

THE EMPLOYEE FREE CHOICE ACT

Myths v. Facts

MYTH: *The Employee Free Choice Act abolishes the National Labor Relations Board's "secret ballot" election process.*

FACT: The Employee Free Choice Act does not abolish the NLRB election process.

That process would still be available under the Employee Free Choice Act. The legislation simply gives workers the choice of forming their union through an election or through majority sign-up. The majority sign-up process has been a widely used path to union representation since 1935, but workers may only use the majority sign-up process currently if their employer agrees. The Employee Free Choice Act puts that choice in the hands of employees rather than their employer.

MYTH: *The National Labor Relations Board's "secret ballot" election protects workers' democratic rights.*

FACT: Secret ballots alone do not guarantee fair elections. Under an NLRB election, employees have no right to free speech, no protection against intimidation from supervisors, and are regularly forced to attend anti-union meetings. They are also typically forced to attend one-on-one interviews with their managers to reveal their electoral preferences. In contrast, union organizers are not allowed to set foot on the property, the one place where all the "voters" can be found.

MYTH: *The Employee Free Choice Act is payback for unions' support of Democrats.*

FACT: The Employee Free Choice Act is about rebuilding and growing our nation's middle class. If the current crisis has taught us anything, it's that economic growth cannot be sustained on credit. We need real wage and benefit growth. Ensuring the freedom to collectively bargain is an effective way of re-linking workers' rising productivity with rising wages.

MYTH: *Union wages and benefits have resulted in the auto-industry collapse and are irrelevant to today's economy.*

FACT: Workers and their unions are not responsible for the auto industry's troubles. Labor costs amount to only a tenth of the cost of building a car. Nine of the ten most efficient auto plants in North America are union plants. Setting aside their legacy costs, the Big 3's wages are on par with the Japanese auto makers. The American auto industry has made some bad business choices but agreeing to provide middle class jobs was not one of them.

MYTH: *The Employee Free Choice Act would require public union card signings.*

FACT: Under current law, employees already must sign cards or petitions saying they support a union in order to obtain an election. And, when an employer agrees to a majority sign-up process, employees must sign cards to show the union's majority status. The union authorization card under the Employee Free Choice Act is treated no differently than a petition for election or a card under a majority sign-up agreement under current law. As with petitions for an election, under the Employee Free Choice Act, the NLRB, not the employer, would receive the cards and determine their validity.

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MYTH: *The Employee Free Choice Act will encourage intimidation and harassment by labor unions against workers.*

FACT: Coercion and pressure drops when workers form a union through a majority sign-up process. Workers report much less pressure from all sides during majority sign-up campaigns than with NLRB elections. But, harassment by unions is not the problem. Unlike employers, a union organizer can't fire you, cut your pay, or deny you a promotion. If you're an employee actively trying to organize your coworkers, you have a *one in five chance* of getting fired by your employer for simply exercising your rights.

MYTH: *The Employee Free Choice Act would require a secret ballot election for workers to get rid of a union.*

FACT: Under current law, no election is necessary to disband a union. The Employee Free Choice Act would not change this. Under current law, if an employer has evidence, such as cards or a petition, that a majority of workers no longer supports the union, then, without an election, the employer is required by law to withdraw recognition of the union and stop bargaining.

MYTH: *The Employee Free Choice Act's sponsors support secret ballot elections for workers in Mexico, but not in the United States.*

FACT: Members of Congress wrote to Mexican authorities in 2001 arguing in favor of a secret ballot election in a case where workers were trying to replace a sham company-dominated union with an independent union. The Employee Free Choice Act is consistent with this: it would not change the requirement for an NLRB election in cases where workers seek to replace one union with another union. Indeed, the original framers of the National Labor Relations Act intended elections for precisely those cases where multiple unions were competing – particularly where one was a sham company union and another was a real independent union.

MYTH: *Democrats in Congress believe in the secret ballot for them to determine a committee chairmanship but not for workers on whether to form a union.*

FACT: Lawmakers voting in a secret ballot to determine who chairs a committee is not the same as workers deciding whether to form a union. Members of Congress, like workers, simply form a caucus by having other members sign up. The Democratic Caucus does *not* conduct a secret ballot election to determine whether to establish a caucus. However, like Congress, union leadership elections are conducted by secret ballot and will continue under the Employee Free Choice Act. Once workers decide to form a union, they vote on union leaders and vote to ratify contracts or to authorize a strike by secret ballot.

MYTH: *The Employee Free Choice Act requires mandatory arbitration that may force businesses to be uncompetitive.*

FACT: No reasonable arbitrator would force conditions onto businesses that would force them out of business. Even though workers may choose to form a union, employers often stall when it comes time to negotiate a first contract and current law provides no incentives for the parties to come to an agreement. Employers or employees may request mediation from the Federal Mediation and Conciliation Service if no agreement on a first contract has been reached after 90 days. If the mediator is unable to bring the parties to agreement, the dispute would be referred to binding arbitration.