

COALITION FOR A
DEMOCRATIC WORKPLACE

The Facts About the Secret Ballot Protection Act

The Secret Ballot Protection Act Shields Workers from Coercion and an Activist NLRB Bent on Pushing Card Check

- For several years, Big Labor has been pushing for passage of the so-called Employee Free Choice Act (EFCA), which would effectively eliminate a worker's right to a federally supervised private ballot when deciding whether or not to join a union. The legislation would replace the private ballot with a biased and inferior process called "card check," which allows a union to organize if a majority of workers simply sign a card. Under this system, the workers' votes are made public to the employer, the union organizers and co-workers.
- Perhaps recognizing that Americans, including union families, are overwhelmingly in favor of preserving the private ballot election, Big Labor has backed off of EFCA and is trying less direct methods to short-circuit the election process. Union strategists are pushing the National Labor Relations Board (NLRB) for hasty elections and greater access to employees while at work and their personal information, such as home addresses and phone numbers. Union organizers mount covert campaigns for months, even years, before publicly demanding card check or petitioning for an election. Union bosses want employees' contact information during this time so they can aggressively lobby employees to support the union. Once the NLRB received a petition for election, it generally takes 42 days, during which time employees are able to get information from *both* sides, not just the union. By shortening the election, labor lobbyists hope employees will have less time to get educated on all the facts.
- Activist members of the NLRB appointed by the Obama administration are pursuing ways of eroding the right to a secret ballot election without Congressional direction. The current Board is considering reversing an important 2007 decision that allows employees to demand an election within 45 days of their employer agreeing to recognize a union based solely on a card check. *Lamons Gasket*, 355 NLRB No. 157 (Aug. 27, 2010). This would leave employees who may have signed cards based on coercion, peer pressure, lies, and misunderstandings with no way of challenging certification through a secret ballot election.
- The *Secret Ballot Protection Act* (SBPA) is federal legislation that would protect the sanctity of the secret ballot process, which has afforded

employees the protection of a government-supervised anonymous voting procedure since the earliest days of the National Labor Relations Act.

- Under the SBPA, employers and unions would be prohibited from entering into a collective bargaining relationship unless a majority of the employees in question had voted to be represented by the union in a secret ballot election conducted by the NLRB.
- The SBPA would make clear to the NLRB that it is not free to circumvent the secret ballot process through administrative action.
- Most importantly, the SBPA would preserve the crucial right of working Americans to decide whether they want union representation or not, without peer pressure, coercion, or anyone looking over their shoulder as they mark their ballot.