

July 22, 2021

Dear Chair Murray and Ranking Member Burr:

The Coalition for a Democratic Workplace (CDW), a broad-based coalition of hundreds of organizations representing hundreds of thousands of employers and millions of employees in various industries across the country, and the undersigned organizations write in opposition to the Protecting the Right to Organize (PRO) Act, S. 420.

This radical legislation would violate workers' free choice and privacy rights, jeopardize industrial stability, cost millions of American jobs, threaten vital supply chains, and greatly hinder our economic recovery from COVID-19. The PRO Act includes dozens of provisions that would boost union membership and dues revenue streams at the expense of the rights of workers, employers, and consumers alike. Forbes Tate Partners (FTP) conducted a survey of over 1,000 registered voters and found that respondents overwhelmingly were concerned with the various policies of the bill, some of which are explained below.¹

The PRO Act would infringe on worker privacy and freedom of choice. The bill requires employers to give union organizers employees' personal information without prior approval from the employees themselves. This includes home addresses, phone numbers, email addresses, work shifts and locations, and job classifications. Employees couldn't opt out of this requirement or choose which information is shared, exposing them to potential harassment, intimidation tactics, stalking, and online bullying. FTP's survey found that 75% of respondents were concerned with this policy.

The PRO Act would also destabilize US industrial operations and the economy and threaten supply chains by reversing current bans on intermittent strikes and secondary boycotts. Under the PRO Act, unions would be able to conduct a series of short intermittent strikes to disrupt business operations if an employer doesn't concede to their demands, potentially disrupting the economy and critical supply chains, including those fundamental to our COVID-19 response. One of the fundamental goals of the National Labor Relations Act is to help ensure industrial peace. Intermittent strikes, however, would leave unionized and nonunionized employers alike in constant fear of work stoppages – further threatening the already fragile stability of our economy.

The PRO Act would also rescind all restrictions against "secondary boycotts," or activity used by unions to impose economic injury on neutral third parties, including consumers, companies, or other unions, that do business with a company involved in a labor dispute with the union. These activities were banned in the 1940s and 1950s after unions engaged in excessive and abusive tactics. Allowing secondary boycotts will once again expose all consumers, unions, and businesses to coercion, picketing, boycotts, and similar tactics.

¹ Survey results can be viewed at http://myprivateballot.com/wp-content/uploads/2021/06/PRO_Act-National-Survey-Summary-6.28.21.pdf.



Additionally, the bill drastically shortens the timeframe between union organizers petitioning for a union representation election and the holding of that election, ensuring employees do not have adequate time to hear both sides of the debate over whether union representation is right for them. The PRO Act would greatly expand the National Labor Relations Board's power to force union representation on employers and employees without an election, depriving workers of their right to a vote.

The PRO Act would also eliminate right-to-work protections across the country, including in the twenty-seven states whose populations and representatives voted for and implemented such laws. Right-to-work laws allow workers to choose not to pay union dues to a labor organization whose policies and advocacy efforts do not align with their own beliefs. These laws ensure workers can continue to work without being forced to join a union. According to the FTP survey, 57% of registered voters believe workers should not be forced to join a union as a condition of employment, while 67% were concerned with the bill's efforts to eliminate right-to-work protections and force workers to choose between paying union dues or losing their jobs.

Furthermore, the PRO Act would impose nationwide California's recently adopted and failed "ABC test" to determine whether a worker is an employee or independent contractor. The ABC test makes it very difficult to qualify as an independent contractor, so nationwide application would result in many workers losing their independent contractor status. This is at odds with what independent contractors actually want. Time and again, these workers explain that they choose independent work for the flexibility and autonomy it offers. Additionally, the ABC test will force businesses that contract with such workers to no longer use them for various services out of fear of the liability such contracts could trigger. This would threaten small businesses that rely on those contracts. This policy was concerning to 70% of FTP's survey respondents.

Finally, the PRO Act would codify into law the NLRB's controversial 2015 *Browning-Ferris Industries (BFI)* decision that expanded and muddled the standard for determining when two separate entities are "joint-employers" under federal labor law. Joint-employers are mutually responsible for labor violations committed against the jointly employed workers as well as bargaining obligations with respect to those workers, so the liability associated with joint-employer status is immense. The *BFI* decision overturned decades of established labor law and undermined nearly every contractual relationship, from the franchise model to those between contractors and subcontractors and suppliers and vendors. The *BFI* standard also hampered businesses' efforts to encourage "corporate responsibility" throughout their supply chains and business partners. In FTP's survey, 65% of voters were concerned about the bill upending the franchise business model, a business ownership structure that attracts first time small business owners from a diverse range of backgrounds and experiences.

These are only a few of the dangerous policies included in the PRO Act. CDW and the undersigned organizations urge the committee to reject this radical legislation and protect the rights of America's workers, small businesses, and consumers.



COALITION FOR A DEMOCRATIC WORKPLACE

Sincerely,

The Coalition for a Democratic Workplace

American Bakers Association

American Foundry Society

American Home Furnishings Alliance

American Hotel & Lodging Association

American Mold Builders Association

American Pipeline Contractors Association

American Rental Association

American Society of Employers

American Staffing Association

Americans for Tax Reform

Arkansas State Chamber of Commerce

Associate Industries of Arkansas, Inc.

Associated Equipment Distributors

Associated Builders and Contractors

Brick Industry Association

CAWA - Representing the Automotive Parts Industry

Center for the Defense of Free Enterprise

Coalition of Franchisee Associations

Consumer Technology Association

FMI - The Food Industry Association

Franchise Business Services

Global Cold Chain Alliance

HR Policy Association

IAAPA, the Global Association for the Attractions Industry

Independent Electrical Contractors

Industrial Fasteners Institute

Interlocking Concrete Pavement Institute

International Foodservice Distributors Association

International Franchise Association

International Warehouse Logistics Association

Leading Builders of America

Littler Workplace Policy Institute

National Apartment Association

National Association of Chemical Distributors

National Association of Home Builders

National Association of Manufacturers

National Association of Mutual Insurance Companies

National Association of Wholesaler-Distributors

National Club Association

National Council of Chain Restaurants



COALITION FOR A DEMOCRATIC WORKPLACE

National Federation of Independent Business

National Franchisee Association

National Grocers Association

National Lumber & Building Material Dealers Association

National Multifamily Housing Council

National Ready Mixed Concrete Association

National Restaurant Association

National Retail Federation

National Roofing Contractors Association

National Small Business Association

National Stone, Sand & Gravel Association

National Tooling and Machining Association

National Utility Contractors Association

New Jersey Motor Truck Association

North American Die Casting Association

Ohio Hotel & Lodging Association

Open Competition Center

Plastics Industry Association

Power & Communication Contractors Association

Precision Machined Products Association

Precision Metalforming Association

PRINTING United Alliance

Promotional Products Association International

SNAC International

The Coalition for a Democratic Workplace

Truck Renting and Leasing Association

US Chamber of Commerce

Western Electrical Contractors Association

Western Growers

cc: Members of the Senate HELP Committee