

# ISSUE BRIEF

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## Expand Employee Participation in the Workplace

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The National Labor Relations Act (NLRA) prohibits most employee-participation programs, such as the proposed works council program in Chattanooga, Tennessee. Workers must choose between a traditional union and no formal representation at all.

Congress should modify the NLRA to allow workers to participate in works councils and employee involvement programs. This would enhance worker participation and allow employers and employees to adapt labor-management relations for the 21st-century economy.

**The Economy Has Changed.** The NLRA, enacted in 1935, assumes an adversarial relationship between workers and employers. Also underlying the NLRA is the assumption that employers and employees use a top-down management structure in which managers dictate to employees exactly what to do and the employees simply follow those directions without providing feedback.<sup>1</sup>

That economy no longer exists. Businesses today rely on feedback and communication from employees. Employers do not simply give top-down orders but incorporate bottom-up communication and employee discretion.<sup>2</sup> The line between workers and management has increasingly blurred, and most workers want cooperative relations with their employers.<sup>3</sup>

**Unions Have Not Modernized.** Polling finds that the vast majority of workers are satisfied with their jobs (87 percent), their bosses (82 percent), and the recognition they receive at work for their accomplishments (78 percent). Surveys also find that workers overwhelmingly prefer organizations that cooperate with management over ones that fight against it.<sup>4</sup> Most employees believe that they and their employers are on the same side. Unions have become less attractive because they have not adapted to these changes.

Consequently, private-sector union membership has decreased sharply over the past generation.<sup>5</sup> In 1974, almost a quarter of private-sector workers belonged to unions. Today, that figure has fallen to 6.7 percent.<sup>6</sup> Polls now show that only one in 10 non-union workers wants to unionize.<sup>7</sup>

**Workers Want a Voice.** The widespread disinterest in traditional unions does not imply that workers do not want a voice in workplace relations. Surveys show that workers want to participate in decisions in the workplace and want to be heard by their supervisors,<sup>8</sup> but they do not want hostile relations with management.

What many employers and employees would prefer are employee-involvement (EI) programs, or work groups in which workers and supervisors can meet to discuss workplace issues. Examples include self-directed work teams, safety committees, and production committees.<sup>9</sup> Polls show that 60 percent of workers prefer EI programs to improve working conditions over either more government regulations or labor unions.<sup>10</sup>

Examples of effective EI programs that advance worker interests abound. For instance:

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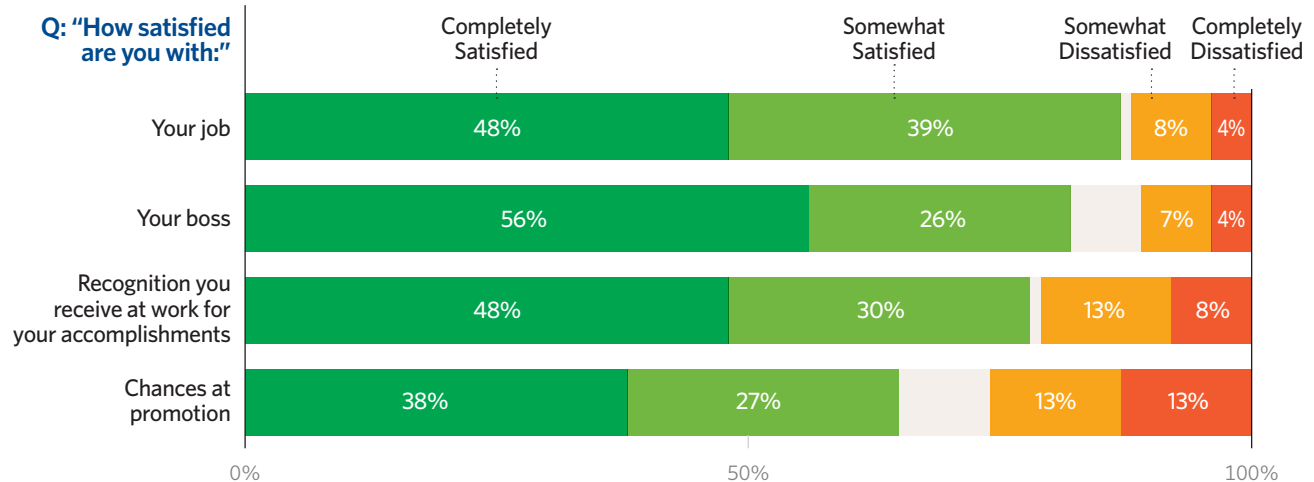
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CHART 1

## Poll: Most Workers Are Satisfied with Their Jobs

According to a Gallup survey, 87 percent of workers are either completely or somewhat satisfied with their jobs.



Sources: Job satisfaction: Gallup survey of 557 adults employed full or part time, conducted August 5-8, 2010, [http://www.gallup.com/poll/File/142709/Satisfaction\\_Job\\_Aspects\\_Aug\\_30\\_2010.pdf](http://www.gallup.com/poll/File/142709/Satisfaction_Job_Aspects_Aug_30_2010.pdf) (accessed March 11, 2014). Satisfaction with boss, recognition, and promotion: Gallup survey of 1,039 adults employed full or part time, conducted August 7-11, 2013, <http://www.gallup.com/file/poll/164072/130821SatisfactionJobAspects.pdf> (accessed March 11, 2014).

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- Webcor Packaging, a manufacturing company in Flint, Michigan, formed a plant committee made up of five elected employees and three appointed managers to look at ways to improve work rules, wages, and benefits. The committee members took suggestions from all employees and made recommendations to management based on those suggestions.
- Employees at Electromation in Elkhart, Indiana, opposed a plan to change the attendance bonus the company offered. In response, the company met with randomly selected employees and formed action teams to solve various workplace problems. The company asked team members to meet with other workers and promised to implement the solutions if they were not cost-prohibitive.<sup>11</sup>

1. Barry Hirsch and Jeffrey Hirsch, "The Rise and Fall of Private Sector Unionism: What Next for the NLR?", *Florida State University Law Review*, Vol. 34 (2007), p. 9.
2. Ibid.
3. Richard Freeman and Joel Rodgers, *What Workers Want* (Ithaca, NY: ILR Press, updated 2006), pp. 56-58.
4. Ibid. The survey gave workers an option of joining an organization that cooperates with management to discuss views but has no power to make decisions, one that has more power but is opposed by management, or no organization at all. The cooperative organization was preferred over a hostile organization by a margin of 63 percent to 22 percent, while only 7 percent preferred no formal representation.
5. Henry S. Farber and Alan B. Krueger, "Union Membership in the United States: The Decline Continues," National Bureau of Economic Research Working Paper No. 4216, November 1992, [http://www.nber.org/papers/w4216.pdf?new\\_window=1](http://www.nber.org/papers/w4216.pdf?new_window=1) (accessed March 12, 2014).
6. Barry T. Hirsch and David A. Macpherson, "Union Membership and Coverage Database from the CPS," Unionstats.com, <http://www.unionstats.com/> (accessed March 11, 2014).
7. Rasmussen Reports, "Just 9 Percent of Non-Union Workers Want to Join Union," March 16, 2009, [http://www.rasmussenreports.com/public\\_content/business/jobs\\_employment/march\\_2009/just\\_9\\_of\\_non\\_union\\_workers\\_want\\_to\\_join\\_union](http://www.rasmussenreports.com/public_content/business/jobs_employment/march_2009/just_9_of_non_union_workers_want_to_join_union) (accessed March 11, 2014).
8. Hirsch and Hirsch, "The Rise and Fall of Private Sector Unionism," p. 16.
9. Freeman and Rodgers, "What Workers Want," p. 101.
10. Ibid., p. 8.
11. Steven C. Bahls and Jane Easter Bahls, "Labor Pains: Employee Focus Groups May Seem Like a Good Idea, but They Could Land You in Court," *Entrepreneur*, December 1997.

- Volkswagen and many other German companies use works councils. Employees elect council representatives to discuss topics such as safety standards, introducing new equipment, and changes to workplace policies. Works councils enable workers to formally convey their concerns to management while providing employers with important information they would otherwise lack.

**Law Prohibits Most EI Programs.** Such EI programs violate the law unless an outside union runs them. The government forced Webcor and Electromation to disband their EI programs.<sup>12</sup> Volkswagen could not create a works council at its Chattanooga plant unless its employees unionized.

The NLRA prohibits employer-dominated labor organizations. The National Labor Relations Board defines a labor organization as an organization that employees participate in that deals with employers over grievances, labor disputes, wages, hours of employment, or other working conditions.<sup>13</sup>

This bans virtually any works council or EI program that gives workers a meaningful voice in the workplace. Any form of two-way discussions between workers and management over working conditions outside collective bargaining breaks federal law.

**Silencing Non-Union Workers in Chattanooga.** Congress intended to prevent companies from creating and negotiating with employer-dominated “company unions” to fight off organizing drives. This concern no longer has much weight. Union membership has fallen so much that few employers desire to create fake unions. Further, the employee involvement programs desired by modern employers would not interfere with workers’ ability to unionize. EI programs do not replace unions or prevent workers from bargaining collectively.

The ban on EI programs now only suppresses non-union workers’ voices. For example, Volkswagen wanted to create a works council at its plant in Chattanooga, but to comply with American law Volkswagen needed its employees to unionize. Consequently, Volkswagen’s management invited United Auto Workers (UAW) organizers into its plant.

Nonetheless, many workers questioned whether UAW representation would actually benefit their workplace. They formed a group opposed to unionizing, created an anti-UAW website, and held meetings lobbying their co-workers to vote “no.” Outside organizations put up billboards pointing out the UAW’s failure in Detroit.

The union lost by a 53 percent to 47 percent margin. One employee explained to Reuters: “We felt like we were already being treated very well by Volkswagen in terms of pay and benefits and bonuses. We also looked at the track record of the UAW. Why buy a ticket on the Titanic?”<sup>14</sup>

**Expanding Employee Options.** Some in the labor movement fear permitting works councils and EI programs would cause employees to value unions less, undermining attempts to organize. The experiences of other countries should dispel these fears. Canada permits EI programs and has a union density over twice the American rate.<sup>15</sup>

EI programs would weaken unions only to the extent that workers prefer them to unions. Congress should not make non-union workplaces as unpleasant as possible in order to compel workers to unionize. Labor unions exist to serve workers, not vice versa. Any competition with EI programs would force traditional unions to innovate and modernize to better suit workers’ needs.

**What Congress Should Do.** Current law forces workers to make an all-or-nothing choice between no voice at work and speaking through a labor union. The economy has changed since the 1930s, and many workers do not want the adversarial labor relations that unions offer. As a result, union membership has fallen.

Congress should modify the NLRA to only prohibit employers from dominating organizations that negotiate collectively bargained contracts with workers. If Congress did so, the NLRA ban on employer-dominated labor organizations would continue to ban company unions used to defeat organizing drives but would allow EI programs. This would have allowed Volkswagen’s employees to participate in a works council without joining an unwanted union.

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12. *Ibid.* Webcor was forced to disband its program in 1997, and Electromation was forced to abandon its program in 1994.

13. Hirsch and Hirsch, “The Rise and Fall of Private Sector Unionism,” p. 24.

14. Bernie Woodall, “Loss at Volkswagen Plant Uponds Union’s Plan for U.S. South,” Reuters, February 15, 2014, <http://www.reuters.com/article/2014/02/15/us-autos-vw-election-idUSBREA1D1DP20140215> (accessed March 11, 2014).

15. Hirsch and Hirsch, “The Rise and Fall of Private Sector Unionism,” pp. 28–29.

Permitting EI programs would allow employers and employees to innovate and adapt workplace relations to the modern economy. They would also attune employers to employees' desires and improve working conditions. Most workers want the option of having EI programs. Congress should allow them.

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