



A Cornerstone of Democracy is Under Attack in Congress

Save the Private Ballot for Union Organizing Elections

The so-called Employee Free Choice Act (S. 1041) takes privacy, power and voice away from America's working people. It is that simple.

Currently, the most common method for determining whether or not employees want a union to represent them is a private ballot election overseen by the National Labor Relations Board (NLRB). The NLRB provides detailed procedures that ensure a fair election, free of fraud, where employees may cast their vote confidentially without peer pressure or coercion from unions or employers. Union bosses, however, find private ballot elections to be an impediment to unionization. They prefer the card check process, where employees are forced to cast their vote in front of union organizers and fellow employees who support unionization.

> The Card Check Process Invites Coercion & Abuse

Not surprisingly, there are many examples where card check elections have been challenged on the basis of coercion, misrepresentation, forgery, fraud, peer pressure and promised benefits. In July 2002 testimony before a House Subcommittee, an employee described the various misrepresentations and coercive tactics used by union organizers in card check elections: Those who would not sign were greeted with threats of termination, deportation and loss of 401(k) and health benefits; and those who did sign were given promises of green cards, termination of supervisors, and free food.

> Private Ballot Elections Have Been Supported By the U.S. Supreme Court, Chairman George Miller (D-CA) and the AFL-CIO

- A letter sent by Rep. George Miller and 15 other members of Congress to Mexican government officials in 2001, stated, "We understand that the private ballot is allowed for, but not required by Mexican labor law. However, we feel that the private ballot is absolutely necessary in order to ensure workers are not intimidated into voting for a union they may otherwise not choose."¹
- The AFL-CIO has expressed support for private ballot elections, arguing in a legal brief that in union decertification petitions private ballot elections "provide the surest means for avoiding decisions which are the result of group pressures and not individual decisions."

> Existing Procedures for Private Ballot Election Ensure Fair Elections

Under the National Labor Relations Act, employees generally determine whether they want a union through a private ballot election supervised and conducted by the NLRB. To ensure a fair election free of employer and union coercion, the NLRB follows strict procedures. Among other things, an NLRB representative is present and oversees the entire voting process and ensures that neither the employer nor the union can determine how an individual employee votes. While both the employer and the union are present for the election, they are simply observers of the process, and may not speak with the voters or see how a particular employee votes.

Elections are held promptly, typically within 60 days of the petition, and contrary to concerns regarding the unions' ability to succeed in private ballot elections, unions won 56% of elections in 2005.

> The Law Already Protects Against Employer Interference with Elections

Current law prohibits employers from making threats of reprisal or force, or promising benefits that might interfere with an election. Prohibited acts include threats of physical force or loss of job or benefits, or promises of pay raises, promotions or other benefits. If employers engage in such conduct, and their behavior disrupts election conditions, the NLRB may order the employer to bargain with the union even in cases where the union lost the election.

¹ Other members of Congress that signed this letter include: Dennis Kucinich, Bernard Sanders (now a senator), Bob Filner, Barney Frank, Joe Baca, Zoe Lofgren, Fortney Stark, Barbara Lee, James McGovern, and Marcy Kaptur.