

Employee Free Choice Act May Be Introduced in Congress March 9

March 4, 2009

Rumors have started to swirl from multiple sources that Representative George Miller (D-California) and Senator Ted Kennedy (D-Massachusetts) may introduce the Employee Free Choice Act (EFCA) in the House and possibly the Senate this coming Monday, March 9.

The AFL-CIO Executive Council is meeting in Miami this week. On March 2 and 3, new Labor Secretary Hilda Solis met with the group. Several sources from that meeting report that EFCA will be introduced on March 9. President Obama addressed the meeting by video on March 3 as well, telling participants, "We will pass the Employee Free Choice Act." Vice President Biden will be meeting with the group on March 5. In addition, Democrats on the Senate's Health, Education, Labor, and Pensions Committee have scheduled a hearing for March 10 touting the "benefits" of unionization, and featuring several pro-EFCA witnesses.

Earlier reports had EFCA being introduced no earlier than April 2009, or possibly even summer 2009. On January 21, 2009, Majority Leader Harry Reid said that he hoped the Senate would take up EFCA in the summer, but that they still were missing "a couple of votes." The apparent new expedited schedule reportedly is the result of an attempt to preempt opposition to EFCA, which has been vehement from many management quarters.

Passage of EFCA in the House is all but assured. In the Senate, EFCA's chances are less clear. Due to Senate rules, 60 senators must vote for "cloture" on EFCA before it is brought to a full Senate vote. Once it is brought to a full vote, only 50 votes are needed to pass the bill (Vice President Biden would break a 50-50 tie). Congressman Miller and Senator Kennedy apparently believe that they already have the needed 60 votes in the Senate to pass EFCA. The Democrats currently hold 58 Senate seats, with a 59th likely to come soon from Minnesota's Al Franken. At least one Republican, Senator Arlen Specter (R-Pennsylvania), has previously voted for cloture on EFCA. While some more conservative Democrats have recently expressed doubts about EFCA, there is concern in some management quarters that these Democrats might vote for cloture (where 60 votes are needed), allowing the bill to come to a floor vote, and then vote against the bill in the final vote (where only 50 votes are needed). This would arguably give those more conservative Democrats the ability to say they voted against EFCA, while supporting the party by voting for cloture.

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