



# JUST THE FACTS: FREELANCE JOURNALISTS, CREATIVE PROFESSIONALS AND THE PRO ACT

## **I hear that the PRO Act is just like California's A.B. 5 and would cause freelance journalists and creative professionals to lose work. Is this true?**

No. Corporate interests are waging a misinformation campaign against the PRO Act. The only way the PRO Act could possibly affect freelance journalists or creative professionals is that it might allow them to join a union and engage in collective bargaining, but only if they choose to. Those not wanting to organize a union or engage in collective action would be unaffected. The PRO Act would not stop freelance journalists or creative professionals from continuing to do freelance work.

## **So what does the PRO Act's ABC test do then?**

The "ABC test" in the PRO Act is used to determine who qualifies for protection under federal law if and when they choose to engage in collective action, organize a union or bargain collectively.

## **So is the PRO Act the same as A.B. 5 in California?**

No. A.B. 5 in California redefines who is an "employee" under a broad range of state employment laws. The PRO Act does not touch any of those laws. The PRO Act only affects the federal law that governs private sector unions.

## **Would the PRO Act force the company for which I do freelancing work to hire me as a W-2 employee?**

No. The PRO Act does not affect any of the laws that typically determine whether someone is hired as a W-2 employee, most notably tax law, but also minimum wage, overtime, unemployment insurance, workers' compensation, etc.

## **Would the PRO Act outlaw independent contracting or gig work, or make freelancing work contracts illegal?**

Absolutely not. Nothing in the PRO Act outlaws any kind of work arrangement.

## **Shouldn't we just drop the ABC test from the PRO Act to avoid potential problems?**

No. The ABC test is an absolutely essential part of the PRO Act. It is critical because employers often try to stop their workers from organizing a union by falsely claiming that the workers are independent contractors. The ABC test protects the rights of those workers to engage in collective action and organize a union.