



**The Employee Free Choice Act:
Ensuring the Economy Works for Everyone**

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With the current economic crisis and strong mandate for change expressed by voters in the November 2008 election, President-elect Barack Obama and the new Congress are challenged to enact policies that lead to an economy that works for everyone. A key component to stimulating the economy and strengthening the middle class is the passage of the Employee Free Choice Act, which would restore the right of workers to form unions and bargain with their employers for a better life. Allowing workers to freely form unions is essential to putting money back into the pockets of those whose spending drives the economy, producing a highly-skilled workforce to promote future economic growth, and increasing the political participation of workers to shape new economic strategies that benefit the middle class.

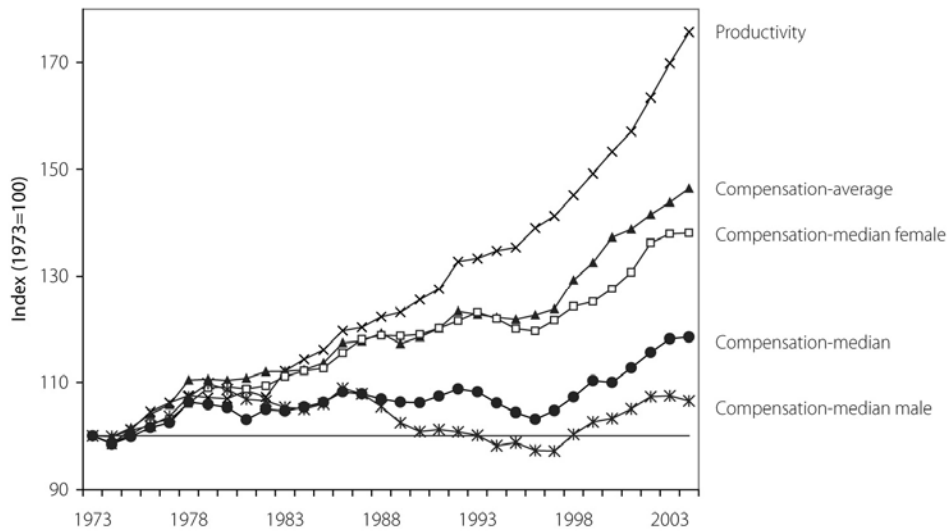
Current economic crisis is linked to the decline of unions

This year we have seen 1.2 million jobs disappear, trillions of dollars in household wealth evaporate, and foreclosures become widespread. The current economic crisis is not a result of unforeseen market forces, but of decades of failed policies that led to an unsustainable low-wage, high consumption economy. From 1947-1973, both productivity and median family income roughly doubled—a result of policies designed to promote income equality.¹ However, since the 1970s, workers' wages have failed to keep up with the continuous increase in productivity. From 2000 to 2007, income for the median working-age household actually dropped by \$2,000 after inflation.²

Though average workers failed to reap the benefits of decades of economic growth, those at the top have done quite well. In 1965, CEOs earned 24 times as much as the average worker; in 2007, they earned 275 times as much as the average worker.³ The top 1% of wage earners now hold 23% of all income—the highest inequality in income since 1928.⁴ This stagnation of median wages despite the rise in productivity is linked in large part to the decline in union density.⁵ In 1960, private sector union membership was 30%;⁶ by 2007, it had dropped to 7.5%.⁷ As unions declined, both union and non-union workers lost the economic benefits of collective bargaining. More than half of the decline in the average wage of workers with no more than a high school education is attributed to the decline in union density.⁸ As collective bargaining declines, the distribution of income widens⁹—but unions help reduce income inequality and provide clear economic benefits.

On average, union members earn 30% more than non-union workers.¹⁰ When controlling for factors such as education, occupation, and experience, union members still earn 14% higher wages than non-union employees.¹¹ The difference is even greater for Latinos, with a union wage advantage of 18%, and for low-wage workers, where union membership raises wages by 21%.¹² Unions also raise the wages of African American members by 12%,¹³ and for women union members by 11%.¹⁴

Productivity and hourly compensation growth, 1973-2004

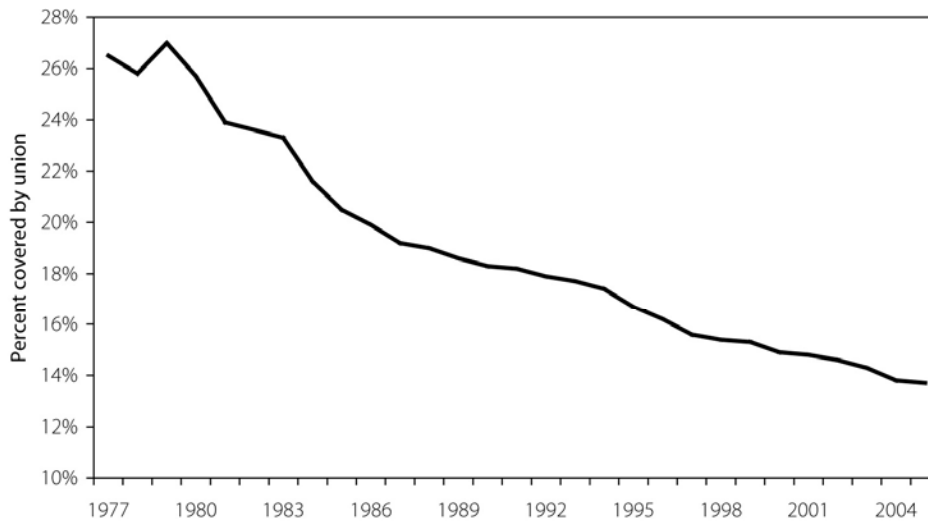


Source: Authors' analysis of NIPA, CPS ORG, and BLS productivity data.

Figure 3N from: Mishel, Lawrence, Jared Bernstein, and Sylvia Allegretto, *The State of Working America 2006/2007*. An Economic Policy Institute Book. Ithaca, N.Y.: ILR Press, an imprint of Cornell University Press, 2007.



Union coverage rate in the United States, 1977-2005*



* Covered by a collective bargaining agreement.

Source: Hirsch and Macpherson (1997) and BLS.

Figure 3W from: Mishel, Lawrence, Jared Bernstein, and Sylvia Allegretto, *The State of Working America 2006/2007*. An Economic Policy Institute Book. Ithaca, N.Y.: ILR Press, an imprint of Cornell University Press, 2007.



These economic advantages of unions also extend to non-members. High union density in a particular industry causes non-union employers who want to attract and retain qualified employees to match the wages and benefits earned by union members. The additional money non-union workers receive from this “union spillover effect” approaches the gains made by union members, thus the economic advantages of unions are widespread.¹⁵ The benefits of high union density to workers in a given region are apparent when contrasting wages for hotel and casino workers in Reno, Nevada, where union density in the sector is very low, and Las Vegas, where union coverage is extensive. After controlling for several factors, median wages in Las Vegas are 24% higher than median wages in identical occupations in Reno.¹⁶

The decline in collective bargaining not only denies workers higher wages, but is also linked to the erosion of employer-provided benefits. Workers in unions are 59% more likely to be covered by employer-provided health insurance.¹⁷ After controlling for factors such as occupation and experience, union workers are still 28% more likely to be covered by employer-provided health insurance, and 54% more likely to have employer-provided pension coverage.¹⁸ Yet as unions declined, employees have taken on more of the costs of health care and retirement. The percentage of workers with employer-provided health benefits dropped from 69% in 1979 to 55% in 2006 (with a nearly 4% drop just since 2000).¹⁹ The percentage of private sector workers with vastly superior defined benefit retirement plans (as opposed to defined contribution plans) decreased from roughly 50% to less than 20%—a change that amounts to a 5% cut in real wages.²⁰

With fewer workers reaping the economic benefits of unions, Americans were forced to stop saving and start borrowing more to keep up with rising costs in homes, health insurance, child care, and other necessities. Since the early 1970s, revolving debt (largely credit cards) skyrocketed from 1% to 12% of average family income, while savings dropped from 11% of take-home pay to close to zero.²¹ When housing values collapsed and it became more expensive and difficult to borrow, consumer spending dropped—revealing how this low-wage economy was not sustainable. Workers need better wages to maintain strong and sustainable consumer spending to drive the economy. Raising wages would not lower employment—it would simply transfer income from profits to wages.²²

Joining a union has become a risk, not a right

An estimated 53% of non-union workers wanted to form a union in 2005—a percentage that has steadily risen since the 1980s—yet far fewer workers belong to unions.²³ What explains this discrepancy? As University of California professor Harley Shaiken asserts, “The yawning gap between the robust demand to join unions and the anemic membership numbers reflects the fact that, for many Americans, joining a union has become a risk rather than a right.”²⁴

According to a recent study, whose findings are supported by prior research,²⁵ a majority of employers aggressively use both legal and illegal anti-union tactics during union representation elections, which impedes workers’ ability to form unions.²⁶ Among employers faced with organizing campaigns:

- 30% fire pro-union workers
- 49% threaten to close a worksite when workers try to form a union, but only 2% actually do
- 51% coerce workers into opposing unions with bribery or favoritism
- 82% hire high-priced unionbusting consultants to fight union organizing drives
- 91% force employees to attend one-on-one anti-union meetings with their supervisors

As soon as workers file a petition with the National Labor Relations Board (NLRB) to hold an election, employers often try to prevent the vote from ever taking place; in four out of 10 cases, workers who ask for an NLRB-supervised election don't ever get a chance to vote.²⁷ Even when employees surmount the many obstacles to forming a union, management frequently denies them the benefits of collective bargaining by refusing to agree on a first contract. Of the unions that are certified through the NLRB process, only 38% are able to bargain a first contract after one year, and only a total of 56% after two years.²⁸

With weak enforcement of an already toothless labor law, it's not surprising employer lawlessness is pervasive. There are no fines assessed against employers who commit unfair labor practices. It takes a median of over three years from the time an unfair labor practice charge is filed to the issuance of a Board decision.²⁹ In 2000, Wal-Mart illegally thwarted an organizing effort in Nevada; workers were interrogated, threatened, harassed, and denied promotions.³⁰ Seven years, two months, and seven days after the first charge was filed, the NLRB ruled that Wal-Mart acted illegally, forcing the company to pay meager lost wages to one employee and to post notices in three stores stating that it will not break the law.

Employer interference with workers' freedom of association was not always so widespread. In the 1950s, workers who suffered reprisals for exercising the right to freedom of association numbered in the hundreds each year; since the 1990s, more than 20,000 workers each year were victims of discrimination leading to a backpay order by the NLRB.³¹ This steep rise in anti-union activity by American employers is attributable to decisions by recent Republican Labor Boards that diminish the protections of the NLRA, as well as to President Reagan's decision to replace striking air traffic controllers in 1981, which effectively sanctioned unionbusting. Steven Pearlstein, business columnist for *The Washington Post*, argued that the right to form unions "has been whittled away by legislation, poked with holes by appeals courts, and reduced to irrelevancy by a well meaning bureaucracy that has let itself be intimidated by political and legal thuggery."³²

Passage of the Employee Free Choice Act would go a long way to reversing the erosion of labor rights and subsequent decline in unions. First, the bill gives workers a fair and direct path to form unions through majority sign-up, where the NLRB certifies a union once a majority signs authorization cards. The bill does not eliminate the secret ballot election, but rather places the choice of how workers form unions into workers' hands, rather than in the hands of employers. It also prevents workers from prolonged exposure

to an employer's anti-union campaign typical of the current NLRB election process. Majority sign-up has already given hundreds of thousands of workers access to a stronger voice, better wages, and improved health care. Since 2003, more than half a million Americans formed unions through majority sign-up.³³

The Employee Free Choice Act also helps employees secure a contract with their employer in a reasonable period of time, providing both sides with access to mediation and arbitration when an agreement cannot be reached. Additionally, the bill toughens penalties against employers who violate their workers' rights and requires the NLRB to seek injunctive relief to reinstate workers when it has reasonable cause to believe their rights were violated. Under current law, injunctions are only required against significant violations by unions, not employers, creating an unbalanced system tilted in management's favor.

If given a free and fair chance, it's likely that many more employees would choose union representation. With expanded collective bargaining power, more workers would move into the middle class, stimulating economic growth and leading to more shared prosperity.

Creating a high road economy through greater workplace democracy

Restoring the freedom to form unions would help create a more skilled, invested workforce, resulting in higher productivity. With higher pay and the ability to shape their working conditions, union-represented employees have lower turnover rates than non-union employees, leading to lower training costs and a more experienced workforce.³⁴ This explains much of why unions are associated with higher productivity.³⁵ Unions raise productivity by 19% to 24% in manufacturing, 16% in hospitals, and between 17% and 38% in the construction sector.³⁶ Alabama Power, for example, has one of the lowest turnover rates in the electric utility industry—a benefit the company attributes to its collaborative relationship with its employees and their union.³⁷

With increased union representation, more workers will have a voice in the workplace to not only improve their compensation and working conditions, but to provide important input into how their work is performed. Indeed, OECD economies that perform best have high union density and a high level of cooperation between labor and business.³⁸ There are many examples of partnerships among companies, their employees, and unions that have resulted in business improvements. SCA Tissue North America involved its workers when designing its manufacturing facilities more efficiently, while Kaiser Permanente's labor-management partnership has led to higher patient satisfaction, reduced costs, and improved employee retention.³⁹ Alabama Power has dramatically reduced its recordable injuries and has one of the lowest turnover rates in the electric utility industry.⁴⁰

Creating a high road economy—where workers have good pay, job security, a voice on the job, and access to training—is critical to building the “green” economy of the future. The proposed investments in renewable energy jobs by President-elect Obama will require a highly-skilled workforce. Gamesa USA, a leader in wind energy production,

decided to build facilities in areas with large numbers of available skilled union workers. The company embraced an agreement to remain neutral and voluntarily recognize their employees' union when a majority signed authorization cards. Subsequent to the negotiation of a contract, it has maintained a cooperative relationship with its employees and their union. Labor-management committees meet monthly to discuss issues pertaining to safety, health, and the environment. According to Gamesa USA CEO Julius Steiner, "The building blocks of Gamesa's success have their base in the collaboration and dialogue that we've established with the employees who work in our factories and with the union that represents them."⁴¹

Expanding worker political participation through union representation

Bolstering the freedom of association is important not only to building a strong economy, but to building a strong democracy. As former Secretary of State George Shultz observed, "free societies and free trade unions go together."⁴² Unions have long engaged their members in the political process, educating them on issues and encouraging them to vote. Multiple studies have demonstrated that unions increase voter turnout.⁴³ In 2000, unions increased political participation among non-wealthy, less-educated people who have lower-than-average voter turnout.⁴⁴ Yet as unions declined, so has voter participation. Each percentage point decline in union density is associated with a .4 percentage point decline in voter participation; if union representation in 2000 was at the 1954 level of 35%, there would have been an additional 17 million voters.⁴⁵

The decline of union representation has not only hurt voter participation, but has weakened the collective voice of workers in crafting policies that represent their interests. As *Washington Post* columnist David Broder wrote, "The decline of progressive politics [is linked with] the near-demise of liberal legislation, and the steady weakening of organized labor... When labor lobbied powerfully on Capitol Hill, it did not confine itself to bread-and-butter issues for its own members. It was at the forefront of battles for aid to education, civil rights, housing programs and a host of other social causes important to the whole community. And because it was muscular, it was heard and heeded."⁴⁶ Indeed, the failed economic policies that led to the current crisis may not have been enacted without the decline of unions.

Reinvigorating worker political participation is essential to building the strong coalition needed to pass policies that honor a "new social contract." This vision, as laid out by MIT professor Thomas Kochan and author Beth Shulman, involves the following elements:⁴⁷

- Jobs should pay a living wage and offer decent health benefits and retirement security.
- Economic policies must ensure the creation of good paying jobs and invest in training the workforce.
- Paid family and sick leave is required to restore the balance between work and family.
- Trade agreements must include labor rights and the safety net must be strengthened for workers who lose their jobs from globalization.

These policies would ensure that Americans can provide for their families and are rewarded for their hard work.

It's time for common sense solutions

Opponents of the Employee Free Choice Act warn that restoring the right to form unions would be devastating to business given the current economic crisis. Yet history belies this point. In 1935, Congress was in the midst of the Great Depression when it took the bold step of granting workers the right to form unions under the Wagner Act. The intention of the Act was to *encourage* collective bargaining in order to foster an economic recovery, build lasting prosperity, and facilitate, as Senator Wagner asserted, “a partnership between industry and labor in the solution of national problems.”⁴⁸ By the end of World War II, one out of three workers was a union member, and the country was on the path to decades of strong economic growth that built a solid middle class.⁴⁹

In this 21st century global economy, we need innovation and collaboration to provide solutions that work for employers and working families. Restoring the right to form unions is a key part of an economic strategy to bring shared and sustainable prosperity to the middle class, creating the workforce needed for future economic growth, and ensuring workers have a role in crafting future policies that represent their interests. Now is the time for Congress, with the support of President-elect Obama, to pass the Employee Free Choice Act.

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