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New Data Show Unions Winning Two of Every Three Elections

Sixty-Seven Percent Win Rate in 2008 Representation Elections Contradicts Claims that Card Checks or Shortened Election Periods Needed to Give Employees a Fair Choice to Form Unions

Washington, DC—A new report by the Bureau of National Affairs (BNA) shows unions winning 66.8 percent of private ballot representation elections conducted by the National Labor Relations Board (NLRB) in 2008, the highest win rate since BNA began analyzing NLRB data in 1984. This is a substantial increase from 60.4 percent 2007 and the highest union win rate since 1955. According to NLRB, unions have won more than half of all representation elections in each of the past 12 years.

The BNA report shows other notable 2008 highs and union wins. The number of resolved representation elections increased in 2008, the first increase since 1998 in the number of elections conducted by the board. The number of voters eligible to participate in the elections also increased from 102,494 in 2007 to 108,587 in 2008. In 2008, unions organized 70,511 workers through NLRB elections, up from 58,260 the year before. Unions also won 69.3 percent of 1,070 elections in units of fewer than 50 employees.

The data is being released at a time when Congress is preparing to consider the Employee Free Choice Act (H.R. 1409/S. 560), which would alter the rules governing union representation elections on the premise that the current system deprives employees of a fair mechanism to register their choice. Under current law, employees vote in a private ballot election where confidentiality and freedom from coercion by either the employer or the union is protected by NLRB supervision of the balloting process. According to NLRB data (available at http://www.nlr.gov/shared_files/Press%20Releases/2008/R-2675.pdf), 95 percent of all elections are conducted within 56 days of the filing of a petition by the union, with a median of 38 days. This period of time gives employees an opportunity to hear from and discuss all sides of the unionization issue with the union, fellow employees and the employer.

The Employee Free Choice Act, as introduced, would replace the current system with a card check in which employees would register their choice by signing union authorization cards in the presence of union organizers. Reportedly, there are discussions of revising the bill to replace card checks with a “quick” election giving employees on one or two weeks to consider the arguments for and against forming a union. Yet, the data confirms that the union may still prevail when the employees are given six to eight weeks to consider the issue. In addition to changing the election rules, once the union is certified, EFCA would also provide that if the employer and the union failed to agree on a collective bargaining agreement, the agreement would be dictated by a government-appointed arbitrator who would decide wages, benefits and all other work rules with no right of review.

“This new data clearly demonstrates that the current system, if anything, is working to the unions’ advantage. It shows that, when allowed to hear both sides of the issue and register their choice in a confidential, uncoerced manner, employees are frequently willing to side with the union,” said Daniel V. Yager, Chief Policy Officer and General Counsel of the HR Policy Association, a public policy advocacy organization representing the senior human resource executives of more than 260 leading employers doing business in the United States. Collectively, its members employ over 12 percent of the U.S. private sector workforce.

The full report may be purchased from BNA Plus at bnaplus@bna.com or 800-372-1033 (Option 5, then Option 2).

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