

# WebMemo



Published by The Heritage Foundation

No. 3164  
February 22, 2011

## Secret Ballot Protection Act

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### What Does the Secret Ballot Protection Act (SBPA) Do?

- Unions are turning to card check.
  - Unions have little to offer workers in the modern economy. Polls show that only one in 10 non-union workers want to join a union. As a result, union membership has plummeted to below 7 percent in the private sector.<sup>1</sup>
  - Unions desperately want to reverse this trend.
  - Employers may currently choose whether or not their employees decide on unionizing with a secret ballot vote or with publicly signed union cards (the card-check method).
  - Unions attempted to persuade Congress to require employers to accept publicly signed union cards in all cases.
  - Some employers waive their workers' right to privacy anyway and accept card check. Unions claim that 80 percent of new members join through card check. Independent research puts this figure at around 20 percent.<sup>2</sup>
- The SBPA guarantees workers the right to vote by secret ballot before joining a union.
  - The SBPA prevents companies from negotiating with a union that does not receive the support of a majority of workers in a secret ballot vote. This prohibits card-check recognition.
- The SBPA does not apply to existing unions recognized under card check. It would apply only to new unions going forward.

- The SBPA also prohibits sweetheart deals between unions and management before a union is recognized.
  - Unions will often preemptively offer concessions to management in exchange for giving up workers' right to a secret ballot.
  - This allows the company and the union to cut a deal that benefits them but hurts workers.
  - The SBPA prevents unions from offering concessions unless and until workers have chosen them as their exclusive bargaining representative.

### Policy Rationale:

- Requiring secret ballots protects workers.
  - A secret ballot enables individuals to vote their conscience without fear of reprisal.
  - This is why the President and Members of Congress are elected through secret ballot votes of the population.
- Under card check, workers face harassment and pressure.
  - With card check, union organizers return again and again to the homes of workers who do not sign at first to pressure them to

This paper, in its entirety, can be found at:  
<http://report.heritage.org/wm3164>

Produced by the Center for Data Analysis

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

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- change their minds. With card check, “no” only means “not yet.”
- Workers who refuse to sign are subject to intimidation, harassment, and threats because their choice does not remain private.
  - Secret ballots enable workers to make an informed choice.
    - Union organizers have a job to do: recruit new dues-paying members. They are not paid to inform workers of the downsides of unionizing. Instead, they use sales tactics to make the strongest case they can for joining a union and ask workers to sign their cards immediately.
    - With card check, many workers sign union cards after a high-pressure, one-sided sales pitch.
    - Requiring a secret ballot election gives workers time to hear and reflect on the arguments made by both sides and then cast an informed vote.
  - Unions acknowledge that public cards do not reflect employee choice.
    - Union organizing manuals caution that union cards do not reflect employee sentiment. Unions know that card check does not reveal employees’ wishes but support it so they can recruit more members.
- Economic Consequences of the SBPA:**
- More investment and jobs.
    - The SBPA would prevent unions from pressuring and intimidating hundreds of thousands of workers into joining unions they do not really support.
    - Unions harm business prospects. Unionized companies cut investment spending by 15–25 percent and create far fewer jobs than non-union companies.
    - Unionized companies are less flexible than non-union companies because they must collectively bargain any changes to their labor contract. They are less able to innovate and respond to competition.
    - Workers should unionize only when they feel they need to—not because unions want their dues money. Passing SBPA means more jobs and more economic growth.<sup>3</sup>
  - Fewer corporate campaigns.
    - Unions currently launch corporate campaigns to pressure companies into giving up their workers’ right to a secret ballot. These campaigns typically feature massive PR attacks designed to devalue the corporate brand and cut into sales.
    - For example, the United Auto Workers (UAW) recently pledged to spend up to \$60 million attacking non-union car manufacturers as “human rights violators” if they do not agree to the UAW’s “Fair Election Principles.”
    - The SBPA would guarantee the secret ballot and prevent companies from negotiating before their workers join the union. This removes much of the incentive for unions to damage employers in this way.
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1. James Sherk, “Declining Unionization Calls for Re-Envisioning Workplace Relations,” Heritage Foundation *WebMemo* No. 3099, January 21, 2011, at <http://www.heritage.org/Research/Reports/2011/01/Declining-Unionization-Calls-for-Re-Envisioning-Workplace-Relations>.
2. Rafael Gely and Timothy Chandler, “Card Check Recognition: New House Rules for Union Organizing,” *Fordham Urban Law Journal*, Vol. 35 (2008), p. 247.
3. James Sherk, “What Unions Do: How Labor Unions Affect Jobs and the Economy,” Heritage Foundation *Backgrounder* No. 2275, May 21, 2009, at <http://www.heritage.org/Research/Reports/2009/05/What-Unions-Do-How-Labor-Unions-Affect-Jobs-and-the-Economy>.