



# INTERNATIONAL FEDERATION OF PROFESSIONAL & TECHNICAL ENGINEERS AFL-CIO & CLC

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## 2024 IFPTE Issue Brief

118<sup>th</sup> Congress

### Labor Law Reform Needed Now More Than Ever

**IFPTE 2024 Legislative Request:** Cosponsor and pass the Richard Trumka Protecting the Right to Organize Act the Public Service Freedom to Negotiate Act, the No Tax Breaks for Union Busting Act, and the Tax Fairness for Workers Act.

**Richard Trumka Protecting the Right to Organize Act (PRO Act, H.R. 20, S. 567) Overview** – Private sector labor law reform is needed to restore the original intent of the National Labor Relations Act of 1935 (NLRA). Passing the PRO Act, sponsored by House Education and Workforce Committee Ranking Member Bobby Scott and Senate Health, Education, Labor, and Pension Committee Chair Bernie Sanders, will modernize the NLRA, restore union rights for workers, ensure Americans have a fair opportunity to have a voice at work and give working people the ability to organize and negotiate for fair and equitable wages and working conditions.

**Wages, Obstacles to Organizing, and Economic Benefits of Unions** – Modernizing our private sector labor laws through the PRO Act is essential to U.S. economic prosperity and maintaining the middle class because of the relationship between unions and worker wages. From 1979 to 2022, U.S. economic productivity increased by almost 64.7% while hourly compensation increased by 14.8% after adjusting for inflation. This sharp divergence between productivity increases and wage increases comes after 30 years, from 1948 to 1979, of wages increasing in lockstep with productivity. The Economic Policy Institute (EPI) notes, “The erosion of collective bargaining has been a major factor that has depressed wage growth in the middle and drove the growth of wage inequality over the last four decades.”<sup>1</sup>

Over the last three years, Gallup polls show over two-thirds of Americans approve of labor unions, the highest it has been since 1965.<sup>2</sup> A 2017 survey of nonunion workers showed that 48% would vote to form a union immediately if they could. Yet, the unionization rate in the private sector fell to 7% and the overall unionization rate fell to 11.6%. A 2022 EPI report noted that “private-sector employers spend nearly \$340 million per year hiring union avoidance advisers to help them prevent employees from organizing,” and that “Employers are charged with violating federal law in 41.5% of all union election campaigns and one out of five union election campaigns involve a charge that a worker was illegally fired for union activity.” Denying workers their union rights also hurts local economies by denying the economic prosperity that comes with high unionization rates, including “higher state and local minimum wages, better health benefits, easier access to unemployment insurance, access to paid sick leave, access to paid family and medical leave, and unrestricted voting opportunities.”<sup>3</sup>

**Repairing A Broken NLRB Election Process** – The current National Labor Relations Board (NLRB) election process allows employers a variety of delaying tactics, which creates more opportunity for workers to be exposed to employers’ illegal anti-union activities, and more time for employers’ anti-union campaigns to frustrate and discourage workers from organizing. The lawmakers involved in the passage of the NLRA understood that the NLRB election process gives employers “a means of sabotaging the bargaining process through retaliatory tactics.” The PRO Act is necessary to complete the work that the NLRA began – giving workers a fair process for forming a union and exercising their collective bargaining rights under the law.<sup>4</sup>

<sup>1</sup> “[The Productivity-Pay Gap](#),” EPI, Aug 2021; “[Identifying the Policy Levers Generating Wage Suppression and Wage Inequality](#),” EPI, May 13, 2021.

<sup>2</sup> “[More in U.S. See Unions Strengthening and Want It That Way](#),” Gallup, Aug 30, 2023.

<sup>3</sup> “[Latest Data Release on Unionization is a Wake-Up Call to Lawmakers](#),” EPI, Jan 20, 2022.

<sup>4</sup> “[New Data: NLRB Process Fails to Ensure A Fair Vote](#),” UC Berkley Labor Center, June 29, 2011.

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The PRO Act’s comprehensive approach to labor law reform includes numerous remedies, some of which include:

- Streamlining and modernizing the election procedures by requiring union elections, pre-election hearings, notices of elections, and workplace election postings all occur within a short and reasonable timeframe.
- Giving the NLRB authority to award back pay, front pay, and additional damages to workers who have been fired or suffered economic harm by an employer’s unfair labor practice (ULP).
- Requiring the NLRB to seek temporary injunctive relief for ULPs involving a firing/discharge or significant interference with workers’ rights under the NLRA.
- Allowing union certification by authorization card in instances where illegal employer interference in the election causes the union to lose.
- Closing loopholes that allow employers to misclassify employees as supervisors.
- Prohibiting captive audience meetings and reinstating the requirement that employers and anti-union consultants file public disclosure documents and provide transparency for anti-union persuasion activities.
- Establishing a process for mediation and arbitration for the first contact so the freedom to negotiate a union contract is not delayed due to employers’ intentional delays.
- Requiring union represented workers who opt out of union membership to pay “fair share” representation fees.

**The Public Service Freedom to Negotiate Act (PSFNA) Overview** – This bipartisan legislation (H.R. 5727 in 117<sup>th</sup> Congress) was sponsored by Reps. Matt Cartwright (D-PA) and Brian Fitzpatrick (R-PA) creates a standard for union rights for state, county, and local government employees. As a remedy to the misguided 5-4 Supreme Court *Janus vs. AFSCME Council 31* decision in 2018, an ideologically fueled ruling that upended 40 years of legal precedent, this legislation reaffirms that the “public good” of collective bargaining extends to public sector employees.

**A Nationwide Federal Standard for Public Sector Collective Bargaining Rights** – Currently, no federal law protects the rights of state, county, and municipal government workers to belong to a union and collectively bargain. The PSFNA seeks to change this. Should a state government refuse to guarantee union and collective bargaining rights or frustrate the ability of workers to form or belong to a union, this legislation empowers the federal government to support public sector workers by enabling the Federal Labor Relations Authority (FLRA) to intervene and determine if public sector employers infringed on the rights of their employees. The bill includes provisions for:

- Allowing for union dues deduction for members of a collective bargaining unit.
- Overturning the “free rider” *Janus* decision and allowing workers in a collective bargaining unit to enjoy the benefits negotiated by the union without paying union dues.
- Giving workers the right to organize and join unions in public sector workplaces, and collectively bargain over wages, benefits, and working conditions.
- Ensuring employer recognition of the union following a bargaining unit vote in favor of union representation.
- Establishing an impartial process for resolving impasses between the union and the employer.
- Providing for strong enforcement mechanisms by allowing for a private right of action to force compliance in the federal courts absent the FLRA filing suit.
- Preventing mandated and/or employer-forced recertification elections.

**No Tax Breaks for Union Busting Act (NTBUB)** – The legislation, sponsored by Sen. Bob Casey (D-PA) and Rep. Donald Norcross (D-NJ) (S. 737, H.R. 5456), would classify employer interference in organizing campaigns as political speech under U.S. tax law and requiring any union busting expenditures to be reported to the IRS. Under NTBUB, unlawful employer tactics ranging from captive audience meetings to supposedly lawful tactics like sophisticated anti-union public relations efforts could no longer be tax-deductible business expenditures.

**Tax Fairness for Workers Act** – The 2017 Tax Cuts and Jobs Act eliminated the federal income tax deduction for union dues as well as the tax deduction for unreimbursed business expenses. The bipartisan Tax Fairness for Workers Act, sponsored by Sen. Bob Casey and Rep. Brendan Boyle (D-PA) (S. 738, HR. 4963), will reinstate both those tax provisions and allow union members and workers to take an above-the-line tax deduction by subtracting union dues and expenses such as job search expenses and costs for tools and uniforms from their gross income. Restoring these taxes is only fair as it aligns the tax code with the recognition that unions are in the public interest and union membership provides broad economic benefits by raising wages and benefits, improving working conditions, and decreasing income inequality.