

## SUMMARY OF EMPLOYEE FREE CHOICE ACT

**1. Certification on the Basis of Signed Authorizations (majority sign-up):** Provides for certification of a union as the bargaining representative if the National Labor Relations Board finds that a majority of employees in an appropriate unit has signed authorizations designating the union as its bargaining representative. Requires the Board to develop model authorization language and procedures for establishing the validity of signed authorizations. *Under current law, employers can require unions to go through one-sided, time consuming elections as a condition of being certified as bargaining representatives. Such elections become the focal point of employer efforts to frustrate the right of workers to organize.*

**2. First Contract Mediation and Arbitration:** Provides that if an employer and a union are engaged in bargaining for their first contract and are unable to reach agreement within 90 days, either party may refer the dispute to the Federal Mediation and Conciliation Service (FMCS) for mediation. If the FMCS has been unable to bring the parties to agreement after 30 days of mediation the dispute will be referred to arbitration and the results of the arbitration shall be binding on the parties for two years. Time limits may be extended by mutual agreement of the parties. *Under current law, employers have a duty to bargain in good faith, but are under no obligation to reach agreement. As a result, a recent study found that 34% of union election victories had not resulted in a first contract.*

**3. Stronger Penalties for Violations While Employees are Attempting to Organize or Obtain a First Contract:** Makes the following new provisions applicable to violations of the National Labor Relations Act committed by employers against employees during any period while employees are attempting to organize a union or negotiate a first contract with the employer:

- a. **Mandatory Applications for Injunctions:** Provides that just as the NLRB is required to seek a federal court injunction against a union whenever there is reasonable cause to believe that the union has violated the secondary boycott prohibitions in the Act, the NLRB must seek a federal court injunction against an employer whenever there is reasonable cause to believe that the employer has discharged or discriminated against employees, threatened to discharge or discriminate against employees, or engaged in conduct that significantly interferes with employee rights during an organizing or first contract drive. Authorizes the courts to grant temporary restraining orders or other appropriate injunctive relief.
- b. **Treble Backpay:** Increases the amount an employer is required to pay when an employee is discharged or discriminated against during an organizing campaign or first contract drive to three times back pay.
- c. **Civil Penalties:** Provides for civil fines of up to \$20,000 per violation against employers found to have willfully or repeatedly violated employees' rights during an organizing campaign or first contract drive.

*Under current law, remedies are limited solely to make whole remedies: backpay (minus any additional interim wages the employee did or should have earned), reinstatement, and notice to that the employer will not engage in violations of the NLRA. Many employers conclude that, even if caught, it is financially advantageous to violate the law and pay the penalties rather than to comply.*