

Summary of Employee Free Choice Act

The Employee Free Choice Act (S. 842, H.R. 1696) was introduced as bipartisan legislation in the 109th Congress on April 19 by Sens. Edward Kennedy (D-Mass.) and Arlen Specter (R-Pa.) and Reps. George Miller (D-Calif.) and Peter King (R-N.Y.).

1. Certification on the Basis of Signed Authorizations

Provides for certification of a union as the bargaining representative if the National Labor Relations Board finds that a majority of employees in an appropriate unit has signed authorizations designating the union as its bargaining representative. Requires the board to develop model authorization language and procedures for establishing the authenticity of signed authorizations.

2. First-Contract Mediation and Arbitration

Provides that if an employer and a union are engaged in bargaining for their first contract and are unable to reach agreement within 90 days, either party may refer the dispute to the Federal Mediation and Conciliation Service (FMCS) for mediation. If the FMCS has been unable to bring the parties to agreement after 30 days of mediation the dispute will be referred to arbitration and the results of the arbitration shall be binding on the parties for two years. Time limits may be extended by mutual agreement of the parties.

3. Stronger Penalties for Violations While Employees Are Attempting to Organize or Obtain a First Contract

Makes the following new provisions applicable to violations of the National Labor Relations Act committed by employers against employees during any period while employees are attempting to organize a union or negotiate a first contract with the employer:

- a. Mandatory Applications for Injunctions:** Provides that just as the NLRB is required to seek a federal court injunction against a union whenever there is reasonable cause to believe that the union has violated the secondary boycott prohibitions in the act, the NLRB must seek a federal court injunction against an employer whenever there is reasonable cause to believe the employer has discharged or discriminated against employees, threatened to discharge or discriminate against employees or engaged in conduct that significantly interferes with employee rights during an organizing or first contract drive. Authorizes the courts to grant temporary restraining orders or other appropriate injunctive relief.
- b. Treble Back Pay:** Increases the amount an employer is required to pay when an employee is discharged or discriminated against during an organizing campaign or first contract drive to three times back pay.
- c. Civil Penalties:** Provides for civil fines of up to \$20,000 per violation against employers found to have willfully or repeatedly violated employees' rights during an organizing campaign or first contract drive.

This fact sheet has been prepared by the AFL-CIO. For more information regarding the Employee Free Choice Act, please contact Maria Fiordellisi at 202-639-6239.