

# Card Check

## Stripping Workers' Right to Secret Ballot Election of Union Representation

### Summary

Organized labor is seeking to rewrite U.S. labor law with legislation that would abolish secret ballot elections during union organizing drives. Forcing workers out of the voting booth and subjecting them to a public “card check” scheme takes away privacy, power and choice from U.S. workers. Legislation to enact card check in Congress has been underway as well as several attempts in California through the state Agricultural Labor Relations Act and other sectors not covered by the National Labor Relations Act.

Although organized labor representatives say that card check would provide opportunities for increased wages and benefits, in reality, card check eliminates the secret ballot election in union organizing. In a card check union drive, the worker simply signs a card and everyone knows how each worker voted — co-workers, bosses and the union organizers. Instead of giving workers freedom to choose, card check leaves workers wide open to coercion, pressure, and outright intimidation and threats by union organizers.

### Current Law

Currently, if employees wish to unionize, a secret ballot vote can be arranged and conducted by the National Labor Relations Board (NLRB) or its state equivalent. This gives both sides the opportunity to make their case on whether unionization would be the best for the workers. Then the individual employees vote by secret ballot. If a majority wishes to unionize, the employees become a union and start collective bargaining procedures. If a majority does not wish to unionize, the employees stay non-unionized.

### Anticipated Action

Card check legislation is looming in California and in Congress. In 2007, the U.S. House of Representatives passed the card check bill, H.R. 800, known as “The Employee Free Choice Act.” Contrary to the implication of its title, the so-called Employee Free Choice Act strips workers of their right to privacy in union organization elections. In the U.S. Senate, S. 1041 fell just 9 votes short of passing and is bound to resurface early in the current congressional session.

Efforts to pass card check legislation in California have been underway and repeatedly rejected by the Governor for several years.

- AB 2386 (Núñez; D-Los Angeles) of 2008 would have created a new, unsupervised “mediated election” that would have sidestepped the Agricultural Labor Relations Board (ALRB) supervision requirement by allowing a union to become the bargaining representative of a farm employer’s employees if a majority of them simply return to the ALRB via postal mail something like an absentee ballot. But under this system, the union organizers themselves may give the ballots to the employees, tell the employees what to mark on the ballots, and then collect and deliver the ballots to the ALRB. This is simply “card check” repackaged, exposing workers to intimidation and coercion by union organizers and denying employees their right to a secret-ballot election. This bill was vetoed by the Governor.
- SB 867 (Cedillo; D-Los Angeles) and AB 1164 (De León; D-Los Angeles) of 2007, and SB 697 (Kuehl; D-Santa Monica) in 2006 proposed a card check scheme to organize independent child care providers, which would have hurt California’s competitiveness by artificially increasing labor costs for California child care providers, thereby reducing the pool of money available for subsidized child care for working parents. These bills were vetoed by the Governor.
- Both SB 180 (Migden; D-San Francisco) and SB 650 (Migden; D-San Francisco) of 2007 proposed card check for agricultural workers that would have hurt the competitiveness of California agriculture producers, driving businesses out of state, killing jobs and increasing the loss of farmland, by increasing labor costs for California producers who must compete in a global market with lower-than-average operating costs. Higher costs in the agricultural industry will result in higher costs for everyone. Both bills were vetoed by the Governor.

### CalChamber Position

The California Chamber of Commerce opposes the card check method of unionization and believes that workers are better protected from interference and intimidation by casting their vote privately with a secret ballot. To take away employees’ access to a private, secret ballot is undemocratic. Bolstering declining union membership should occur because employees see a need for union representation, not by adulterating the election process.

## Card Check (continued)

### Reasons for Position

- Card check takes away a worker's right to choose, freely and anonymously, whether to unionize by replacing the private ballot with a scheme that allows a union to organize if a majority of workers simply sign a card.
- Union organizers themselves oversee the card check process, and the workers' votes are made public to the employer, the union organizers and co-workers, leaving the door open to intimidation from union organizers.
- To take away employees' access to a private secret ballot is undemocratic.

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January 2009