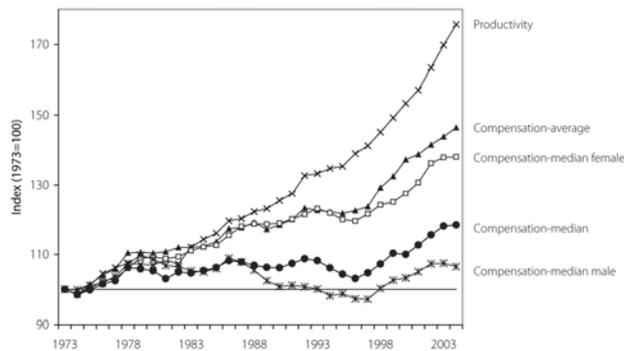


The Employee Free Choice Act: Ensuring the Economy Works for Everyone

With the current economic crisis and strong mandate for change expressed by voters in the November 2008 election, President-elect 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 drive 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

Productivity and hourly compensation growth, 1973-2004

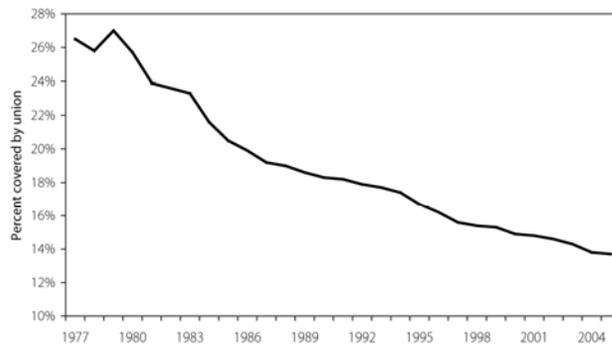


Source: Authors' analysis of NIPA, CPS ORG, and BLS productivity data.

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.



union density. In 1960, private sector union membership was 30%;⁴ in 2007, it dropped to 7.5%.⁵ 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

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. Since the 1970s, a steep rise in workers' productivity has driven economic growth. But average families did not reap the benefits of that productivity, as wages stagnated over the same period. From 2000 to 2007, median family income actually dropped.¹ Yet those at the top benefited greatly from the economic growth. In 1965, CEOs earned 24 times the average worker; in 2007, they earned 275 times the average worker.² The top 1% of wage earners now hold 23% of all income—the highest inequality in income since 1928.³

The stagnation of average wages despite the rise in productivity is linked in large part to the decline in

workers with no more than a high school education is attributed to the decline in union density.⁶

Unions lead to higher wages not only for members, but for non-members as well. Controlling for factors such as education, occupation and experience, union members earn 14% higher wages than non-members.⁷ The economic advantage of unions is even greater for workers of color, with a union wage premium of 18% for African Americans and 22% for Latinos.⁸ The increase in wages from collective bargaining also extends to non-members in industries or regions where union membership is high. Employers who want to prevent their employees from forming unions will match the wages and benefits earned by union members in their industry. The additional money non-union workers receive from this “union threat effect” approaches the gains made by union members, according to research, thus the economic advantages of unions are widespread.⁹

The decline in unions is also linked to the erosion of employer-provided benefits. Union workers are 28% more likely to be covered by employer-provided health insurance, and 54% more likely to have employer-provided pension coverage.¹⁰ 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).¹¹ The percentage of private sector workers with 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.¹²

Without the ability to collectively bargain for better wages, American workers were forced to stop saving and maintain their standard of living by borrowing more with cheaper loans and from the inflated rise in their home values. 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. We must restore the right to organize and getting money back into the pockets of workers and back into our suffering communities.

Joining a union has become a risk, not a right

An estimated 53% of nonunion workers wanted to form a union in 2005—a percentage that has steadily risen since the 1980s—yet few workers belong to unions.¹³ 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.”¹⁴

According to a recent study, a majority of employers aggressively use both legal and illegal anti-union tactics during union representation elections, which impedes workers’ ability to form unions.¹⁵ 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

The study also found that in 91% of the union recognition petitions filed with the National Labor Relations Board (NLRB), a majority of workers indicated they wanted a union before the process began. However, unions were victorious in only 31% of the campaigns in which they filed a petition. These findings of pervasive anti-union tactics during NLRB elections are supported by prior research.¹⁶

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 56% after two years.¹⁷

With little consequences facing employers who break the law, it should come as no surprise that there is widespread use of illegal and intimidating anti-union tactics. Nearly every federal employment law orders violating employers to pay fines or punitive damages, including discrimination, health and safety, and minimum wage and overtime laws. Yet there are no fines assessed against employers who commit unfair labor practices under the National Labor Relations Act (NLRA). When an employer illegally fires a worker for union activity, they are only obligated to pay backpay during the period the employee was out of work, plus interest. In 2000, Wal-Mart illegally thwarted an organizing effort in Nevada; workers were interrogated, threatened, harassed, and denied promotions.¹⁸ Seven years, two months and seven days after the first charge was filed – the NLRB issued its ruling that Wal-Mart acted illegally, forcing the company to pay meager lost wages to one employee and to post notices in 3 stores.

Employer interference with workers' freedom of association was not always so pervasive. 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.¹⁹ This steep rise in anti-union activity by American employers is attributable to both decisions by recent Republican Labor Boards to diminish the protections of the NLRA, as well as President Reagan's decision to replace striking air traffic controllers. This presidential sanction of unionbusting gave employers across the country the opening to exploit the weaknesses in the law and vigorously prevent and destroy union activity. 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."²⁰

Passage of the Employee Free Choice Act would go a long way to reversing the erosion of labor rights and subsequent decline in unions. There are three main components of the bill. First, it 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. This prevents workers from prolonged exposure to an employer's anti-union campaign typical of the current NLRB election process. Second, the bill helps employees secure a contract with their employer in a reasonable period of time, providing both sides with access to mediation and binding arbitration when an agreement cannot be reached. Third, the bill toughens penalties against employers who violate their workers' rights.

If given a free and fair chance to form a union, 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 rates of turnover than non-union employees, leading to lower training costs and a more experienced workforce.²¹ This explains much of why unions are associated with higher productivity.²² Unions raise productivity by 19% to 24% in manufacturing, 16% in hospitals, and between 17% and 38% in the construction sector.²³ Alabama Power, for example, has one of the lowest turnover rates in the utility industry—a benefit the company attributes to its collaborative relationship with its employees and their union.²⁴

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.²⁵ There are many examples of partnerships between companies, their employees and unions that have resulted in improvements to business. SCA Tissue involved its workers to more efficiently design its manufacturing facilities, while Kaiser Permanente's labor-management partnership has led to higher patient satisfaction, reduced costs and improved employee retention.²⁶ Examples abound of successful training program designed through labor-management partnerships, including the Las Vegas Culinary Training Academy which produces a skilled workforce to support the region's service-based economy.²⁷

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 Administration will require a highly-skilled workforce. Gamesa Technology Corp., a leader in wind energy production, decided to build facilities in areas where they had a pool of skilled union workers who had lost their jobs in the steel mills. The company embraced an agreement to remain neutral when their employees decided to form a union,

and subsequent to the negotiation of a contract, it has maintained a cooperative relationship with its employees and their union. The 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.”²⁸

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.”²⁹ 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.³⁰ In 2000, unions increased political participation among non-wealthy, less-educated people who have lower-than-average voter turnout.³¹ 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.³²

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.”³³ 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:³⁴

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

It’s time for bold 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.”³⁵ 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.³⁶

Congress, with the strong support of President-elect Obama, can restore the right to form unions through passage of the Employee Free Choice Act. Expanding union representation 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.

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³ Ibid.

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⁸ Ibid.

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