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Report says deck stacked against union organization

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BY **FRANCINE KNOWLES** Business Reporter

When Martin Unzueto got involved in an organizing campaign at a local printing company, he saw it as a way to improve conditions for workers. But his pro-union stance put him on an unexpected path.

"My hours were cut, and then I was fired," and workers voted against unionization, said Unzueto, who now works for the Chicago Workers Collaborative.

His story isn't unique, according to a new report. When Chicago area employers faced union organizing campaigns, 30 percent of them fired workers involved, nearly half threatened to close or relocate their business and 82 percent hired consultants to help them fend off unions, the new study found.

The report from the University of Illinois at Chicago's Center for Urban Economic Development is based on a survey of 62 organizing campaigns conducted in the Chicago metropolitan area during 2002. Researchers also reviewed data provided by Region 13 of the National Labor Relations Board on all campaigns by unions to represent previously unorganized workers and conducted case studies of 25 campaigns.

The report was commissioned by the nonprofit, pro-labor advocacy group American Rights at Work.

It found that in 91 percent of the campaigns surveyed, most workers supported unionization when elections petitions were filed. But unions won in only 31 percent of those campaigns.

The report concluded federal labor laws need to be revamped because they fail to protect workers rights to organize.

Employer representatives say organizing labor laws are designed to protect employers and workers, and they contend other factors influence election results.

The report found that when employers use a broad set of tactics -- legal or illegal -- they substantially increase the likelihood that the union will lose its majority support after representation petitions are filed.

The most effective illegal tactic employers engage in is promising to improve wages and offering bribes or special favors, the report found. The next is threatening to close or relocate all or parts of the business; 49 percent of employers used the tactic, the report found. That mirrors the 48 percent of employers found nationally to do so in a national study done five years ago. That report from Kate Bronfenbrenner of Cornell University found that half of all employers issued threats to close all or part of their operations, but just 3 percent actually followed through on the threats after workers voted in favor of union representation.

"Employer interference, like threats of plant closings and firings, have had a chilling effect on the ability of workers to organize unions in Chicago," said Nik Theodore, director of the UIC Center for Urban Economic Development and co-author of the report.

The report notes that union density in the private sector work force in the Chicago metropolitan area dropped from 19 percent in 1986 to just 12.9 percent by 2003.

"We're living in an open economy where I think people recognize the importance of flexibility and efficiency," said Jeremy Sherman, national chairman of labor and employment practices at Seyfarth Shaw, which counsels employers. "Oftentimes the industries that have been most densely organized by unions have been those that have been most vulnerable to competition in the worldwide economy we live in today."

Employees and unions can file unfair labor practice charges if they think employers have broken the law during union representation elections, said Jack Toner, former executive secretary of the National Labor Relations Board and an attorney with Seyfarth Shaw.

The report notes unions rarely file such charges. Unions filed unfair labor practice charges in 36 percent of the representation campaigns in the Chicago area that began in 2002. The number is small because it's difficult to provide sufficient evidence that employers have violated the law, and such charges often lead to a postponement of the election date, which works to the advantage of the employer, the report said.

Toner contended charges don't necessarily lead to a delay in elections. The charging party can also file a request to have the election proceed as planned even if a charge has been filed or hold off on filing charges and challenge the election results later, he said.

Theodore contends the law still falls short, even in cases where employers are required to hire back illegally fired workers.

"It doesn't really make whole the situation," he said. "It doesn't take into account the chilling effect of a threat or of a firing. That threat is a lot more pervasive than what the remedy can deal with."

The report was released as part of International Human Rights Day activities taking place here and internationally this week.



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WIDESPREAD USE OF FIRINGS, BRIBES, AND THREATS BY EMPLOYERS

New unionbusting data released by American Rights at Work

WASHINGTON, DC—In conjunction with International Human Rights Day, Saturday, December 10, workers' rights advocacy group American Rights at Work releases new data on extensive employer conduct designed to undermine union organizing efforts. **American Rights at Work Board Chair and former Democratic Whip David Bonior** will share findings at events this week in Indianapolis, Chicago, and Houston, organized by labor, human rights, and community activists who seek to draw attention to the crisis facing America's workforce.

Unionbusting Pervasive and Pernicious

Undermining the Right to Organize: Employer Behavior During Union Representation Campaigns demonstrates that a majority of employers aggressively use both legal and illegal anti-union tactics during union representation elections overseen by the National Labor Relations Board (NLRB). The report, conducted by the University of Illinois at Chicago's Center for Urban Economic Development (CUED) and commissioned by American Rights at Work, finds that:

- 30% of employers **fire pro-union workers**.
- 49% of employers **threaten to close a worksite** when workers try to form a union.
- 51% of employers coerce workers into opposing unions with **bribery or favoritism**.
- 82% of employers **hire unionbusting consultants** to fight organizing drives.
- 91% of employers force employees to attend **one-on-one anti-union meetings** with supervisors.

"Employer interference continues to be off the charts—with devastating consequences for workers," says **David Bonior**. In 91 percent of the cases surveyed for the report, a majority of workers indicated that they wanted a union before the representation election process began. In several instances workers demonstrated more than 80 percent support for a union. However, after workers were exposed to employer unionbusting activity, only 31 percent of these campaigns resulted in union-represented workers. "Our research clearly shows that firings, bribes, and threats are pervasive and that these actions greatly impede workers' ability to form unions," says

report co-author and **CUED Director Nik Theodore**.

Workers Rights Are Human Rights

"This report reveals that the NLRB election process actually serves to undermine the will of the majority," says David Bonior. "When we discover undemocratic, government-sanctioned abuses of power like this in other parts of the world, we call them human rights violations. The same should be said about hostile labor relations practices here at home."

Widespread unionbusting campaigns and ineffectual labor laws result in more than 23,000 workers who are fired or penalized each year in the United States for their support of a union. "The report contributes to a growing body of research exposing the violation of the right of America's workers to freely and fairly choose to form unions," says **American Rights at Work Executive Director Mary Beth Maxwell**.

Undermining the Right to Organize is based on a survey of 62 campaigns conducted in the Chicago metropolitan area during 2002. Additionally, researchers reviewed data provided by Region 13 of the NLRB on all campaigns by unions to represent previously unorganized workers, conducted case studies of 25 campaigns, and interviewed union organizers, workers, and NLRB representatives. The study confirms findings from the seminal national survey on employer anti-union behavior, *Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing* (2000) by **Kate Bronfenbrenner of Cornell University**.

"While focused on Chicago, this study has national significance," says Kate Bronfenbrenner. "It confirms that patterns of behavior previously reported in my research persist—or are even worse in many instances—when deeply explored at a local level."

A Call for Labor Law Reform

The ability of employers to manipulate the current union representation election process without reprisal has led workers to turn to alternative methods of forming unions such as card check. Under this process, employers recognize and agree to collectively bargain with the union when employees demonstrate that a majority desires to form a union by presenting signed authorization cards. "Successful employers and industry leaders like Cingular Wireless, Kaiser Permanente, and Harley-Davidson Motor Company have made a commitment to card check or neutrality agreements," notes David Bonior. "They prove that hostile, knee-jerk unionbusting is a choice, not a necessity."

"These findings should alarm Congress and motivate them to reform labor law," says David Bonior. "Enacting the Employee Free Choice Act is an important first step towards guaranteeing that workers can exercise their democratic right to form unions and successfully negotiate contracts with employers."

The bill would establish card check as a process for union recognition, a sorely needed alternative to the flawed election system. The legislation would also toughen penalties for employers who violate labor law, and would implement a mediation process so that employers and unions reach contracts within a reasonable period of time.

"The current state of workers' rights in America isn't acceptable," David Bonior concludes. "We've got to fix this broken system."

To download a copy of the full report or a fact sheet about the new findings, [click here](#).

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American Rights at Work is a nonprofit advocacy organization dedicated to educating the American public about the barriers that workers face when they attempt to exercise their rights to organize and engage in collective bargaining. Our mission is to fight for a nation where the freedom of workers to organize unions and bargain collectively with employers is restored, guaranteed and promoted.