

The Truth Behind Union Rhetoric Supporting the Employee Free Choice Act

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

Facts: If the National Labor Relations Board does anything right from an employee rights perspective, it is conduct elections. The average time for an election to be held is just 39 days and 94 percent of elections are held within 56 days. It is true that there are some cases that take longer, but these are outliers and hardly justify abandoning the 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 secret ballot elections are the preferred method of ascertaining whether a union has the support of a majority of employees. As the Seventh Circuit once noted, 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. As the Fourth Circuit has said, it would be difficult to imagine a more unreliable method of determining the real wishes of employees than card check.

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

Facts: Those who 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. However, these reports are actually surveys of the uncorroborated reports of union organizers—hardly an unbiased source. A more reliable and unbiased source, the National Labor Relations Board, shows that, at most, employees are illegally fired in 1.6 percent of organizing drives. 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 secret ballot election process enables employers to wage bitter anti-union campaigns.

Facts: While union organizing can sometimes become contentious, in 85 percent of all 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. The fact that the parties agree to these stipulations in the vast majority of cases illustrates once again that in most cases, the secret ballot election process works fairly and smoothly.

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: The NLRB requires employers to submit complete and accurate lists of employees within one week of the Board's determination that it will hold an election. 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.

Source: U.S. Chamber of Commerce

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