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*Organizing*  
**EFCA Vote Slips Until After August Recess,  
'May Be Longer Than That,' Harkin Says**

Senate lawmakers will not vote on the controversial Employee Free Choice Act (H.R. 1409, S. 560) before Congress breaks for its August recess, and it may be some time after the break before they take up the bill, lead sponsor Sen. Tom Harkin (D-Iowa) said July 28.

Previously, Harkin had said he would force a vote on the legislation, as written, if Senate negotiators were unable to arrive at a compromise that would break the logjam of opposition coming from all Republican senators and about 12 Democratic senators. Harkin had said he would do this before the August recess. Now, Harkin said, the vote won't come until after the break, and it "may be longer than that."

"I was wrong," Harkin told BNA. "I'm exercising discretion."

Harkin said he hoped to have Sens. Robert Byrd (D-W.Va.) and Edward Kennedy (D-Mass.), both of whom have been recuperating from illnesses, available for the vote on the bill, which aims to make it easier for workers to join unions.

EFCA, introduced in the Senate March 10 (23 LRW 385, 3/12/09) would amend the National Labor Relations Act to establish a procedure whereby the National Labor Relations Board would certify a union as the bargaining representative of employees if a majority of unit employees signs valid union authorization cards. The legislation would allow unions to continue to petition for NLRB-supervised secret ballot elections, if they choose, once 30 percent of the workers have signed union authorization cards.

Lawmakers opposed to the so-called "card check" provisions claim it would lead to increased worker intimidation by union organizers and to the demise of the secret ballot election.

Harkin needs to achieve 60 votes in order for debate on the bill to begin on the Senate floor. While Democrats have an effective 60-vote block, the lawmakers are splintered on the EFCA issue and have been involved in negotiations on an alternative bill.

"I think we're 80 [percent] to 90 percent there," Harkin said, without detailing what is

keeping the sides from agreement. "I'm not going to confirm or deny anything."

Under EFCA, parties that are unable to reach a first contract within 90 days of collective bargaining could refer the dispute to mediation by the Federal Mediation and Conciliation Service. If FMCS is unable to bring the parties to agreement within 30 days, the dispute then would be referred to binding arbitration. In addition, the bill would provide for increased penalties for labor law violations by employers.

The legislation also would amend the NLRA to provide triple back pay to employees who are unlawfully discharged or discriminated against while involved in union activities during an organizing campaign or in the period leading up to a first contract. And civil penalties of up to \$20,000 per violation could be imposed if an employer is found to have willfully or repeatedly violated employees' rights during an organizing campaign or while bargaining for a first contract.

Under the measure, the NLRB could seek injunctive relief in federal court when there is reasonable cause to believe that the employer has discharged or discriminated against employees, made threats to discharge or discriminate, or interfered with employee rights to organize or negotiate a first contract.