# ISSUE BRIEF

## Employer-Dominated Labor Organizations

**The Teamwork for Employees and Managers (TEAM) Act would allow employers to establish management-dominated committees to represent workers in setting wages, hours and other conditions of employment.** Congress must oppose the TEAM Act because it would deny workers the fundamental right to select their own independent collective bargaining representatives, because it would allow employers to revive the "company unions" of the 1920s and 1930s and because the National Labor Relations Act (NLRA) already allows for multiple forms of employee involvement.

In the 1920s and 1930s, large numbers of employers established management-dominated employee organizations—known as "company unions"—to thwart the efforts of workers to form their own independent unions. Congress outlawed company unions with passage of the NLRA in 1935. Section 7 of the NLRA guarantees workers the right "to bargain collectively through representatives of their own choosing." Section 8(a)(2) makes it an unfair labor practice for employers to "dominate, interfere with, or contribute financial support" to any employee organization that deals with employers regarding terms and conditions of employment, such as grievances, wages, hours and working conditions. The TEAM Act effectively would repeal Section 8(a)(2) by allowing employers to create and dominate employee organizations "to discuss matters of mutual interest," including terms and conditions of employment, so long as these organizations do not negotiate a contract with the employer.

**The TEAM Act would allow management domination.** Despite the rhetoric of its sponsors, the TEAM Act would go far beyond promoting teamwork. It would allow employers to create worker committees, handpick employee representatives, decide what issues worker representatives can consider, determine the outcome of committee deliberations and disband committees that failed to follow management dictates.

**The TEAM Act would allow revival of company unions.** The TEAM Act would allow employers to create employee organizations that do virtually everything company unions did in the 1920s and 1930s. The TEAM Act would not allow such organizations to enter into a written contract with the employer, but few company unions of the 1930s claimed such authority.

**The TEAM Act would deny workers' democratic rights.** The TEAM Act would deny workers a fundamental right guaranteed by Section 7 of the NLRA: the right "to bargain collectively through representatives of their own choosing." This right is essential to ensuring full freedom of association and self-organization, which is the central purpose of the NLRA.

**The TEAM Act would undermine collective bargaining.** The TEAM Act would allow employers whose workers already have democratically opted for union representation to bypass the union and deal directly with management-dominated organizations on collective bargaining issues. The employer not only could create and fund rival organizations but also treat the rival groups more favorably.

**The TEAM Act would defeat union organizing.** Historically, the purpose of management-dominated organizations has been to thwart workers' efforts to organize independent unions. Employers typically have tried to persuade workers that the management-dominated organization would deliver more benefits than an independent union. Even legitimate employee involvement programs are advertised in management publications as union avoidance tools.

**Few section 8(a)(2) cases are before the NLRB.** Relatively few cases before the National Labor Relations Board (NLRB) involve Section 8(a)(2). In almost all of these cases, however, the NLRB has found the employer committed other labor law violations—such as firing union supporters, conducting surveillance and threatening to lay off employees—in an effort to defeat union organizing. The best-known case involving Section 8(a)(2) is *Electromation v. NLRB,* 35 F.3d 1148 (7th Cir. 1994), in which the employer responded to worker discontent over new compensation and work rules by pitting management-dominated "Action Committees" against a union organizing campaign.

**The NLRA already allows legitimate employee involvement.** The NLRA already allows legitimate labor–management cooperation programs. The best proof is that tens of thousands of such programs are flourishing today. Under the NLRA, employers are free to communicate with employees regarding any issue of concern, to deal directly with employees regarding terms and conditions of employment, to use methods of production that rely on work teams and to unilaterally establish employee committees dealing with quality, efficiency and productivity. And in *Crown Cork & Seal Co.,* Case 16-CA-18316 (July 20, 2001), the NLRB found that joint management-worker teams performing managerial duties did not violate Section 8(a)(2). A leading proponent of the TEAM Act, the employer-funded Labor Policy Association, has announced that this legislation appears to be moot in light of the *Crown Cork* decision.

**Unions contribute to efficiency.** Real employee involvement is most effective when employees have the right to democratically elect their own representatives. Unions are at the forefront of forming cooperative partnerships to enhance efficiency, productivity and quality.