

CONFRONTING THE RHETORIC ABOUT THE EMPLOYEE FREE CHOICE ACT

Rhetoric: The current National Labor Relations Board (NLRB) election process is a lengthy and obstruction-filled process which negatively impacts a workers' freedom to form unions. During this process, employers can—and often do—implement steps to fire, harass, and intimidate workers who support forming a union.

► **Fact:** In many ways, the union election process administered by the NLRB incorporates the same democratic principles that govern elections for public office.

The secret ballot election is recognized by federal courts as the best vehicle for employees to render an uncoerced decision about union representation. The Supreme Court held that a secret ballot election is the “most satisfactory—indeed the preferred—method of ascertaining whether a union has majority support.” (Source: *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969) <http://supreme.justia.com/us/395/575/case.html>)

Despite the union's claims, it is not difficult to form a union under current law. If there is authentic employee support for unionizing, then organizers need only win a majority of votes in a private balloting process. Congress sought to balance the competing rights of employers in a free market economy with the rights of employees who want union representation. This law—the National Labor Relations Act—protects employee rights in choosing to be represented, or not, by a union. (Source: *The Union Representation Process Under the National Labor Relations Act—Maintaining Employee Free Choice for Over 70 Years*, A U.S. Chamber of Commerce White Paper http://www.uschamber.com/assets/labor/unionrhetoric_nlra.pdf)

Unions complain that employer hostility and the structure of the NLRB election process is the cause for their membership decline. If employer hostility oversteps the legal boundaries, there are current remedies to address this in the current law. Unions or employees are not disadvantaged as a result of the current secret ballot election process. According to an NLRB election report, between October 2007 and March 2008, unions won 62 percent of all 700 elections involving new organizing. (Source: http://www.nlr.gov/nlr/shared_files/brochures/Election%20Reports/ER2008/October%202007-March2008.pdf)

Rhetoric: Passage of the Employee Free Choice Act will not end secret ballots in union organizing elections.

► **Fact:** One of the key provisions in the legislation mandates that a union be recognized if a majority of employees in a designated bargaining unit sign authorization cards. If this provision is enacted, the current system, where a federally supervised election process with secret ballots determines whether employees will have a union in their workplace, would be effectively eliminated, resulting in employees having less ability to determine if they wish to be represented by a union. The Coalition for a Democratic Workplace has compiled a list of newspaper editorials that speak to this.

Coalition for a Democratic Workplace:

http://www.myprivateballot.com/about/?_adctlid=v%7Cx1nebahdn7kdhz%7Cxom8ljz8lwz3u

Newspaper Editorials:

http://www.myprivateballot.com/fs/resource.id/x1wr5np68dwc8g/x9ql7wzbjessr0?_adctlid=v%7Cx1nebahdn7kdhz%7Cxom8ljz8lwz3u

Rhetoric: America's middle class will be strengthened through the passage of the Employee Free Choice Act.

► **Fact:** According to a study conducted by Diana Furchtgott-Roth—a former chief economist at the federal Department of Labor—where job growth from 2001 to 2006 was compared with the percentage of unionization in each state, states with low levels of unionization experienced almost twice as much job growth as those states with higher levels of unionization. Further results from the study indicate that none of the ten least unionized states experienced negative or zero percent job growth, whereas four of the ten most unionized states did. *(Source: Diana Furchtgott-Roth, Improving Union Financial Transparency, Hudson Institute, Center for Employment Policy August 27, 2007* http://hudson.org/files/pdf_upload/UnionPaperAugust2907.pdf)

Numerous studies have shown that unions are not the answer to increasing prosperity for American workers or the economy. Evidence demonstrates that the economy is much more vibrant and continues to grow in right-to-work* states where unions are less prevalent as opposed to non-right-to-work states. *(Source: Is Unionization the Ticket to the Middle Class? The Real Economic Effects of Labor Unions, A U.S. Chamber of Commerce White Paper* http://www.uschamber.com/assets/labor/unionrhetoric_econeffects.pdf)

**There are currently 22 states that have a Right-to-Work Law that contends that individuals who are covered under this law cannot be required to join or pay dues or fees to a union. (<http://www.nrtw.org/d/rtwempl.htm>)*

Rhetoric: Workers who are not unionized are worse off today than they have been during the past.

► **Fact:** Macroeconomic data from the U.S. Census Bureau contradicts unions' claims. A variety of economic indicators suggest that Americans have financially succeeded during the last 55 years even while union membership has declined. According to the U.S. Census Bureau, real median income (inflation adjusted) for all households from 1967 to 2007 rose by almost 30 percent, going from \$38,771 to \$50,233. At the same time that median income has risen, the poverty rate has dropped by almost half, going from 22.4 percent during 1959 to 12.5 percent during 2007. Both the rise in median income and drop in poverty occurred in the midst of labor's membership decline. (Source: U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States* <http://www.census.gov/prod/2008pubs/p60-235.pdf>)

Studies from economists and economic data refute organized labor's characterizations. (Source: *The Truth About American Workers: They are Satisfied, Respected, and Benefiting from Productivity Gains*, A U.S. Chamber of Commerce White Paper http://www.uschamber.com/assets/labor/unionrhetoric_workers.pdf)

Rhetoric: Workers who are part of a union earn on average 30 percent higher wages and are 59 percent more likely to have employer-provided health coverage.

► **Fact:** One key problem with organized labor's analysis is that it does not appropriately account for all of the benefits an employee receives from employment (or all of the labor costs an employer occurs) because it uses an employee's pay or wages (i.e., cash income) as a measure against increasing productivity rather than using total compensation. In addition to wages, total compensation includes health benefits, contributions to retirement plans, paid vacations, and other benefits that more accurately reflect an employee's full financial gain from employment. (Source: James Sherk, *Analyzing Economic Mobility: Compensation is Keeping Pace with Rising Productivity*, The Heritage Foundation (2007) <http://www.heritage.org/Research/Labor/bg2040.cfm>)

According to Gary Burtless of the Brookings Institute, inflation-adjusted total compensation increased by an average of more than 1.1 percent per year between 2000 and 2005. Additional findings he shared during testimony before the Senate Finance Committee indicates that measured in 2005 dollars, the real compensation (adjusted for inflation) of an average full-time equivalent employee rose \$2,975, or 5.6 percent between 2000 and 2005. Of this increase, 29 percent was received as higher cash wages, 24 percent as increased payment to pension or profit sharing plans, and 35 percent as contributions to employer-sponsored health care plans. (Source: *Can the Middle Class Make Ends Meet? Economic Issues for America's Working Families*, testimony before the Committee on Finance, 110th Congress, 1st Session (2007) <http://finance.senate.gov/hearings/testimony/2007test/051007testgb1.pdf>)