

PROTECTING THE RIGHT TO ORGANIZE ACT

FACT SHEET

Protecting the Right to Organize (PRO) Act (H.R. 842)

A strong middle class is essential to a strong economy. While corporations and the wealthy continue to build their fortunes, working families and middle-class Americans are being left behind. The COVID-19 pandemic is highlighting the shameful inequality in our society. During the first seven months of the pandemic, while workers suffered record-high unemployment, America's 614 billionaires grew their wealth by a combined \$931 billion.

The erosion of America's middle-class is a direct result of decades-long assault on workers' rights, funded by wealthy special interests. From 1979 to 2019, relentless attacks on workers' rights cut union membership by more than half. During the same time, average incomes for the bottom 90 percent of households increased just 1.1 percent, while average incomes for the wealthiest 1 percent [increased more than 184 percent](#).

Protecting workers' right to organize a union is critical to rebuilding America's middle class and improving the lives of workers and their families. When workers exercise their right to organize a union, they have higher wages, better benefits, and safer working conditions. The *PRO Act* restores fairness to the economy by strengthening the federal laws that protect workers' right to join a union.

The Protecting the Right to Organize Act protects the basic right to join a union by:

- (1) Empowering workers to exercise their right to organize
- (2) Holding employers accountable for violating workers' rights
- (3) Securing free, fair, and safe union elections

Empowers Workers to Exercise their Right to Organize

After a decades-long assault on workers' rights, funded by corporations and special interests, it is clear that workers need stronger protections under the National Labor Relations Act (NLRA), so they can exercise their basic right to stand together and organize a union. In response, the PRO Act:

- **Streamlines access to justice for workers who suffer retaliation for exercising their rights.** Workers who suffer retaliation for participating in organizing activity are forced to wait months or even years before their case gets resolved. The *PRO Act* ensures that employees will be able to immediately seek an injunction to be reinstated while their case is pending. It also gives the NLRB the power to enforce its own rulings, like other federal agencies, instead of waiting for enforcement from the Court of Appeals long after the NLRB issues a decision.
- **Gives workers the power to override so-called "right-to-work" laws that prevent unions from collecting dues from the workers they represent.** "Right-to-work" laws advanced by anti-union politicians are design to strip workers of the power and resources to defend themselves against wealthy special interests. The *PRO Act* allows employers and unions to enter into a contract that allows unions to collect dues from the workers they represent.
- **Enhances workers' right to support boycotts, strikes, or other acts of solidarity.** The bill protects workers' First Amendment rights by removing prohibitions on workers acting in solidarity with workers at other companies. Also,

the bill safeguards the right to strike by clarifying that “intermittent” strikes do not lose their legal protection, and by prohibiting companies from permanently replacing workers who participate in a strike.

- **Authorizes a private right of action for violations of workers’ rights.** The bill allows workers to seek justice in court when employers unlawfully interfere with their rights or retaliate against them for exercising their rights, if the NLRB’s General Counsel fails to prosecute their case. Under current law, workers have no recourse if the NLRB’s General Counsel fails to take their case.

Holds Employers Accountable for Violating Workers’ Rights

Under NLRA, the federal law that protects workers’ right to join together and negotiate with their employers, there are no monetary penalties for companies that violate workers’ rights no matter how repeated or egregious the violation. In addition, employers are constantly exploring new ways to prevent their workers from organizing. In response, the PRO Act:

- **Authorizes meaningful penalties for companies and executives that violate workers’ rights.** The bill authorizes the National Labor Relations Board (NLRB) to assess monetary penalties for each violation in which a worker is wrongfully terminated or suffers serious economic harm. The bill also permits the Board to impose personal liability on corporate directors and officers who participate in violations of workers’ rights or have knowledge of and fail to prevent such violations.
- **Closes loopholes that corporations use to erode workers’ rights.** The bill prevents employers from misclassifying their employees and prevents workers from being exploited due to their immigration status. It also sets a “joint employer” standard that ensures corporations cannot use subcontractors to shield them from negotiating with workers whose working conditions they control.
- **Prevents companies from denying workers’ access to justice** by overturning the Supreme Court’s radical assault on workers’ rights in *Epic Systems v. Lewis*. The bill will clarify that employers may not force employees to waive their right to engage in collective or class-action litigation.
- **Requires employers to be transparent with their workers.** The bill requires employers to post notices that inform workers of their rights under the NLRA, and to disclose contracts with consultants hired by employers to persuade employees on how to exercise their rights.

Secures Free, Fair, and Safe Union Elections

Workers seeking to form a union are forced endure a process that is rigged against them from start to finish. Many workers do not have a real opportunity to decide for themselves whether to organize a union. In response, the PRO Act:

- **Prevents employers from interfering in union elections.** The bill prohibits employers from requiring workers to attend captive audience meetings, in which workers are forced to listen to anti-union propaganda or else face termination. If a violation takes place or the employer otherwise interferes with a free and fair union representation election where the union initially had majority support, the NLRB will be empowered to issue an order that requires the employer to bargain with the union. The bill also prevents employers from interfering in union representation cases, which exist to determine workers’ free choice, not corporations’ preference about how their employees should exercise protected rights.
- **Allows workers to hold union elections in a safe environment.** The bill permits employees to vote away from their employers’ premises, in a neutral, non-coercive environment of their choosing, including using mail or electronic ballots. This is an important alternative means of voting during the COVID-19 pandemic to protect workers’ safety.
- **Facilitates initial collective bargaining agreements.** Even when workers succeed in forming a union, employers can drag out negotiations on a first contract for years. In fact, nearly half of newly formed unions fail to ever reach a

contract with the employer within a year. The bill facilitates timely first contracts between companies and newly certified unions by requiring mediation and arbitration to settle disputes.