



Myths vs. Facts of Employee Free Choice Act

Employee Free Choice Act (EFCA) supporters say: “EFCA does not take away the secret ballot.”

- ✓ **SHRM says:** EFCA does not directly eliminate the secret ballot election, but it allows **unions** to bypass the election. After collecting cards from 50%-plus-one of a unit, EFCA allows a union to choose to bypass an election for recognition purposes. Under EFCA, there can be little doubt that a union would invariably choose to ignore the secret ballot election process, and employees would lose the chance to vote on a union in a secure, private setting.

EFCA supporters say: “EFCA allows employees to request a secret ballot vote if they want one.”

- ✓ **SHRM says:** It is disingenuous to say that an individual employee or group of employees would be able to request a secret ballot vote if EFCA became law. A group of employees that constitute at least 30 percent of the bargaining unit would need to act on their own and file a petition asking for an election BEFORE the union files its collected cards. If the union submits cards first, the National Labor Relations Board (NLRB) must certify the union as the representative and there would be no election. In any event, it would be very difficult and unlikely for a large group of employees to independently request an election. As evidence, there were [2,302 petitions](#) for representation elections were filed with the NLRB in fiscal year 2007, and only three (0.1 percent) were filed by individuals with the rest (99.9 percent) being filed by unions.

EFCA supporters say: “EFCA is needed to protect workers from intimidation.”

- ✓ **SHRM says:** Secret ballot elections are the most effective means to validate majority representation. Elections minimize inappropriate outside influences and are consistent with the fundamental principles of democracy. The card check process is an inferior process for employees because it features no supervision, no standardized authorization card, and no recourse for employees to challenge deceptive organizers or fraudulent cards. SHRM believes that a private ballot election is a fundamental protection against intimidation and is a superior process for allowing employees to express their sincere views on union representation.

EFCA supporters say: "The NLRB election process is unfair."

- ✓ **SHRM says:** According to the NLRB, unions won over two-thirds ([67.1 percent](#)) of representation elections under current law from October 2008 - March 2009.

EFCA supporters say: "The NLRB election process is too slow."

- ✓ **SHRM says:** According to the NLRB, in 2008 union representation elections were conducted in a median of only [38 days](#) from the filing of the petition. This reasonable period provides both union organizers and company management time to share their perspectives on what employee representation would mean for the relevant employees. Furthermore, the overwhelming majority (95.1%) of all initial elections were conducted within two months (56 days) of the filing of the petition.

EFCA supporters say: "Workers want EFCA to become law."

- ✓ **SHRM says:** A recent poll found that 74% of union households oppose EFCA (Jan. 2009 McLaughlin & Associates [poll](#)).

EFCA supporters say: "Groups opposed to EFCA are anti-union."

- ✓ **SHRM says:** SHRM is not opposed to unions. Many SHRM members' organizations have constructive relationships with labor organizations. But SHRM strongly believes an employee's decision to join or refrain from joining a union should be based on relevant information and free choice.

EFCA supporters say: "EFCA will not affect Right-to-Work states."

- ✓ **SHRM says:** In fact, EFCA would lead to unions bypassing elections and requiring card check recognition in all 50 states. State Right-to-Work laws will only allow individual employees the right to abstain from fully participating in the union as a condition of employment.

EFCA supporters say: "If EFCA isn't the answer, then what's an alternative?"

- ✓ **SHRM says:** The last major amendments to the National Labor Relations Act were made over sixty years ago and it may be time for Congress to revisit the statute. Unfortunately, EFCA appears to be a solution in search of a problem and one that does not meet the needs of employees or employers.