



What Does Mandatory, Binding Arbitration Mean?

There is more to the “Employee Free Choice Act” (EFCA) than just the elimination of private ballots. The legislation also would permit a government arbitrator to impose a two year contract on employers and employees – even if neither party consents to the contract terms. In doing so, EFCA would unwisely place the fate of a company and its employees in the hands of a federal bureaucrat, who may lack business experience and know little to nothing about the company, its business operations and the industry in which it operates. This is a radical departure from private-sector contract law dating back to our nation’s birth – where a “contract” has been consistently defined as “an *agreement*” between two or more parties struck through good-faith efforts - not terms imposed by a government.

- Currently, employers and unions must mutually agree to wages, benefits and other terms and conditions and the agreement is subject approval by employees.
- Under EFCA, after a union is certified by the National Labor Relations Board (NLRB), the union and employer must begin first contract negotiations within 10 days. After 90 days, either party may notify the Federal Mediation and Conciliation Service (FMCS) and request mediation. After 30 more days, a FMCS appointed arbitration panel will determine the final contract.
- The decision of this Federal arbitration board will be **binding upon both parties for 2 years**.
- Neither the employees nor the employer could appeal the decision. Thus, not only does the EFCA allow unions to eliminate an employees’ access to a private ballot, it also eliminates their ability to vote for or against the contract terms of their employment.
- Labor contracts are more than just wages and benefits - they completely control the day-to-day operations of a business. In a sense, EFCA will allow the federal government to install inflexible rules for any business for two years. Businesses would not be able to respond to competition or other changes in the business environment. The result could be disastrous for employers, employees and their families. Yet, nothing in EFCA protects employees or the employer if the arbitrator’s decision forces the company out of business.