

## **A Shield Against Corporate Bullying**

**The Washington Post** - Tuesday, February 27, 2007

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A proposal to let American workers decide in peace and quiet about whether to join a union has provoked a torrent of crocodile tears from corporate executives. The Employee Free Choice Act, which the House is due to vote on this week, would permit an employee to choose union representation by signing a membership card. If a majority of workers in a defined "bargaining unit" opted for it, employers would have to bargain in good faith with the workers' union.

Business spokesmen shout that the act deprives workers of their right to an election held by the National Labor Relations Board (NLRB). But what companies really prize is management's power to exploit the election procedure to mount aggressive, one-sided attacks on workers' freedom of association.

Why the sudden concern for democracy in a culture of otherwise unilateral employer dominion? We don't hear companies calling for secret-ballot votes on management decisions or CEO stock options, or to elect worker representatives to boards of directors. Bosses' democratic impulses appear only when workers want to exercise their right to organize.

Current labor law puts employers in control of what should be employees' concern. Even when by a big majority workers join a union to bargain collectively, employers can force a vote run by the NLRB. During the weeks it takes to set up the election, management can launch a devastating campaign to thwart workers' choice. Employers say they are just telling employees the downsides of organizing. But they go way beyond that point, hauling workers into mandatory meetings and threatening to shutter the workplace or to permanently replace workers who exercise the right to strike.

Imagine a campaign for president where legally just one candidate can spend an unlimited amount of money for TV advertisements and the other candidate can only pass out flyers at highway intersections. Imagine a campaign for Congress in which every employer in the country can force its employees into a mandatory meeting to tell them: "If you vote for the candidate of Party A, I'll have to close the business; vote for Party B if you want to keep your job." Imagine a campaign for governor where every employer in the state singles out and fires employees who support the candidate whom management opposes.

These examples parallel the reality of union election campaigns under current law. Employers have unlimited access to harangue workers against organizing, while union representatives are relegated to passing out flyers to workers speeding out of parking lots and asking time-stressed employees to attend evening or weekend meetings. Employers have unlimited power to hold captive-audience meetings where they can legally "predict" workplace closure, as long as they don't illegally "threaten" it (a Supreme Court decision created the distinction, though many understandably have

trouble differentiating between the two). And though it's illegal, employers routinely fire worker activists to frighten others into submission, knowing it will take years for reinstatement orders to take effect.

A card-based system for choosing union representation is already allowed under current law. Many fair-minded employers use it. But most nullify it, forcing workers into the NLRB election process. These managements say they need an opportunity to offer their version of union "facts," but their presentations are often threat-filled diatribes.

Nothing in the proposed legislation prevents employers from presenting their views -- including their diatribes. Actually, employers are entitled to mount union-avoidance campaigns starting on Day One of a worker's employment. Their campaign is the wages and benefits they pay and the way they treat employees. If workers turn to union representation, it should be their business, not the company's.

Workers should be able to organize without fear-mongering by bosses or, by the same token, pressure from union organizers. This is how the card-based system already works; safeguards against undue pressure from any side are built in. It includes rapid arbitration to resolve any disputes, compared with years of dragged-out NLRB proceedings and federal court appeals.

Many companies have agreed to a card-based system. They find that when workers choose bargaining, a more peaceful, productive negotiating-table dynamic results than in the case of negotiations that follow an NLRB election war. Congress should build such positive labor relations into the architecture of our labor laws by passing the Employee Free Choice Act.

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