



# Setting THE record straight

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## Clearing big labor's smoke screens from the Employee Free Choice Act

When it comes to advancing the deceptively titled Employee Free Choice Act (EFCA), organized labor is putting up smoke screens in hopes that EFCA will not be seen for what it truly is – an attempt to grow union membership and coffers at the expense of worker freedoms and economic growth.

### Smoke screen No. 1: Employees could continue to choose private ballot under EFCA

Despite organized labor's claims to the contrary, EFCA would in fact effectively end the private ballot process for union organizing. Once 51 percent of signatures are secured, the union can immediately move to organize and the National Labor Relations Board cannot require a private ballot. Union leaders who don't want to risk losing a private election would have no reason to call for one if they only needed a few more signatures to be recognized, and there is no clearly defined process to enable employees to request a private ballot election. The current system ensures that workers can make their decisions in private.

### Smoke screen No. 2: Employers harass and illegally fire employees in union organizing drives

Organized labor often uses misleading statistics about employer misconduct in union organizing campaigns. Many of the statistics from the studies it references come from uncorroborated reports of union officials. According to NLRB, employees are illegally fired in at most, 2.7 percent of organizing campaigns. In those instances, NLRB has the power to recognize the union, regardless of the result of the private election. But numbers aside, for the sake of big labor's own argument, if some employers are harassing their workforce without knowing individual employees' views on union organizing, what will happen when these unscrupulous employers *know* how each and every employee voted? Further, it is disingenuous to call into question the actions of some employers while failing to mention intimidation on the part of union organizers. The truth is, effectively eliminating the private ballot process opens up workers to harassment and intimidation from all parties – from unscrupulous employers to coworkers to union bosses.

These concerns are what led George McGovern, Democratic U.S. senator, former presidential candidate and long-time friend of organized labor, to recently refer to EFCA as "anti-worker and a democratic over-reach" in a recent *Wall Street Journal* editorial.

### Smoke screen No. 3: Binding arbitration for a first contract is good for workers

EFCA would replace the current system of good faith collective bargaining with government binding arbitration. Under EFCA, once the union is recognized, both sides are subject to a 120-day process to reach a contract agreement before a government arbitrator is brought in. The arbitrator's decision is binding for two years. In essence, this means that a government official who may have no or limited knowledge of a particular industry or business could officially be put in charge of making decisions on wages, hours and benefits, as well as other terms of employment. These decisions may not be good for business (see *smoke screen No. 5*). They also may not be in the best interest of workers. Nonetheless, EFCA's mandatory arbitration requirements keep workers out of the bargaining process and deny them the right to vote on the contract for two years.

### Smoke screen No. 4: American workers support EFCA

Workers have a right to unionize if they desire, just as they have a right to reject union representation. Numerous polls and surveys show widespread support – even in union households – for the current collective bargaining process, particularly the supervised private ballot election. For example, a *Citizens for a Democratic Workforce* survey found that 76 percent of union voters say having a federally supervised private ballot election is the best way to protect workers' rights when organizing. This process serves citizens well in electing our political leaders; it serves unions well in electing their own leadership; and it needs to continue to serve American workers.

### **Smoke screen No. 5: EFCA is essential to economic recovery**

Organized labor has it only half right in its argument that well-paying jobs are one of the keys to rebuilding the economy. Ensuring the availability of quality jobs and job opportunities for Americans is vital to economic recovery. But the union rationale that this can be achieved through government policy mandates is not only flawed, it is dangerous in this volatile economy. Businesses are struggling to keep their doors open and hold on to the workforce they have. The unpredictable and inflexible business operating environment that would greet job creators under EFCA could prove too much to handle for many of these businesses – particularly the medium-sized to smaller companies that would clearly be targeted. In this regard, EFCA would be a huge impediment to economic recovery.

As the smoke clears, more and more Americans are discovering that taking away employee freedoms and jeopardizing the economy to grow union membership is a starkly anti-worker, anti-business idea that has no place in a serious economic stimulus discussion.

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*The Pennsylvania Chamber of Business and Industry is the state's largest broad-based business association, with its membership representing nearly 50 percent of the private workforce. More information is available on the Chamber's website at [www.pachamber.org](http://www.pachamber.org)*

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