

Card Check

What is card check?

Card check is the term used by proponents of the Employee Free Choice Act (EFCA) for a proposed method of organizing employees into a labor union. Under card check, a union would be formed if a majority of employees (50 percent plus one) sign union authorization forms (“cards”).

How are unions formed currently?

Under current labor law, the NLRB certifies a union as the exclusive representative of employees if it is elected through a secret-ballot election conducted by the NLRB. That election is held if more than 30 percent of employees sign statements asking either for representation by a union or for such an election to be held.

After a campaign period that typically lasts 40 days—in which employees hear all sides of the issue from the union, the employer and coworkers—an election is held that is supervised by the NLRB to ensure employees cast their ballots in a confidential manner with no coercion by either management or the union.

Current law also allows the union to become the employees’ exclusive representative if the employer chooses to forego an election and recognize the union when a majority of the employees have signed cards authorizing the union to be their representative (called a “card check process”).

How would card check change the process?

Under EFCA, if a union files a petition with the NLRB and presents authorization cards signed by a 50 percent-plus-one majority of the employees, the NLRB would certify the union as the collective bargaining representative and the employer would be required to bargain with the union without an election. Unlike the secret-ballot election process currently in place, the NLRB would not directly supervise the card-signing process, and there is no time limit for collecting the authorization cards.

EFCA would not explicitly prohibit elections, but an election would only occur if a union or a group of employees filed a petition with cards signed by fewer than 50 percent of the workers, which rarely occurs under existing law.

Current Process	Process Under Card Check
<p>Union gathers signatures of at least 30% to have an election</p> <p>Employers and unions mount informational campaigns to present both sides</p> <p>NLRB supervises a private-ballot election</p> <p>If majority approve union in the election, NLRB certifies the union</p>	<p>Union gathers card signatures of at least 50% + 1, unsupervised by NLRB, and a union is formed (no private ballot, no election)</p>

Why do unions want to implement card check?

The simplest answer is that card check would make it much easier for unions to be certified, giving unions a large increase in membership. Unions plead for card check rules because they claim employees suffer at the hands of employers as a result of NLRB elections. However, unions continue to enjoy just about the same rate of victory—typically, 55 to 60 percent, but as high as 67 percent in the first half of 2008—in secret-ballot elections as they did in 1965. This relatively constant success rate suggests that labor’s disappointment with election results likely has more to do with the waning desire of employees to be union members than actions by employers.

Why should card check not be implemented?

Workers have traditionally decided the important question of whether to be represented by a union through a secret-ballot election supervised by the NLRB. The secret-ballot process ensures a number of protections for employees.

- First, **employees get to hear all sides in a campaign-style setting.** They can gather information from their employers, coworkers and the union to help inform their decision on how to vote. Because card check drastically shortens the time in which a union can be formed and certified, employees would not have the opportunity to make an informed decision.
- Second, **the secret-ballot process ensures employees are not coerced by management or the union at the critical moment when the employee indicates his or her preference.** Under EFCA, authorization cards would be signed in the presence of an interested party—a pro-union co-worker or an outside union organizer—with no governmental supervision. Card check would make employees susceptible to pressure from union organizers or their peers.

- Finally, **holding a secret-ballot election is a process that is a cornerstone of American democracy that has worked in NLRB elections for decades.** According to the Bureau of National Affairs, unions won 67 percent of private-ballot representation elections in the first six months of 2008. EFCA would take away employees' right to a secret-ballot vote, free from coercion or intimidation. Employees' votes, either for or against forming a union, should be their own personal business, and no one else's—just like on Election Day.