



214 Massachusetts Avenue, NE • Washington DC 20002 • (202) 546-4400 • heritage.org

CONGRESSIONAL TESTIMONY

**Private Ballots Best Protect
Employees' Free Choice**

**Testimony before
Republican Conference
United States Senate**

July 21st, 2008

**James Sherk
Bradley Fellow in Labor Policy
Center for Data Analysis
The Heritage Foundation**

My name is James Sherk. I am the Bradley Fellow in Labor Policy at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

Mr. Chairman and members of the Republican Conference, thank you for inviting me to testify before this hearing. Americans have a fundamental right to vote in privacy. No politician would suggest returning to the days of Tammany Hall by making each American's vote public.

Secret ballots also protect American workers. Most American workplaces are organized through secret ballot elections, in order to protect workers from threats and intimidation. Neither employers, nor unions, can credibly threaten to retaliate against workers who vote the "wrong" way when they do not know how the worker voted. Voting privacy also shields workers from peer pressure. A private ballot empowers workers to decide how they, and they alone, want to relate with their employers.

Unfortunately, many politicians and labor activists today want to deprive American workers of this right. The misnamed Employee Free Choice Act (EFCA) replaces secret ballots with publicly signed union cards. Instead of choosing in the privacy of a voting booth, workers would be forced to publicly express their desires.

Make no mistake about what EFCA does. It ends secret ballots for American workers. The bill's supporters often protest that it does not end secret ballots, but merely gives workers the choice of whether to organize through an election or through card-checks. This is untrue. Nothing in the legislation gives workers any right to choose between card-check and secret ballots.

Congress should not deprive American workers of their voting privacy. Workers strongly disagree with those who claim to speak for them on this issue. 78 percent of union members favor keeping the current system of secret ballots.

It is no wonder that union members feel this way. The election process works well to protect the rights of American workers. Elections are conducted in a timely fashion, and abuses and delays are rare. The typical election occurs less than six weeks after organizers submit their petition. Only in a small minority of campaigns—less than three percent—do employers illegally fire workers during organizing drives. When the votes are counted, unions win three-fifths of the time.

So it is no surprise that 71 percent of union members say the current system is fair. Secret ballots protect the rights of American workers to make an informed, private choice about union representation.

Card-check is designed to prevent that from happening.

Organizers aim in a card-check campaign is to get the workers to sign union cards, not to educate them about the pros and cons of union membership. With card-check, workers only choose in the presence of union organizers. Unions train their organizers to give workers a one-sided, high pressure sales pitch to get them to sign the card. Organizers are trained to avoid subjects like strike histories or dues increases that make workers less likely to join. The Employee Free Choice Act is intended to prevent workers from hearing both sides before committing to the union.

If workers decide not to sign the first time organizers approach, they return again and again to press them to change their mind. This happened to hotel workers in Los Angeles, who had to get a court injunction against union organizers to end repeated harassment on their porches late at night.

When sales pitches and repeated pressure fail, some union activists turn to intimidation. Union organizers in Las Vegas threatened that workers who did not sign would lose their jobs. Ricardo Torres, a former Steelworkers organizer, quit after his superiors told him to threaten to report migrant workers to immigration authorities if they would not sign union cards.

These tactics allow unions to organize workplaces where most workers do not want to join. Torres confessed that, "We knew how to make the pressure so great that most workers would feel powerless to refuse to sign the card."

That is why union activists want to end secret ballots. As UFCW organizer Joe Crump explains, in a card-check campaign "You don't need a majority or even 30% support among employees."

Card-check strips workers of their privacy and exposes them to pressure, harassment, and intimidation. The best way to protect employees' free choice in the workplace is through secret ballot elections.

The Heritage Foundation is a public policy, research, and educational organization operating under Section 501(C)(3). It is privately supported, and receives no funds from any government at any level, nor does it perform any government or other contract work.

The Heritage Foundation is the most broadly supported think tank in the United States. During 2007, it had nearly 330,000 individual, foundation, and corporate supporters representing every state in the U.S. Its 2007 income came from the following sources:

Individuals	46%
Foundations	22%
Corporations	3%
Investment Income	28%
Publication Sales and Other	0%

The top five corporate givers provided The Heritage Foundation with 1.8% of its 2007 income. The Heritage Foundation's books are audited annually by the national accounting firm of McGladrey & Pullen. A list of major donors is available from The Heritage Foundation upon request.

Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed are their own, and do not reflect an institutional position for The Heritage Foundation or its board of trustees.