bad time to enact EFCA... I have made up my mind.... It is an anguishing position, but we play the cards we are dealt.”

Senator Arlen Specter (R-PA), March 24, 2009
Which Side is She On?
Leading the Pack of “Wimpy” Democrats?

“This card-check bill, as drafted, in this economy, is extraordinarily difficult and I think almost a lightening rod to dissent.... I’ve talked with both sides... to see if it isn’t possible to work something out.... I’m not on the bill, and I said what I said.”

Senator Dianne Feinstein (D-CA)
March 31, 2009
What’s the Matter with Arkansas?
(Hint: who does Blanche Lincoln’s former Chief of Staff work for?)

“I cannot support that bill in its current form…. and will not support moving it forward in its current form.”

Senator Blanche Lincoln (D-AK), April 6, 2009
Dwindling Support for EFCA?
The Threat of the Filibuster

A growing number of Democratic “fence sitters” waiting for cover to come out against the bill?
Here’s the Problem:
Labor’s Senate Priorities:

Newly Elected Democrats, Soft-Support Democrats, and Moderate Republicans
Is it all down to the “usual suspects”?  
(And are the “gang of twelve” serious about compromise on EFCA?)

Centrist Democrats (Maddow: “conservadems”):  
Arlen Specter (PA) Blanche Lincoln (AR), Mark Pryor (AR),  
Diane Feinstein (CA), Mary Landrieu (LA), Thomas Carper (DE), Ben Nelson (NE), Mark Udall (CO), Michael Bennett (CO), Kent Conrad (ND), Jim Webb (VA), Mark Warner (VA)

Moderate Republicans (or those from states with powerful unions):  Lisa Murkowski (AK), Olympia Snowe (ME), Susan Collins (ME), George Voinovich (OH)
EFCA Lite ("EFCA in Drag"): Time For Compromise?

The Blue Dog Coalition

- "I think it now begs for a compromise," Sen. Ben Nelson (D-NE), March 26, 2009
- The Seattle Three (Starbucks, Costco, Whole Foods): "Committee to Level the Playing Field"
- Miller & Harkin: "It’s a proposal written by CEOs for CEOs."
- Bill Gould (Clinton NLRB Chair): Canadian-style elections
- Arlen Specter: Equal Access & Tougher Penalties
Cracks in Corporate America’s Front, or Cohesive Opposition to Reform?

“We intend to kill the bill once and for all.”
Chamber of Commerce, March 2009

“No compromise…. Versions of it that are slightly less bad are still horrible ideas.”
NAM, March 2009

“It is hard to imagine that the employer community would consider equal access any more palatable than card check.”
EFCA Report, March 2009

“I say no compromise whatsoever on this legislation.”
Sen. John Ensign (R-NV), April 2009
Where Do We Go From Here?

- What would happen if EFCA passed?
- Are unions ready to take advantage?
- Not a panacea: what else do we need?
- Why be afraid of debating alternatives?
- Is the “secret ballot” the sticking point?
- Can employer speech ever be “non-coercive”?
- How to delegitimizze sham NLRB elections?
- Is labor’s economic focus a mistake?
- Why employers defend a law they find objectionable
- Can we ever have an honest debate on reform?
EFCA is not the solution to everything. But what happens if we get... nothing?

JfJ writ large and a hundred Andy Sterns?

Or union membership falling off edge of cliff?
The President Wants You To Join a Union

"I do not view the labor movement as part of the problem... Labor unions are a part of the solution.... You cannot have a strong middle class without a strong labor movement."

President Barack Obama, January 2009
“Organized labor just flushed $10 million of their members' money down the toilet on a pointless exercise. If even half that total had been applied in key House races across this country, that could have made a real difference in November.”