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2020 IFPTE Issue Brief

116th Congress

Labor Law Reform Needed Now More Than Ever

IFPTE 2020 Legislative Request: Urge Congress to pass The Protect the Right to Organize (PRO) Act (H.R. 2474, S. 1306), and the Public Service Freedom to Negotiate Act (H.R. 3463, S. 1970).

Overview – The PRO Act:

The PRO Act is needed to level the playing field between private sector workers who want to form unions, versus wealthy employers who all too often manipulate the current law to frustrate union organizing drives. Even though unionization is the answer to stagnant and, in some cases declining worker salaries in this era of steep worker productivity, much-needed labor law reform to level the playing field for workers has not been enacted into law.

According to a 2018 Economic Policy Institute (EPI) briefing paper, [The Productivity-Pay Gap](#), “From 1973 to 2017, net productivity rose 77.0 percent, while the hourly pay of typical workers essentially stagnated—increasing only 12.4 percent over 44 years [after adjusting for inflation]” (see EPI chart on reverse side of this paper). In citing reasons for the sustained wage stagnation, EPI pointed to their [First Day Fairness Agenda](#) to restore fairness for workers, arguing that while, “There are many factors contributing to this economic inequality; however, the common thread that binds almost all of them is the erosion of the bargaining power of low- and middle-wage workers.” So, by bringing equity to our private sector labor laws we will not only be leveling the playing field for workers who want to pursue collective bargaining, we will also be rebuilding our middle class by increasing worker wages.

Increased worker salaries due to collective bargaining are borne out in 2019 US Bureau of Labor Statistics (BLS) data comparing union represented worker salaries to non-union represented workers. The data shows that, “Nonunion workers had median weekly earnings that were 81 percent of earnings for workers who were union members (\$892 versus \$1,095)”, representing roughly \$10,556 more annually for union represented workers.

A Broken NLRB Election Process:

IFPTE believes that without enactment of The PRO Act, worker wages, benefits and working conditions will continue to suffer. Congress should support American workers by providing an alternative to the broken NLRB election process by which private sector employers would have an obligation to respect the demonstrable free will of a majority of its employees through first contract arbitration and stiff penalties against employers who intimidate and illegally interfere with workers during organizing drives. This change in process would short circuit the undue delay working men and women face in fulfilling their wish, and federal statutory right, to form a union, and protect such individuals from the all too common unlawful tactics utilized by employers before and after an NLRB scheduled election. The PRO Act will accomplish this and IFPTE urges Congress to pass it.

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Overview – The Public Service Freedom to Negotiate Act (H.R. 3463, S. 1970)

This much-needed legislation, which is authored in the Senate by Hawaii Senator, Mazie Hirono and in the House by Pennsylvania Congressman, Matt Cartwright, is in response to the misguided 5-4 Supreme Court *Janus vs. AFSCME Council 31* decision in 2018. This ruling, which upended 40 years of legal precedent, prevents public sector unions from collecting representational fees from all represented members in a collective bargaining unit.

Currently, there is no federal law that protects the rights of state, county, and municipal government workers to belong to a union and collectively bargaining. HR 3463 and S 1970 seeks to change this. Specifically, should a State government refuse to guarantee union and collective bargaining rights, or frustrate the ability of workers to form and belong to a union, this legislation empowers the federal government to step in on behalf of workers by enabling the Federal Labor Relations Authority (FLRA) to intervene and determine if public sector employers infringed on the rights of their employees. Specifically, the bill will:

- Allow for union dues deduction for members of a collective bargaining unit;
- Overturn the current ‘free rider’ Janus decision allowing workers in a collective bargaining unit to enjoy the benefits negotiated by the union without paying union dues;
- Give workers the right to organize and join unions in public sector workplaces, and collectively bargain over wages, benefits and working conditions;
- Ensure for employer recognition of the union following a vote in favor of union representation by members of a collective bargaining unit;
- Establish an impartial process for resolving impasses between the union and the employer;
- Provide for payroll deduction for union dues, and;
- Prevent mandated and/or employer forced recertification elections.

Enforcement and Scope of the legislation:

This legislation will only affect States that deny their workers the ability to independently decide whether they want union representation, and/or attempt to frustrate the ability of the union to properly represent their members after a positive vote for a union. This bill does not deny States the ability to create their own collective bargaining laws that respect employee democracy and due process.

The bill also provides for strong enforcement mechanisms by allowing for a private right of action to force compliance in the federal courts absent the FLRA filing suit. Equally important is language that mandates swift employer recognition of the union following a vote by employees to form a union, as well as binding first contract arbitration if no agreement is reached during the inaugural negotiation between the union and the employer. This is critical to protect against State employers that refuse to negotiate in good faith in the hopes that workers will eventually just ‘give up’ and decertify their union.