



The So-Called “Employee Free Choice Act” Union Leaders’ Rhetoric vs. the Facts

Union Rhetoric: Private ballot elections take too long and delays of months or years are common.

Facts: The average time for an election to be held is just 39 days and 94 percent of elections are held within 56 days. The rare exceptions that take longer hardly justify abandoning the entire private ballot election process.

Union Rhetoric: Card check procedures are the most effective way to determine the wishes of a majority of employees.

Facts: Federal courts have repeatedly ruled that private ballot elections are the most foolproof method of ascertaining whether a union has the support of a majority of employees, noting that, workers sometimes sign cards not because they intend to vote for the union in an election, but to avoid offending the person who asks them to sign (often a fellow worker), or simply to get the person off their back.

Union Rhetoric: Employers illegally fire employees in 25 to 30 percent of all organizing drives.

Facts: Those who falsely claim employers illegally fire a large number of employees during organizing drives cite to two studies, one by Cornell professor Kate Bronfenbrenner and another commissioned by the pro-union group American Rights at Work. Unfortunately, these reports are in fact surveys of uncorroborated reports of union organizers—hardly an unbiased source. National Labor Relations Board statistics show that employees are illegally fired in just over one in 100 (1 percent) organizing drives. Furthermore, if the NLRB finds that an employer illegally fired workers during an organizing drive it has the power to order the employer to recognize and bargain with the union, even if the union lost the election.

Union Rhetoric: The private ballot election process enables employers to wage bitter anti-union campaigns.

Facts: In almost nine out of ten cases the employer and union reach agreement on the most contentious issues surrounding union elections: the scope of the bargaining unit (who is eligible to vote), and the date and time of the election.

Union Rhetoric: In an election, management has total access to the list of employees at all times, while union supporters may have access very late in the process to a list that is often inaccurate.

Facts: Employers are required to submit complete and accurate lists of employees within one week of the determination that an election will be held. The list is then provided to the union. If the employer fails to provide the list or the list is inaccurate, the Board can set aside the election and order another, especially if errors involve a determinative number of voters.

Union Rhetoric: The Employee Free Choice Act (S. 1041) gives employees the option of using a card-check system; it does not replace the private ballot election. Employees are still free to choose a private ballot process.

Facts: The card-check process does not give employees a choice at all. Instead, it gives *union organizers* the choice of whether to organize through a card check process. If the union chose to submit authorization cards, workers would be barred from seeking an election. In addition, the card check process can cut up to almost half of all employees out of the organizing process because the union only needs signatures from a simple majority in order to gain collective bargaining rights. During the card-check process, those employees who do not want a union do not have a voice and are in effect removed from the process of making decisions about their own jobs.