

# **Occupational Safety & Health and the Employee Free Choice Act**

*by Peter Dooley MS CIH CSP*

**The Employee Free Choice Act [EFCA]** has been identified as the highest priority for Organized Labor these days. There is a heated political debate with lots of information [and misinformation] being liberally swung around in all directions. Here is an attempt to clarify some of the issues and facts:

- EFCA would restore the ability of workers to form unions without the threats, harassment and intimidation that too many employers now routinely use to sabotage union organizing.
- A Cornell University research team conducted a survey of 400 NLRB election campaigns in 1998 and 1999 and found that 36 percent of workers who vote against union representation explain their vote as a response to employer pressure. The NLRB election process enables management to wage lengthy and bitter anti-union campaigns, during which workers can expect harassment, intimidation, threats and firings.
- Employer illegal acts pay off big time. The NLRB response to violations by Employers is grossly inadequate. Most guilty findings end up with a posting by the employer on a bulletin board declaring that they will refrain from the practice in the future. When workers win back jobs or back pay, it is often years after the violation occurred when the organizing drive is history.
- Fighting unionization is big business. Big Law firms profit and manipulate. They coach employers how to intimidate and instill fear in their employee's psyche. They use captive meetings on company time, one on one meetings with supervisors and a variety of other threats to make sure employees really "think about" the vote.
- The alternative is simple. You make the election really a private event without fear. Workers can sign a card in the privacy of their own home or wherever they choose. Once a majority of workers sign cards, the employer has to recognize the union. This is especially important for low wage and immigrant workers.
- The bill would also provide relief for the well-honed management tool of stalling first contract negotiations indefinitely. This can set the stage for the employer mounting a decertification campaign against the union. EFCA would allow for either party to call in a Federal mediator. If an agreement is not made in thirty days, binding arbitration could rule for a two year first contract.
- Employers and their lobbyists are screaming bloody murder over the concept that they may lose their oppressive edge to influence ballot elections. They are claiming the end of the secret ballot process and Government intervention into collective bargaining for first contracts.
- Unionization improves Public Health. Union members are far more likely than non-union workers to have adequate health insurance coverage as well as effective health and safety programs to resolve hazards in the workplace. When unions succeed in moving the government to regulate employee health and safety, working conditions improve for all workers - union and non-union alike.

I have been honored to work on many union organizing campaigns myself. When workers decide to fight for a union, their courage is incredible. The repressive and oppressive reaction by employers is also incredible. Fueled by consultants, management explodes with fear campaigns that make the Bush years seem peaceful. We are talking Orange Plus here every day and in your face.

There are many examples of campaigns where the employer's neutrality was enough to level the playing field. I worked on a campaign at a school bus manufacturing plant in NC where health and safety played a major role in unionizing the plant. The workplace of 2,500 workers was organized under a neutrality agreement whereby the employer agreed to recognize the union if a majority of cards were signed. This came about through a collective bargaining agreement with the company's parent corporation. This workplace had been through several previous NLRB elections that were unsuccessful in unionization.

Because of this agreement, the union organizers were able to show workers the type of benefits we had secured for workers in similar workplaces with the same parent company. These included extensive health and safety contractual provisions including paid protective equipment and significant improvement in safety conditions. Although this process was extremely adversarial at first because the old school management tried to sabotage the process, with time and persistence the union and management sat down and agreed on a first contract which included significant health and safety language. Unfortunately, this scenario is the rare exception to the rule but it shows what can be done if there is a fair playing field.

Our section sponsored and wrote APHA policy resolution (#20068, November 2006) which supports the right of all employees to freely choose to form unions, and calls upon the U.S. Congress to legislate the right of employees to freely choose to form unions. We are in a pivotal position to bring rational facts to bear witness in this campaign. The fact that unionization improves health and safety conditions and the formation of truly joint health and safety committees can be the most powerful argument to influence our elected representatives to vote for this legislation. The section leadership is working with the APHA Government affairs office to communicate our policy. Please communicate your own message to your legislators about the Employee Free Choice Act.

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Description for Photo - Workers manually push bus frame from one station to the next. Besides numerous back and ergonomic injuries, one worker had been crushed between two bus frames.