



## **WHY WE NEED FIRST-CONTRACT ARBITRATION**

According to a new study by John Paul Ferguson at MIT:

- Forty-four percent of newly certified unions fail to get a first contract. So even when workers surmount all the obstacles and succeed in forming a union, employers often deny them the benefits of collective bargaining.

Those benefits are substantial. According to a path-breaking study by Cornell's Kate Bronfenbrenner, first contracts typically contain a wide array of economic and non-economic gains for workers, including:

- Grievance and arbitration provisions.
- Job-bidding rules.
- Seniority clauses.
- Anti-discrimination language.
- Anti-sexual harassment language.
- Health and safety protections and much, much more.

### **Why are so many newly formed unions unable to get first contracts?**

The current company-dominated system does little to punish employers that refuse to bargain in good faith. Even if a union proves an employer is bargaining in bad faith, the current remedies usually involve the National Labor Relations Board (NLRB) requiring the employer to resume bargaining and post a notice in the workplace stating it will not bargain in bad faith again.

Further, newly formed unions lose their presumption of majority status after one year without reaching a contract. This gives employers the incentive to delay the bargaining process for a year and force the demoralized workers to vote again, often resulting in the union's decertification.

### **First-contract arbitration is a key provision of the Employee Free Choice Act.**

Here is how it works:

- If a new union and an employer are bargaining for their first contract and are unable to reach an agreement within 90 days, either party may request mediation by the Federal Mediation and Conciliation Service (FMCS).
- After 30 days of mediation, if there is still no agreement, the dispute is referred to binding arbitration.

### **How will the Employee Free Choice Act help?**

By giving workers the right to request mediation and arbitration, the Employee Free Choice Act guarantees that every worker who forms a union will get a contract. Likewise, by granting workers the recourse of mediation and arbitration, the Employee Free Choice Act eliminates the incentive for employers to bargain in bad faith. Knowing that delaying the process indefinitely is no longer an option, employers are much more likely to bargain in good faith. The Employee Free Choice Act will dramatically reduce the delay, frustration and animosity associated with the current company-dominated system.