

**American Association of University Professors  
Capitol Hill Day  
June 11, 2009**

**Issue Brief: The Employee Free Choice Act**

The Employee Free Choice Act (EFCA), also referred to as “card-check” and “majority sign-up” legislation, would amend the National Labor Relations Act to allow employees to unionize by signing union cards, rather than requiring a secret ballot vote. The bill also contains provisions for binding arbitration for first contracts and increases penalties against employers who retaliate against union leaders. The issue has been one of the most heated policy debates in Washington for months, as the business community (Chamber of Commerce, etc.) is ardently opposed while the labor community (AFL-CIO, CTW, etc.) is lobbying equally hard in favor. In reality, the bill is unlikely to pass in its original form, in large part because policymakers are loath to do anything disliked by businesses during a recession. How much modification will be necessary for passage hangs largely on partisan balance in the Senate.

The recent party change by Arlen Specter (D-PA) has frequently been referenced in discussions of the issue. Upon announcing his departure from the GOP, Senator Specter noted that he remains opposed to card-check. Since then, Sen. Specter has made it clear that he is open to compromise. Minnesota’s open Senate seat is also affecting the debate; a seated Democrat would reach the filibuster-proof majority of 60 votes. This would nearly guarantee passage of some form of the bill. But regardless of partisan balance, the original bill will have to be modified, as there is opposition to the binding arbitration provision within both parties.

A compromise introduced by Rep. Joe Sestak (D-PA) would focus on enforcing anti-retaliation and non-discrimination measures. It would require union organizers to have equal access to employees, as the status quo allows employers to hold mandatory anti-union meetings while union organizers must contact individuals off-site. Additionally, there are currently a number of restrictions governing the distribution of pro-union literature.

**Talking Points:**

- 1.) The legal status quo is overwhelmingly biased in favor of employers’ ability to obstruct or intimidate their employees’ desire to organize and collectively bargain, as described above. Measures are necessary to allow union organizers similar access to their colleagues in order for workers to make truly informed choices and hear both sides of the debate.
- 2.) Regardless of positions on secret ballots or binding arbitration, one area ripe for bi-partisan compromise is the shortening of the time frame between when a vote is announced and when it is held. Traditionally, long time lapses are used by employers to mount anti-union campaigns; shortening the time elapsed would likely lessen charges of intimidation in the workplace.

**Suggested background reading:**

[The way to save card check](#), *The Philadelphia Inquirer*, 5/28/09

[NO HOLDS BARRED: The Intensification of Employer Opposition to Organizing](#), *Economic Policy Institute*, 5/20/09

[The Employee Free Choice Act: Questions and Answers](#), *Economic Policy Institute*, 1/29/2009