

Restoring Secret Ballot Voting for Union Certification

Issue

The federal government has passed Bill C-4, legislation that restores the previous card check model for union certification for federally regulated work instead of a mandatory secret ballot vote. Moving back to card-based certification is a major step backwards in democratic processes and is inconsistent with almost every jurisdiction in Canada and the United States.

Background

In June 2015, Bill C-525 came into force. This legislation required secret ballot voting for any certification or decertification of unions. This applied to employees in federal undertakings or business, parliament, and the federal public service.¹ This legislation ensured that any union certification would happen through a fair and democratic process that allowed all employees to have a say free from intimidation. What is more, this legislation brought federal regulations into greater consistency with provincial regulations and those in the United States.

On January 28, 2016, the Honourable Maryann Mihychuk, Minister of Employment, Workforce Development and Labour introduced Bill C-4, *An Act to Amend the Canada Labour Code*.² This legislation received Royal Assent and became law on June 19, 2017. This legislation is a step backwards from the progress made through Bill C-525 by bringing a return to card-based union certification for federally regulated workers.

There are a number of concerns with moving away from secret ballot voting. In particular, secret ballot voting prevents unions from using pressure tactics or misinformation to secure the support of employees. Under card-based certification, employees may end up signing a card without being advised of the implications of that signature; for instance, the employee may believe that they will still have the right to vote against the union when in fact the signature constitutes their vote. Pressure tactics may also mean that even if employees were well-informed, they may still end up signing cards under duress contrary to their own wishes.

A secret ballot vote by contrast ensures that all employees have a right to a free vote on whether or not they unionize. Secret ballot voting safeguards employees from intimidation or pressure from union organizers and employers alike and helps ensure that their true opinion is represented. A secret ballot vote is also conducted in a neutral environment by the Labour Relations Board, which means the process is less vulnerable to abuse and fraud from union organizers.

In short, card-based certification shifts a careful balance of power unfairly in the favour of union organizers and is in the interests of neither employers nor employees. Card-based certification is vulnerable to abuse and forms of intimidation and undermines the ability of employees to express their true opinions in a legitimate and democratic form. Almost every other jurisdiction in Canada and the United States has recognized this and requires secret ballot voting. Since there is no evidence to suggest that secret ballot voting does not allow employees to express their wishes, and significant risk that card-based certification would do just that, the federal government should ensure that secret ballot voting is required for union certification among federally regulated workers.

Recommendation

That the federal government ensure transparency and fairness in the union certification process by requiring secret ballot voting for union certification by introducing legislation to repeal the provisions of Bill C-4 and restore the provisions of Bill C-525.

¹ Library of Parliament. Research Publications. *Legislative Summary of Bill C-4: An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act*. Accessed 4 April 2017.

² Ibid.