

Employee Free Choice Act Introduced in Congress

Linda D. McGill | 11 March 2009

The Employee Free Choice Act (EFCA) was introduced in Congress yesterday afternoon. As you probably know, including from our earlier client briefings, the EFCA would be a drastic change from current private sector labor law. It would allow unions to bypass federally-supervised secret ballot elections on the question of unionization by collecting employee signatures on representation cards; restrict an employer's ability to communicate to its employees about the workplace issues involved in the decision to unionize; expand penalties and claims against employers for unfair labor practices (including a fine of up to \$20,000 per offense); and permit an outside arbitrator, under some circumstances, to decide on the terms of the contract for wages, hours and working conditions between the union and the employer.

The EFCA is supported by a majority of Congress, by key Senators and by President Obama and Labor Secretary Hilda Solis. It has been and will continue to be the heavy focus of the labor movement's political and legislative agenda. Whether the EFCA will ultimately get the 60 votes needed to pass the Senate is unclear at this time: the votes are too close to call. We will update you as the EFCA moves through the process and on any amendments that emerge.

There is still time to send a message through and to industry associations, employer groups, legislators, and other influential sources on the effect that the EFCA would have on employees' abilities to make an informed choice on unionization and employers' abilities to communicate to their employees in a meaningful and legitimate way on the issue.

And there is still time to develop or review your company's comprehensive (and legal) labor relations plan; to train managers and supervisors on labor law issues; and to make sure your company has key policies that are essential to have in place in the event of union organizing. With the EFCA now firmly on the legislative agenda, preparation and prevention need to have a high place on the employer agenda.

If you have any questions or need assistance related to the Employee Free Choice Act or other labor relations issues, contact Linda McGill (lmcgill@bernsteinshur.com, 207 228-7226) or Glenn Israel (gisrael@bernsteinshur.com, 207 228-7291) in our Portland Office; or Terry Shumaker (tshumaker@bernsteinshur.com, 603 623-8700) or Andrea Johnstone (ajohnstone@bernsteinshur.com, 603 623-8700) in our Manchester Office.