



February 4, 2021

The Honorable Bobby Scott, Chairman
House Committee on Education and Labor
2176 Rayburn House Office Building
Washington D.C. 20515

The Honorable Virginia Foxx, Ranking Member
House Committee on Education and Labor
2101 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Scott, Ranking Member Foxx, and Members of the Committee:

On behalf of Americans for Prosperity, I write to share our opposition to the “Protecting the Right to Organize Act” (PRO Act), a bill that would dramatically upend more than 70 years of established labor law and do irreparable harm to the American economy at a time we can least afford it.

AFP fully supports the ability of workers to choose with whom they associate and who speaks on their behalf. Unfortunately, the PRO Act would drastically undermine the rights and interests of workers, employers, and the public. Among our concerns, the PRO Act would:

- Invalidate Right to Work laws enacted in 27 states, which give private sector employees the same freedom as all public employees to choose whether or not they wish to be members of a union and pay fees out of their hard-earned paychecks.
- Restrict the ability of millions of people to work as independent contractors by instituting a California-style “ABC” test that also subjects reclassified workers to unionization. The vast majority of independent contractors prefer their existing arrangement to traditional employment, yet the PRO Act reduces workers’ ability to control their own schedules and provide services to a broader range of clients as they see fit.
- Infringe on the privacy of workers by requiring employers to provide extensive employee contact information to unions, including workers’ home addresses, personal phone numbers, and more. Labor union officials use this information to confront workers anywhere and everywhere, often in intimidating manners due to the leeway they are given in communicating with workers. The PRO Act could also deprive workers of the right to a secret ballot to vote on whether they wish to be represented by a union, subjecting them to further harassment and intimidation from union organizers.
- Massively expand the scope of economic injury that unions can impose by repealing the ban on secondary boycotts, subjecting neutral third parties to union harassment during organizing drives. Unions could picket, boycott, and more against any consumer, vendor, supplier, business partner, or other entity that does business with a company the union is attempting to organize.
- Enact a vague and confusing joint-employer standard that eliminates franchising and contractor-subcontractor arrangements as we know it, and even undermines relationships between businesses and vendors, all of which currently create important and accessible opportunities for entrepreneurship.
- Slant organizing efforts heavily in favor of unions at the expense of employee and employer rights by limiting legal communication; drastically shortening election timeframes to stifle discussion and education opportunities; and limiting the ability of employers to challenge concerning union practices while awarding unions organizing victories without proper elections under certain circumstances.
- Force labor negotiations to be settled through binding arbitration, which can lead to mandatory contracts that employers lack resources to meet and that can conflict with the interests of individual employees as well. Employees would not even be able to vote on the terms of these agreements that define their employment terms.

- Eliminate attorney-client privilege for a wide array of communication between employers and legal professionals that they rely on to be educated about representative elections. The PRO Act damages not only the ability of employers to be properly informed but also the ability of employers to communicate with and inform their own employees about workplace matters.

Instead of fostering an environment of cooperative relationships between employers, workers, and labor unions, the PRO Act would undermine the choice and dignity of individual workers while granting unequal privileges to labor unions. The PRO Act represents an unprecedented assault on the American economy, particularly troubling in the midst of a pandemic when tens of thousands of small businesses have already been shuttered, millions more are struggling to keep their doors open, and workers are in desperate need of greater flexibility and opportunity to pursue work that allows them to juggle multiple priorities.

We ask Members of the Committee to oppose the PRO Act and instead focus on policies that expand worker freedom and eliminate barriers to opportunity during these challenging times.

Sincerely,

A handwritten signature in black ink that reads "Brent Gardner". The signature is written in a cursive, flowing style.

Brent Gardner
Chief Government Affairs Officer, Americans for Prosperity