

# **The Employee Free Choice Act Impact on Health Care and Pension Benefits**

**April 2007**

**By Alex Carter and Eric Lotke**

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The Employee Free Choice Act is presently being considered by the United States Congress. It passed the House of Representative in March by a vote of 241 to 185 and is currently being debated in the Senate.

The act affects the procedures by which members of a workplace can organize themselves into an agent for collective bargaining. At present, workers are typically required to hold formal elections. The Employee Free Choice Act amends the National Labor Relations Act to require certification of a bargaining representative upon proof of interest. Formal elections will no longer be required. Workers can check cards and sign their names, for example, to indicate their interest in designating a union as their bargaining representative.

Advocates say the Employee Free Choice Act will reduce the harassment, intimidation and procedural obstacles used by employers when members of their work force seek to organize. They contend that increased organization will lead to greater bargaining power, higher wages, and better benefits. Advocates include the AFL-CIO and American Rights at Work.

This report examines the impact that the Employee Free Choice Act will likely have on employer-based health and pension benefits. We find that nationwide, the act will lead to approximately:

- 3,537,625 more people with health insurance.
- 2,773,045 more people with pensions.

In Nevada, the Employee Free Choice Act will likely lead to:

- 65,286 more people with health insurance.
- 41,024 more people with pensions.

These estimates assume passage of the act and time for full implementation.

### **I. The Employee Free Choice Act**

The Employee Free Choice Act amends the process for union certification in a number of ways. First, it requires the National Labor Relations Board to certify a union as a collective bargaining agent upon proof of interest in the workplace. In addition, it provides civil fines of up to \$20,000 per violation against employers found to have willfully violated employees' rights during an organizing campaign. It also provides victims of illegal firing with pay three times the amount of back-pay owed to them. Lastly, it calls for a neutral third party to settle collective bargaining disputes between employers and newly certified unions when they cannot agree on a contract after three months of bargaining. These provisions are designed to respond to concerns

that employers often stretch out or prejudice the unionization process by exerting hardships on employees and organizers.

To estimate the impact of Employee Free Choice Act, we started with the work of Professor Susan Johnson of Wilfrid Laurier and McMaster Universities.<sup>1</sup> Professor Johnson compared the U.S. experience in certifying unions with the Canadian experience, which is valuable because some Canadian provinces require mandatory votes while others use less formal means of signifying interest such as submitting signed cards. To estimate the impact of different certification procedures, Professor Johnson compared the union densities in provinces with mandatory and non-mandatory certification procedures with each other, and with the United States.

Professor Johnson found that mandatory votes had a negative effect on certifications. Comparing Canadian provinces with different certification rules, she found that “mandatory votes reduce the certification success rate by approximately nine percentage points below what it would be under card check.” Comparing the Canadian experience in certification with the U.S. experience, she concluded that approximately 20% of the difference in union density between the U.S. and Canada related to certification procedures. She considered this a conservative estimate because of differences between the U.S. and Canada that do not exist between Canadian provinces, particularly the expedited time frame of Canadian compared to U.S. certification elections (measured in days rather than months), and documented instances of employer pressure in the U.S. during the time before the vote.

With these cautions in mind – as well as the general caution of making international comparisons and predicting the future – we use Johnson’s research to support an estimate of the impact of the Employee Free Choice Act in the United States. We estimate that, after passage and full implementation, the Employee Free Choice Act would increase union density by approximately 10 percentage points.

## **II. Impact of the Employee Free Choice Act on Health Care Benefits**

Access to health insurance is a grave problem in the United States and in Nevada. More than 46 million people in America lack health insurance.<sup>2</sup> In Nevada, 443,000 people lack health insurance.<sup>3</sup>

For better or worse, health insurance in America is primarily provided through employers. Health care is negotiated as an employment benefit, and workers who band together have demonstrated greater ability to secure health care benefits. Lawrence Mishel, president of the Economic Policy Institute, noted that “unionized workers are 28.2% more likely to be covered by employer-provided health insurance.” In addition, “unionized employers also provide better health insurance, paying an 11.1% higher share of single-worker coverage and a 15.6% higher share of family coverage.”<sup>4</sup>

Applying the 28% “union advantage” at obtaining health insurance to the estimated increase in unionization under the Employee Free Choice Act, we estimate that:

- In the U.S., the Employee Free Choice Act will lead to 3,537,625 more people with employer-based health insurance.

- In Nevada, the Employee Free Choice Act will lead to 65,286 more people with employer-based health insurance.

After full implementation, we estimate that passage of the Free Choice Act could lead to 7.6% of the uninsured people in United States gaining health insurance. In Nevada, 14.7% of the currently uninsured could gain coverage.

### **III. Impact of the Employee Free Choice Act on Pension Benefits**

Pension benefits are crucial for the lifetime of workers. The decision to save and plan for retirement is the longest term financial decision any worker can make. Pension benefits allow senior citizens, years after they retire, to maintain a decent standard of living.

Unionizing and collective bargaining is also associated with superior pension benefits. Mishel notes, “Unionized workers earn higher wages than comparable nonunion workers and also are...22.5% more likely to have pension coverage.”<sup>5</sup> The American Management Association observes, “Benefits under union contracts are generally superior to benefit packages for nonunion workers.”<sup>6</sup>

Using the “union advantage” and estimates based on the Canadian experience to existing employer-based pensions, we conclude that:

- In the U.S., the Employee Free Choice Act will lead to 2,773,045 more people with employer-based pensions.
- In Nevada, the Employee Free Choice Act will lead to 41,024 more people with employer-based pensions.

Pensions are only one part of a retirement savings plan. Social Security and personal savings are also crucial. But pensions play an important role, and the experience shows that workers who bargain collectively can negotiate superior pension benefits.

### METHODOLOGICAL NOTE

To estimate the impact of the Employee Free Choice Act, we used Professor Johnson's work to support an estimate that the Act will increase union density by ten percentage points. This increase in private sector union coverage is applied to each state's private sector coverage rate in 2006 (from: [www.Unionstats.com](http://www.Unionstats.com)) to establish the Act's impact state by state.

The increase on health care and pension coverage is estimated as follows. First, the health and pension coverage for nonunion workers was provided by the Economic Policy Institute: these data were computed from the U.S. Bureau of Labor Statistics and the U.S. Bureau of the Census Current Population Survey aggregated over five years, from the most recent March 2006 back to March 2001. (The survey sample is private-sector wage and salary workers ages 18-64 who worked at least 26 weeks per year and 20 hours per week. Coverage is defined as the share with an employer that offered a pension or health plan and paid for at least part of the plan). The impact of greater coverage is the difference between the current benefit coverage of nonunion workers and the benefit coverage that would prevail under collective bargaining. The latter is estimated using the 'premiums' for pension (53.9%) and health coverage (28.2%) estimated by Buchmueller, DiNardo and Valletta (2001)<sup>7</sup> that show the impact on benefit coverage per one percentage point increase in union coverage.

The impact of the act on benefit coverage is the related rise in union coverage in a state multiplied by the impact of union coverage on pension and health care coverage in that state. The number of workers affected is obtained by multiplying the benefit coverage impact by the state's private sector employment. The total health care coverage increases because a worker obtains coverage but also because workers' dependents also obtain coverage. According to the Census ([http://pubdb3.census.gov/macro/032006/health/h01\\_001.htm](http://pubdb3.census.gov/macro/032006/health/h01_001.htm)) for every worker (under age 65) with coverage from their own employer there is 0.98 dependents (the ratio of employment based coverage to 'covered by own employment is 1.98). Therefore, the total health coverage increase includes the impact on workers and dependents.

### ENDNOTES

<sup>1</sup> Susan Johnson. "The Impact of Mandatory Votes on the Canada-U.S. Union Density Gap: A Note." *Industrial Relations*. Vol.42. No.2 (April 2004): 356-363.

<sup>2</sup> U.S. Census Bureau. *Income, Poverty, and Health Insurance Coverage in the United States: 2005*. August 2006. [www.census.gov/prod/2006pubs/p60-231.pdf](http://www.census.gov/prod/2006pubs/p60-231.pdf). Note: Recent methodological changes at the U.S. Census Bureau have changed the total figures but they are not yet reflected in the published research.

<sup>3</sup> U.S. Census Bureau. *Current Population Survey 2005 Annual Social and Economic Supplement. Health Insurance Coverage in the United States: 2004*. 2005. <http://www.census.gov/compendia/statab/tables/07s0145.xls>.

<sup>4</sup> Lawrence Mishel et. al. *The State of Working America 2006/2007*. 10<sup>th</sup> Edition, Economic Policy Institute, pg.184.

<sup>5</sup> Lawrence Mishel et. al. *The State of Working America 2006/2007*. 10<sup>th</sup> Edition. Economic Policy Institute, pg.111.

<sup>6</sup> Harley Shaiken. "Unions, the Economy, and Employee Free Choice." *Economic Policy Institute*. February 22, 2007. <http://www.sharedprosperity.org/bp181/bp181.pdf>.

<sup>7</sup> Thomas C. Buchmueller, et al. *Union Effects on Health Insurance Provision and Coverage in the United States*. National Bureau of Economic Research. Working Paper W8238. April 2001.