

**COUNTY OF SONOMA
AGENDA ITEM
SUMMARY REPORT**

Clerk of the Board Use Only

Meeting Date

/ /

Held Until

/ /

Agenda Item No:

Agenda Item No:

Department: Board of Supervisors

() **4/5 Vote Required**

Contact:
Supervisor Zane

Phone:
(707) 565-2241

Board Date:
4/14/09

Deadline for Board Action:

AGENDA SHORT TITLE:

Resolution

REQUESTED BOARD ACTION:

Resolution in support of the Employee Free Choice Act

CURRENT FISCAL YEAR FINANCIAL IMPACT

EXPENDITURES

Estimated Cost \$

Amount Budgeted \$

Other Avail Approp. \$
(Explain below)

Additional Requested: \$

Explanation (if required):

ADD'L FUNDS REQUIRING BOARD

Contingencies \$
(Fund Name:)

Unanticipated Revenue \$
(Source:)

Other Transfer(s) \$
(Source:)

Add'l Funds Requested: \$

Prior Board Action(s):

Alternatives - Results of Non-Approval:

Background:

The Employee Free Choice Act (EFCA) is a piece of bipartisan legislation introduced by Senator Edward Kennedy (D-Mass.) and Representatives George Miller (D-CA) and Peter King (R-N.Y.). It is currently under consideration by the US Senate (S.1041). President Barack Obama, Senator Barbara Boxer, Representative Lynn Woolsey and Representative Mike Thompson have expressed their support for the bill.

The Employee Free Choice Act would require the U.S. National Labor Relations Board (NLRB) to certify a union as the exclusive representative of employees where “a majority of the employees in a unit appropriate for bargaining has signed valid authorizations.” This new provision would eliminate any requirement that the NLRB hold a secret ballot election even after a majority of the members have already indicated their support for unionization via petition.

Currently, the National Labor Relations Act states: “Employees shall have the right to self-organization, to form, join, or assist labor organizations.” In practice, however, employers sometimes use the period before the secret ballot election to engage in unfair labor practices to defeat the unionization effort. According to EFCA authors, such practices include retaliatory firings during union organizing drives, aggressive misinformation campaigns against union organizers, and mandatory anti-union meetings and presentations which often include implications that the business will close if the union wins the secret ballot election. These tactics create a negative work environment for employees and management alike.

The EFCA would eliminate the need for unions and employers to engage in bitter campaigns against each other prior to a secret ballot, and replace them with an alternative petition process in which no election need be held if a majority of employees have signed a petition to appoint an exclusive bargaining representative.

Attachments: Draft resolution**On File With Clerk:****CLERK OF THE BOARD USE ONLY****Board Action** (If other than "Requested")**Vote:**

Background: (Continued)

The provisions of the Employee Free Choice Act are as follows:

1. Removes Current Barriers that Prevent Workers from Forming Unions to Bargain Collectively

Requires that when a majority of employees has signed authorizations designating the union as its bargaining representative, the union will be certified by the National Labor Relations Board (NLRB). Requires the Board to develop model authorization language and procedures for establishing the validity of signed authorizations. Changes the current process that encourages companies to coerce and intimidate workers who seek to form a union and pressure them to influence their choice.

2. Guarantees Workers a Contract When They Form a New Union.

Provides that when an employer and newly formed union are unable to bargain a first contract within 90 days, either party can request mediation by the Federal Mediation and Conciliation Service (FMCS). If no agreement has been reached after 30 days of mediation, the dispute is referred to binding arbitration. All time limits can be extended by mutual agreement. This change eliminates current incentives for employers to delay and stall negotiations and will dramatically reduce the delay, frustration and animosity generated by the current system.

3. Strengthens Penalties against Companies which Break the Law During Organizing Campaigns and First Contract Negotiations.

Company violations have become epidemic in large part because remedies for corporate misconduct, such as illegal firings of union supporters, are too weak. New, tougher remedies will provide more protection for workers' rights.

- a. **Civil Penalties:** Up to \$20,000 per violation against companies found to have willfully or repeatedly violated employees' rights during an organizing campaign or first contract negotiations.
- b. **Treble Back Pay:** Increases to three times back pay the amount a company is required to pay when an employee is discharged or discriminated against during an organizing campaign or first contract negotiations.
- c. **Mandatory Applications for Injunctive Remedies:** Requires the NLRB to seek a federal court injunction when there is reasonable cause to believe a company has discharged or discriminated against employees, threatened to do so, or engaged in conduct that significantly interferes with employee rights during an organizing campaign or first contract negotiations. Equalizes remedies by making mandatory injunctive remedies against companies the same as the currently required injunctive remedies against unions.