



COALITION FOR A  
**DEMOCRATIC WORKPLACE**

February 3, 2022

---

Dear Representative:

On behalf of the Coalition for a Democratic Workplace (CDW), which is comprised of nearly 500 organizations and businesses nationwide representing nearly every industry in the economy and millions of employees, we urge you to oppose the America COMPETES Act of 2022 (H.R. 4521) due to the last-minute addition of provisions within the Manager's Amendment that strips employees of their right to a secret ballot in union representation elections and their right to vote on their collective bargaining agreement. CDW takes no position on other aspects of the America COMPETES Act of 2022, but we strongly oppose these provisions and inclusion of any similar provisions in any legislation.

The Manager's Amendment requires employers receiving certain funds to recognize and bargain with a union if it can show majority support from the workers in question via signed authorization cards. This system, known as "card check," would result in the elimination of secret ballot elections as a method for determining if employees want to be represented by a union. Under a card check scheme, workers instead must choose whether or not they want union representation by signing cards in public before their colleagues and union organizers. This system needlessly exposes workers to coercion, intimidation, and harassment. In an NLRB-supervised secret ballot election, on the other hand, workers have the opportunity to vote their conscience in private free from interference or pressure from their employer, the union, or their colleagues.

As the Supreme Court has recognized, card check is "admittedly inferior to the election process."<sup>1</sup> The Fourth Circuit Court of Appeals observed, "It would be difficult to imagine a more unreliable method of ascertaining the real wishes of employees than a 'card check,' unless it were an employer's request for an open show of hands."<sup>2</sup> The AFL-CIO itself has stated, "The secret ballot election system provides the surest means of avoiding decisions which are the result of group pressures and not individual decisions."<sup>3</sup> Additionally, a group of 16 Democratic members of Congress explained in a letter to Mexican government officials in 2001 that "the secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose."<sup>4</sup>

Time and time again, the secret ballot process is hailed for its protections against coercion and intimidation of voters, while card check is routinely criticized for its inability to protect voters'

---

<sup>1</sup> *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969).

<sup>2</sup> *NLRB v. S.S. Logan Packing Co.*, 386 F.2d 562, 565 (1967).

<sup>3</sup> *Chelsea Industries and Levitz Furniture Co. of the Pacific, Inc.*, Nos. 7-CA-36846, 7-CA-37016 and 20-CA-26596 (NLRB) at 13 (May 18, 1998).

<sup>4</sup> Letter to Junta Local de Conciliacion y Arbitraje del Estado de Puebla (August 29, 2001).



## COALITION FOR A **DEMOCRATIC WORKPLACE**

rights and encouraging misconduct. The inclusion of this provision in the America COMPETES Act is unconscionable and inappropriate.

The Manager's Amendment also mandates government interference in labor-management relations. It deprives workers of the opportunity to vote on their collective bargaining agreements by imposing mandatory arbitration when negotiations do not meet a specified timeframe. Arbitrators, who typically do not have business experience, would be able to force binding terms and conditions on companies. This is an invitation for bankruptcies, job loss, and government bailouts. It could also destabilize labor relations by encouraging parties to bargain in bad faith and make extreme demands knowing government arbitrators will likely find the "middle" ground.

Both provisions discussed above were previously included in past Congresses' so-called Employee Free Choice Act, which was opposed on a bipartisan basis. These provisions do not increase our competitiveness with China, as the America COMPETES Act is intended to do, but will instead undermine it. These provisions will destabilize our economy and disenfranchise workers of their right to vote their conscience.

While CDW takes no position on other aspects of the America COMPETES Act of 2022, we strongly oppose these provisions and urge Congress to oppose this bill, its infringements on workers' rights, and the inevitable destabilizing of labor-management relations nationwide.

Sincerely,

Kristen Swearingen  
Chair  
Coalition for a Democratic Workplace