



INFO REPORT ON THE PROTECTING THE RIGHT TO ORGANIZE (PRO) ACT

The SPRING Group

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Prepared for:

Authors:

Varun Mukund, SPRING

Ali Naseem, SPRING

Correspondence:

varun@thespringgroup.org

1. Decline of Worker Power

1.1 Union Membership Decline

Union membership in the United States has steadily declined since its peak in the mid-20th century. In the private sector, union membership among workers fell from 10.1% in 2022 and remained low in 2024 at 6.7%, a major decline compared to approximately 33% membership in 1950.¹ Today, public-sector unions are much more common. For example, union membership rates are highest among police officers/firefighters (34.6%) and teachers (33.7%). On the other hand, workers in sales (3.0%), computer and mathematical occupations (3.3%), and food preparation/servicing (3.6%) experience the lowest membership rates.² According to the U.S. Bureau of Labor Statistics (BLS), in 2022, 69.6% of employees in the U.S. worked in the private sector, while only 13.4% worked in the public sector.³ Since most employees now work in the private sector, where there are more hiring opportunities, unionization rates have declined compared to the past. Additionally, workers in the private sector have always had difficulty unionizing due to various factors including discrimination against unionized workers and poor labor laws.

1.2 Worker Misclassification

The rise of the gig economy, a labor market characterized by short-term contracts or freelance work, has led to a significant increase in the misclassification of workers as independent contractors. This process deprives employees of crucial labor protections and benefits afforded to employees, including minimum wage, overtime pay, workers' compensation, and the right to organize and collectively bargain. The desire of platform companies to save costs, particularly in app-based industries like ride-sharing and delivery services, has created a substantial gap in workers' rights and protections.⁴ However, worker misclassification is common across all sectors. For example, about 2.1 million U.S. construction workers are illegally misclassified and not given access to worker rights, despite the construction industry predating the gig economy.⁵ Without access to key worker rights, employees across the country are left in a vulnerable position. Many often lack benefits like health insurance and paid leave, leading to greater income instability and precarious working conditions.⁶

¹ [U.S. Bureau of Labor Statistics, 2023](#)

² [Katz, 2023](#)

³ [U.S. Bureau of Labor Statistics, 2023](#)

⁴ [Sherer and Poydock, 2023](#)

⁵ [Gutierrez et al., 2023](#)

⁶ [Zipperer et al., 2022](#)

1.3 Wage Stagnation & Inequality

The decline in union strength has coincided with wage stagnation and growing income inequality, particularly affecting young and low-wage workers. Unions help improve wages and benefits for all workers, even those not associated with a union. For example, the National Nurses United union advocated for better protective equipment and pay during COVID-19. Their work ultimately led to improvements in hospitals and helped protect all nurses during the outbreak.⁷ Additionally, as union membership has declined over the past decades, worker bargaining power has also weakened, leading to slower wage growth. Unions can also reduce racial disparities in the workforce and raise women's wages, helping to counteract disparate labor market practices that stem from segregation, discrimination, and other inequities.⁸

2. Similar Legislation

2.1 National Labor Relations Act (NLRA) (1935)

The National Labor Relations Act (NLRA), also known as the Wagner Act, was passed in 1935 during the New Deal era. It is considered the foundational U.S. labor law that protects workers' rights to organize, join unions, bargain collectively, and engage in collective action.⁹ However, there remain widespread limitations regarding the act. For example, it does not cover gig workers, farmworkers, independent contractors, or public-sector employees, making the need for stronger protections necessary. The law's enforcement mechanisms are considered relatively weak. This makes it easy for companies to exploit their workers and deny them basic employee rights. Furthermore, the bill's effectiveness was further undermined by later legislation, such as the Taft-Hartley Act (1947), which restricted union power. Overall, the act is outdated and leaves too many holes for corporations to limit workers' rights.¹⁰

2.2 Employee Free Choice Act (EFCA) (2007)

The Employee Free Choice Act (EFCA) was a major pro-labor bill introduced in 2007 and 2009 by Representative George Miller (D-CA) and Senator Edward Kennedy (D-MA). The act was designed to make it easier for workers to form unions and secure first contracts by reforming parts of the NLRA. The bill aimed to make it easier for a union to be recognized, limiting first-contract arbitration, and increasing penalties on employers for

⁷ [National Nurses United, ND](#)

⁸ [Economic Policy Institute, 2021](#)

⁹ [National Labor Relations Board, ND](#)

¹⁰ [Kamelhar, 2020](#)

discriminating against pro-union workers. However, despite strong support from organized labor, especially the AFL-CIO and SEIU, as well as support from former President Barack Obama, the bill failed to pass the Senate both times due to a lack of bipartisan support.¹¹ Critics of the legislation argued that it would give too much power to unions and restrict employer speech and rights, as well as spike labor costs, reduce competitiveness, and cause job losses.¹²

2.3 California AB 5 (2019)

California Assembly Bill 5 (AB 5) is a state law authored by Assemblywoman Lorena Gonzalez (D-San Diego) which passed in 2019. The bill significantly redefined how workers are classified as either employees or independent contractors. It aimed to extend labor protections and benefits to gig and freelance workers by applying a strict “ABC test” for worker classification. Under AB 5, a worker is presumed to be an employee unless an employer can prove all three parts of the ABC test: the worker is free from the control and direction of the employer, the worker performs work outside the usual course of the employer’s business, and the worker is engaged in an independently established trade, occupation, or business. This law made it much harder for companies such as Uber, Lyft, and DoorDash to classify workers as independent contractors. California now allows employees of these companies to receive benefits like health insurance, minimum wage, overtime pay, and unemployment insurance.¹³ However, critics claim the bill destroys flexible work arrangements, causes mass job loss, and is too broad to be applied across all industries.¹⁴

3. The Bill Proper

3.1 History

After countless calls for change from labor unions, progressive groups, and worker advocates, Representative Bobby Scott (D-VA) and Senator Patty Murray (D-WA) introduced the Protect the Right to Organize (PRO) Act in Congress in May 2019. The bill aimed to strengthen the rights of workers to organize, bargain collectively, and engage with employers to improve their wages, benefits, and working conditions. Despite objections and opposition from Republicans, the PRO Act passed the House of Representatives in February 2020 by a vote of 224-194. Despite this, the bill did not advance to the Senate as Republicans held the majority and blocked it from advancing. However, following the 2020 election, the Senate was controlled by the Democrats. In

¹¹ [The Union for Everyone, ND](#)

¹² [Epstein, 2009](#)

¹³ [California, 2019](#)

¹⁴ [Coleman, 2020](#)

March 2021, the PRO Act was reintroduced in both the House and Senate with additional provisions to protect workers' rights. The bill passed the House again in March 2021 with a 225-206 vote but stalled in the Senate due to the filibuster and lack of 60-vote support, despite strong endorsement from former President Joe Biden.¹⁵ Now, the bill has once again been introduced in the House and Senate by Representative Bobby Scott (D-VA) and Senator Bernie Sanders (I-VT) in March 2025. The most recent version of the PRO Act updates earlier drafts and aims to address union-busting, gig worker misclassification, and weak penalties under current law.¹⁶

3.2 Key Features

The newly refined PRO Act (H.R. 20 / S. 852) aims to strengthen labor rights and modernize the National Labor Relations Act (NLRA). The bill would protect the right of workers to organize, require employers to negotiate with new unions promptly, override state right-to-work laws, expand the ABC test nationwide, and impose stronger penalties for labor violations. Whereas under the NLRA, current penalties are minimal and rarely enforced, the PRO Act states that employers can face fines up to \$50,000 per violation, or \$100,000 for repeated or willful offenses. This covers violations such as firing union organizations, surveillance, threats, or refusing to bargain.¹⁷ Additionally, corporate officers and directors can be held personally liable for labor law violations. This makes accountability more direct and discourages companies from hiding behind corporate practices.¹⁸ Overall, the bill is designed to close legal loopholes, modernize union protections under the gig economy, and shift power back to workers by addressing the outdated labor laws that protect corporations.

3.3 Objections

Although opponents of the law generally agree that the U.S. labor system needs reform, many believe that the PRO Act goes too far. They claim that the bill risks economic disruption, legal overreach, and reduced flexibility for workers and businesses. Firstly, many small business owners fear that the mandatory arbitration and stiff penalties imposed in the bill could make compliance legally complex and financially risky. For businesses across America, a one-size-fits-all model may be impossible to meet in sectors with tight margins like retail or restaurants.¹⁹ Additionally, the ABC test would reclassify many gig workers, such as Uber drivers, photographers, and food delivery drivers, as employees. Classifying these workers as employees could prevent them

¹⁵ [Jobs with Justice. 2023](#)

¹⁶ [Smart. 2025](#)

¹⁷ [Scott. 2025](#)

¹⁸ [AFSCME. 2025](#)

¹⁹ [Education & Workforce. 2025](#)

from working in their own time and may subject them to unwanted obligations associated with their employer. Additionally, it will put a higher burden on companies such as Uber and Doordash to provide extra benefits for their newfound employees, leading to higher costs. This change could remove worker flexibility, raise operating costs, and eliminate opportunities for workers who prefer independent work.²⁰ Even though the PRO Act has good intent, it is important to consider the potential harm the bill could have on workers and businesses alike.

4. Recommendations & Next Steps

Although the PRO Act provides an aggressive solution to strengthen workers' rights, the potential harms associated with employer rights and economic decline need to be addressed. Firstly, the bill assumes a one-size-fits-all framework that falls short considering the various industries across the private sector. Perhaps targeted provisions for sectors like sales and food services could boost unionization without disrupting already unionized industries, such as education and law enforcement. This way, the rights of workers can be protected most effectively in sectors where they are most at risk. Next, the bill has also faced backlash for having major economic consequences for small businesses. Lawmakers can adjust the PRO Act to protect businesses with a small employee base from these provisions. Additionally, the PRO Act should adjust the fines imposed for violations. Instead of starting at \$50,000 for any offense, the PRO Act could significantly reduce the fine to \$5,000 and have it increase considerably as more violations occur. Although a company may be able to take the \$5,000 fine, its expenses will eventually grow proportional to the company's income and ultimately reduce the violations from an employer. This also ensures that small businesses will not be overly punished for a single violation while also incentivizing them not to repeatedly disobey the bill. Finally, the PRO Act can implement an employee choice regarding the ABC test to ensure that their desires are met. For example, if a worker wishes to remain an independent contractor instead of an employee, they can remain in that position without being given the benefits of an employee such as healthcare and minimum wage. Through this recommendation, workers can choose to maintain their work flexibility, or receive extra benefits if they meet the employer's criteria. The PRO Act is necessary to increase union membership and reduce worker misclassification, and with the right amendments, it can help create a labor force where the rights of both workers and employers are respected and balanced.

²⁰ [Hindley and Bowling, 2025](#)