

Congress close to passing Employee Free Choice Act

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Democrats in Congress may be close to passing a bill that could reverse the decline of organized labor in the United States. The Employee Free Choice Act, considered the union movement's top priority legislation since 2003, could become law as early as next month.

If and when Al Franken is seated as U.S. senator from Minnesota, backers believe they will have the 60 votes needed in the U.S. Senate to prevent a Republican filibuster of the bill.

The Employee Free Choice Act would make it easier for workers to unionize and obtain their first union contract. It would also impose serious penalties, for the first time ever, on employers that commit egregious labor law violations when workers try to unionize.

As proposed, the Employee Free Choice Act would require an employer to recognize a union if a majority of workers sign union authorization cards. Right now, it's legal for employers to recognize a union on the basis of this "card-check." But the employer has that choice — whether to recognize the union at that point, or have a workplace election. Employers almost always opt for the election, because that delays the process six weeks, and during that time, they use their overwhelming advantage in campaigning against the union. Employers can access employees at all times at work, and can require workers to attend meetings on company time, from which pro-union voices are excluded. At the meetings, managers and outside consultants may bad-mouth unions, make emotional

appeals, and issue veiled threats that the plant will close or workers lose pay and benefits if they vote the union in.

The Employee Free Choice Act would also permit civil fines of up to \$20,000 per violation, plus triple back pay, when workers are fired for supporting a union drive. Right now there are no fines, and workers who prove they were fired for union activity get only back pay, minus wages they earned since they were fired. That toothless penalty has made firing union campaign leaders an acceptable business expense for employers that want to keep unions out.

Finally, the Employee Free Choice Act provides for binding arbitration of first-time union contracts. Right now, workers face great uncertainty when looking at whether to unionize: Negotiating a first contract can take 18 months, during which no raises occur. Half the time, employers stonewall and there's no contract a year later; a third of the time, newly-unionized workers never get a contract, and vote the union out after a few years. With binding arbitration, workers would know they'd get a first contract, and be confident it would be an improvement. If the two sides couldn't reach agreement in 90 days, the Employee Free Choice Act says either side can request mediation; 30 days after that, if there's still no deal, either side can request arbitration. The results would be binding for two years, and would form the starting point for future bargaining. Odds are very good

any contract imposed by an arbitrator would be an improvement for workers, because legally, collective bargaining is not supposed to start from zero, but from what workers currently get.

Labor leaders say they have a commitment from the Democratic House and Senate leadership to schedule a vote on the Employee Free Choice Act

Labor leaders say they have a commitment from the Democratic House and Senate leadership to schedule a vote as soon as (Al) Franken is seated.

as soon as Franken is seated. The bill already passed the House last year, and would be expected to pass there again this year. Its fate is trickier in the Senate, where supporters need 60 votes (out of 100) in order to cut off debate and permit a vote. After the November 2008 election, Democrats had 57 votes counting Franken, plus independents Joe Lieberman of Connecticut and Bernie Sanders of Vermont. Pennsylvania Sen. Arlen Specter's switch to the Democratic Party in April brought the party to the needed 60 votes.

Specter is a special case when it comes to the Employee Free Choice Act. In previous sessions of Congress, he was the lone Republican to sign on as a co-sponsor of the bill. But on March 24 he infuri-

ated labor when he held a press conference announcing he could no longer support it as written. Specter's announcement caused some observers to announce the Employee Free Choice Act was dead this year. But state labor activists kept up the pressure, running TV ads and generating over 150,000 letters, faxes and phone calls. And Pennsylvania politics changed the equation.

Specter is up for re-election in 2010, and conservative Republican Congressman Pat Toomey announced April 15 he would challenge Specter in the Republican primary. Polls suggested Specter, considered too moderate by many Republicans, would lose the party's nomination. So Specter defected April 28 to the Democratic Party.

Then on May 27, Specter learned he would face a challenge for the Democratic nomination, from Congressman Joe Sestak. Labor backing, which helped Specter win when he was a Republican, will be even more important now that he's a Democrat. Understanding that, Specter has been conspicuously courting labor's favor.

Specter showed up at a June 6 Employee Free Choice Act rally in Pittsburgh, and the crowd of several hundred unionists cheered to see him take the mic. But before he could speak, the chant "Free Choice!" broke out from the ranks. Specter tried to talk about all the other times he'd voted with labor over the years, but one rally-goer interrupted him, yelling, "You want my vote? I want yours!" The reference, of course, was to Specter's vote when the Employee Free Choice Act comes up.

"I understand your jobs are on the line," Specter

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