

Preparing for the Employee Free Choice Act

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Journalists from Washington, D.C. to Los Angeles have recently been focused on the “first 100 days” of President Obama’s administration. Many in corporate America have been particularly focused on how Obama’s handling of the global economic crisis will impact balance sheets. But fiscal policy isn’t the only issue in Washington that stands to impact the business environment.

Organized labor is working hard to pass the “Employee Free Choice Act” (EFCA) in Congress. This legislation could dramatically change the workplace in several fundamental ways: 1) by effectively eliminating employees’ right to vote in private for or against unionization; 2) by enabling a union to be certified once a simple majority of employees sign a card or petition; 3) by empowering federal arbitrators to set first contract terms, such as employees’ pay, benefits and schedules, if an agreement is not reached within 120 days; and 4) by increasing sanctions against employers during an organizing drive or the contract negotiation process, including fines up to \$20,000 per violation of the National Labor Relations Act.

Labor and the business community both have spent tens of millions of dollars over the past year to sway a handful of U.S. senators to either support or oppose EFCA. At this time, it does not appear that organized labor has the sixty votes needed in the Senate to bring the bill to a vote. Still, there is broad acknowledgment in Washington that something close to the current bill will pass and become a law in the near future.

No matter what version of EFCA is ultimately enacted, the result will be a new and more challenging labor law environment. Now more than ever, a CEO’s agenda must include improving communication with employees and building trust inside the organization. Consistent, effective employee engagement should be a part of every company’s culture and communication program, but those efforts become even more essential when facing the possibility of third-party interference in the employer-employee relationship.

When it comes to the workplace environment, employees want one thing: a voice! They want to be heard and have opportunities to participate in decision-making or just give their opinion, especially in areas that directly impact them like EFCA. Just as important is getting the truth – employees want context, not just content; they want to know “what does it mean.” To that end, employers need to provide regular information about the business, policies, competition and priorities to managers and employees.

More often than not, the person relaying key information is the employee’s direct manager. Study after study indicates that the most important relationship between an employee and his or her company is through the manager. Managers are on the front lines. Their interactions and behaviors influence how an employee views the organization, whether it’s right or wrong. They need to communicate properly about EFCA with their direct reports, particularly to make sure employees know their legal rights. That’s why having a standards policy for managers and supervisors, as it relates to communication with employees, is no longer the exception, but the rule.

Employers must educate employees about the significance of EFCA and changes that could arise in their workplace environment as a result. Not doing so is a great disservice to employees and other key constituents. If companies relinquish their role as primary communicator, they are only inviting a third party to fill the information void and establish unchecked lines of communications with one of their most important audiences – employees.

The imminent changes to labor law and the resulting impact on the American workplace might be a wake-up call to many organizations, but it is also a strategic opportunity for leadership. Communicators have a valuable window of opportunity to assess current relationships with employees, implement new standards for manager expectations, address employee concerns, initiate new conversations, engage people in the future of their business, communicate change and reinforce their company’s values, beliefs, and culture.

To learn more about how your organization can prepare for the “Employee Free Choice Act” or similar changes to labor law, please contact [Gary Grates](#) in New York or [David White](#) in the Washington, D.C. office.