



The Employee Free Choice Act Does Not Eliminate the Secret Ballot Election Process for Choosing Union Representation

The Employee Free Choice Act is an amendment to the existing NLRA which makes no change to the current election process.

- It does not amend, repeal or eliminate the NLRA election process, which is set forth in Section 9(c)(1)(A). This provision will continue unchanged.
- If the Employee Free Choice Act is enacted, a petition filed under Section 9(c)(1)(A), which meets the rules of that section, will still initiate an election process.
- According to the House Committee on Education and Labor Report on H.R. 800, “[t]his section does not eliminate the NLRB election process, which remains an option for employees as it is under current law.” 2/16/07, pp. 25-26.

Currently, many workers try to avoid the election process because it is company-controlled, coercive and unfair.

The Employee Free Choice Act simply amends the NLRA representation system by modifying the already-existing majority sign-up process.

- It puts the choice of how to form a union in the hands of workers rather than their employer by changing the majority sign-up process to require companies to honor their employees’ choice when employees decide to demonstrate their union support in this manner. Instead of their company controlling how workers organize, workers will have the choice of which path to use.

An election process has never been the only way workers can form their union under the NLRA.

- Section 9(a) of the current NLRA requires that an employer bargain with “representatives **designated or selected** for purposes of collective bargaining.” It has never required that the representative be **elected**.

The NLRA has always maintained and regulated two paths to union representation: Both have been in existence 1935 and both have been endorsed by the NLRB, the Supreme Court and Congress:

- (a) election: Section 9(c)(1)(A) requires that a petition be filed which is supported by a significant number of workers in order for the NLRB to conduct an election; the employer cannot veto the election process; and
- (b) majority sign-up: widely used and also governed and regulated by the NLRB, it requires that: (1) a majority of employees sign authorization cards or petitions indicating their choice for union representation; and, (2) their employer **agree** to recognize the union based on the majority support.

The Employee Free Choice Act will allow workers – not companies – to choose how they form their union by removing the veto power companies now have with the majority sign-up process.