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PRO Act Would Reduce Workers' Incomes and Job Opportunities

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The labor union movement's top legislative priority is the Protecting the Right to Organize Act, or PRO Act. This legislation would, among other provisions, abolish state right-to-work (RTW) laws. This would allow unions in 27 states to get workers fired for not paying them. Union dues typically cost \$500 to \$1,000 a year. Studies find that unions do not raise wages enough to offset these costs. Eliminating right-to-work protections thus leaves unionized workers financially worse off. Moreover, union leaders themselves admit they do not represent workers as vigorously when those members are required to pay. Making union dues compulsory hurts workers.

RIGHT-TO-WORK LAWS AND THE PRO ACT

The National Labor Relations Act (NLRA) allows unions to collectively bargain on behalf of all eligible workers in unionized firms. Individual workers may not negotiate separately. Unions typically use this authority to negotiate contracts that make paying union dues a condition of employment. Workers at such companies (in states that do not have right-to-work laws) must pay union dues or get fired, whether or not they support the union.

Section 14(b) of the NLRA allows states to pass "right-to-work" laws. Right-to-work laws prohibit forced dues provisions; in RTW states workers covered by the NLRA have the right to work without paying union dues.¹ Currently 27 states have passed right-to-work laws.

¹ The NLRA covers private sector employees outside the airline and railway sectors. Airline and railway employees are covered by the Railway Labor Act, which does not permit right-to-work laws. All government employees enjoy right-to-work protections under the Supreme Court's holding in *Janus v. American Federation of State, County, and Municipal Employees*, 585 U.S. ____ (2018). The Court held that government collective bargaining negotiations involve inherently political matters, and the government consequently cannot force its employees to financially subsidize this political speech.

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Unions oppose RTW laws for obvious financial reasons. Giving workers a choice lets them stop paying unions who represent them poorly. Researchers find the vast majority of workers who stop paying union dues in RTW states are those who saw little benefit from their union representation.² RTW forces unions to earn workers’ support instead of forcing them to purchase their services.³

Organized labor’s top legislative priority is a federal bill that would eliminate all state right-to-work laws. The Protecting the Right to Organize Act, or PRO Act, includes a provision that eliminates section 14(b) of the NLRA. If the PRO Act becomes law, workers in all 50 states would be forced to pay union fees. If they do not pay, they could get fired. The PRO Act has already passed the U.S. House of Representatives in 2020 and 2021, but has not passed the Senate.

2 See Richard Sobel, “Empirical Evidence on the Union Free-Rider Problem: Do Right-to-Work Laws Matter?” *Journal of Labor Research*, No. 16 (1995), pp. 347–365. Sobel found that 70 percent of workers covered by collective bargaining agreements but not paying union dues value union coverage less than the amount of union dues.

3 Unions frequently argue that RTW laws create a “free riding” problem. In their telling, the NLRA requires them to represent all workers in a bargaining unit, but RTW laws allow workers to receive the benefits of union membership without paying for it. This argument selectively reads the NLRA. The Supreme Court has held that unions may negotiate on behalf of all workers at a company, but they are not required to do so, and members-only contracts are valid and enforceable. See *Consolidated Edison Co. v. Labor Board*, 305 U.S. 197 (1938) and *Retail Clerks v. Lion Dry Goods, Inc.*, 369 U.S. 17 (1962). Unions could negotiate on behalf of only dues paying members. However, unions prefer to have a monopoly over all workers they represent. Some provisions that unions value, such as seniority-based layoffs, would become unworkable if the employees those rules hurt could opt out. So unions in right-to-work states almost invariably elect to represent all workers in the bargaining unit, despite members’ only contracts being permitted. A concept called Worker’s Choice would directly address the union “free rider” issue and allow unionized workers to not just stop paying union dues but also fully opt-out of union representation and represent themselves. Workers currently have no ability to reject unwanted union representation – the choice of whether to pursue members’ only bargaining rests solely with the union. Worker’s Choice has been introduced as state level legislation for public employees in multiple states and federally for private sector workers. <https://www.mackinac.org/S2015-03> To date unions are not supportive of the concept, further calling into question the true motivation of their “free rider” complaints.

MILLIONS OF WORKERS FORCED TO PAY

There were 2.7 million employees in RTW states unionized under the NLRA in 2019.⁴ About one-in-six of these workers currently do not pay union dues.⁵ The remainder voluntarily pay.

If the PRO Act became law, all 2.7 million union-represented workers in RTW states would immediately be forced to pay union dues or lose their jobs. Workers not currently paying would be compelled to pay. Workers voluntarily paying would lose the option to opt-out if they believed their union stopped representing them effectively.

These figures include 101,000 union represented workers in Arizona, 136,000 in Georgia, 412,000 in Michigan, 89,000 in Virginia, and 125,000 in Wisconsin.⁶

Further, approximately 61 million workers in RTW states have jobs in industries covered by the NLRA. These workers could be forced to pay union dues if their workplace unionized. Currently these workers cannot be forced to pay union dues, no matter how their colleagues vote on union representation. This includes 2.6 million workers in Arizona, 3.7 million workers in Georgia, 3.8 million workers in Michigan, 3.1 million workers in Virginia, and 2.3 million workers in Wisconsin.⁷ Additionally, the 60 million NLRA-covered workers in states without right-to-work laws could never be freed from compulsory union dues if unions organized them. The New Hampshire and Montana legislatures seriously considered passing RTW laws in 2021. If the PRO Act became law, these and other states could never take that step.

These tables show the number of immediately affected workers and the total number of potentially affected workers, by state.

4 Analysis of 2019 current population survey data. These figures exclude workers covered by the Railway Labor Act (which governs railroads and airlines), as RTW laws do not cover these employees. See Methodological Appendix.

5 *Ibid.*

6 *Ibid.*

7 See methodology appendix

UNIONIZED AND TOTAL WORKERS IN RIGHT-TO-WORK AND NON-RIGHT-TO-WORK STATES

Right-to-Work States

State	Unionized Workers under the NLRA	Total Workers under the NLRA
Alabama	120,663	1,704,507
Arizona	101,394	2,585,014
Arkansas	44,377	999,151
Florida	270,387	7,561,997
Georgia	136,185	3,697,767
Idaho	22,988	656,381
Indiana	201,057	2,656,891
Iowa	54,086	2,656,891
Kansas	63,229	1,035,013
Kentucky	112,766	1,533,613
Louisiana	54,648	1,457,698
Michigan	412,340	3,835,648
Mississippi	54,316	897,540
Nebraska	31,130	741,850
Nevada	139,517	1,174,423
North Carolina	63,049	3,689,645
North Dakota	12,004	293,879
Oklahoma	46,303	1,260,282
South Carolina	26,565	1,798,535
South Dakota	9,488	332,357
Tennessee	86,216	2,518,026
Texas	307,471	10,606,753
Utah	42,362	1,167,357
Virginia	89,473	3,060,800
West Virginia	47,818	578,692
Wisconsin	125,183	2,305,814
Wyoming	8,522	178,836
Total RTW	2,683,537	60,985,362

Non-Right-to-Work States

State	Unionized Workers under the NLRA	Total Workers under the NLRA
Alaska	17,090	197,125
California	1,360,320	14,056,360
Colorado	129,096	2,167,623
Connecticut	116,578	1,451,310
Delaware	19,448	369,751
District of Columbia	15,613	265,694
Hawaii	65,491	434,193
Illinois	456,305	4,886,578
Maine	30,595	496,829
Maryland	110,343	2,218,613
Massachusetts	223,205	2,968,542
Minnesota	177,051	2,293,246
Missouri	196,723	2,251,354
Montana	19,395	355,502
New Hampshire	31,355	587,312
New Jersey	304,129	3,446,672
New Mexico	20,785	599,226
New York	978,500	6,930,323
Ohio	326,799	4,381,507
Oregon	118,564	1,490,595
Pennsylvania	383,993	5,015,867
Rhode Island	45,465	405,978
Vermont	13,715	243,428
Washington	354,686	2,799,013
Total U.S.	8,198,780	121,298,002

Annual dues cost **\$845 in Arizona,**
\$805 in Georgia, and **\$545 in Virginia.**

COSTLY TO WORKERS

Compulsory union dues are very costly to workers. Union dues typically cost \$500 to \$1,000 a year, and sometimes higher. Forcing workers to pay these dues deprives them of money they could use for necessities such as food, clothing, gas, diapers, and home renovations. Table 2 shows current average union dues in three right-to-work states: Arizona, Georgia, and Virginia. Annual dues cost \$845, \$805, and \$545 in these states, respectively. Most Americans -- especially low-income Americans -- could put an extra \$800 a year to good use. The PRO Act would take away that option for millions of workers.

Further, workers may lose financially if they are unionized and forced to pay dues. Unions like to argue that they raise workers' incomes, so that union dues "pay for themselves." Academic researchers have called these claims into question.⁸

This finding may seem surprising, given that government data shows that the average union member makes more than the average non-union member.⁹ Unions frequently tout these statistics to demonstrate their effectiveness. However, union membership is not randomly distributed across the economy. Unions tend to be more active in industries such as manufacturing and government, which have higher compensation to begin with. Similarly, union membership is higher in states like California and New York with higher costs of living and higher wages. Researchers find that the apparent union premium simply reflects unions organizing workers who had higher wages to begin with. Studies find that non-union workers' pay does not (on average) rise if they vote to unionize.¹⁰ Similarly, real wages -- accounting for differences in living costs -- are no lower, and possibly a bit higher, in right-to-work states than in states with compulsory dues.¹¹

These facts are not lost on workers. In April 2021, Amazon employee Cori Jennings told the *Wall Street Journal* that she voted against unionization because "[a] lot of us are in agreement that we don't need anybody there to speak for us and take our money."¹²

8 Robert Lalonde, Gérard Marschke, and Kenneth Troske. "Using Longitudinal Data on Establishments to Analyze the Effects of Union Organizing Campaigns in the United States." *Annales D'Économie Et De Statistique*, no. 41/42 (1996): 155-85.

9 Bureau of Labor Statistics, "Union Members - 2020" Table 4. January 22, 2021 at <https://www.bls.gov/news.release/pdf/union2.pdf>

10 John DiNardo and David Lee, "Economic Impacts of New Unionization on Private Sector Employers: 1984 - 2001" *Quarterly Journal of Economics*, Vol. 119, No. 4 (November 2004); Brigham Frandsen, "The Surprising Impacts of Unionization: Evidence from Matched Employer-Employee Data," *Journal of Labor Economics*, Vol. 39, No. 2 (April 2021).

11 James Sherk, "Union Membership and Compulsory Dues Do Not Increase Workers' Overall Living Standards," Heritage Foundation Backgrounder #3051, November 9, 2015, Table 4 and Appendix Table B, at <http://thf-reports.s3.amazonaws.com/2015/BG3051.pdf>

12 Sebastian Herrera, "Amazon Workers in Alabama Vote Against Forming a Union" *The Wall Street Journal*, April 9, 2021 at <https://www.wsj.com/articles/amazon-is-ahead-in-union-vote-as-tallying-set-to-resume-11617960604>

ANNUAL DUES

Arizona

Union	Active Members	Average Dues
UFCW Local 99	24,134	\$556.37
Teamsters Local 104	8,609	\$663.40
Carpenters Local 1912	3,253	\$209.18
Plumbers & Pipefitters Local 469	3,248	\$3,775.90
Laborers Local 5251	2,921	\$469.13
IBEW Local 640	2,331	\$2,134.55
CWA Local 7019	2,242	\$239.63
IBEW Local 266	1,665	\$1,168.79
Weighted Average		\$845.25
Total unionized workers under NLRA		101,394
Total workers that could be unionized un NLRA		2,585,014

Georgia

Union	Active Members	Average Dues
Teamsters Local 728	10,331	\$992.66
Office & Prof. Employees Local 4873	9,313	\$415.00
Workers United, SEIU Joint Board	6,415	\$467.87
Stage & Picture Operators Local 479	5,079	\$2,211.30
IBEW Local 613	4,738	\$437.44
Teamsters Local 528	4,736	\$475.85
IBEW Local 84	2,978	\$721.93
IAM Lodge 709	1,691	\$958.20
Weighted Average		\$804.95
Total unionized workers under NLRA		136,185
Total workers that could be unionized un NLRA		3,697,767

Virginia

Union	Active Members	Average Dues
Steelworkers Local 8888	8,200	\$323.52
UAW Local 2069	2,698	\$671.11
Teamsters Local 822	2,571	\$485.86
CWA Local 2201	2,416	\$383.12
IAM Lodge 1759	2,364	\$733.08
IBEW Local 50	2,337	\$1,121.30
Teamsters Local 322	1,722	\$630.12
Teamsters Local 29	1,442	\$595.44
Weighted Average		\$544.65
Total unionized workers under NLRA		89,473
Total workers that could be unionized un NLRA		3,060,800

“Compulsory union dues also make unions **less responsive to their members.**”

LESS RESPONSIVE REPRESENTATION

Compulsory union dues also make unions less responsive to their members. Unions in RTW states know they have to earn their members’ business. If they do not provide effective representation, their members can simply stop paying dues. This economic pressure drives unions to work harder for their members in right-to-work states.

Senior union leaders acknowledge this. For example, Lee Saunders is the President of the American Federation of State, County, and Municipal Employees (AFSCME). The Supreme Court recently held that the First Amendment prohibits the government from requiring government employees to pay union dues. All government employees now enjoy right-to-work protections under this ruling. Saunders candidly admitted that right-to-work forces AFSCME to do better for its members. He told reporters in 2015, “[W]e took things for granted. We stopped communicating with people, because we didn’t feel like we needed to.”¹³

Gary Casteel, the Secretary Treasurer of the United Auto Workers, expressed similar sentiments in 2014. He told reporters that:

“This is something I’ve never understood, that people think right to work hurts unions. To me, it helps them. You don’t have to belong if you don’t want to. So if I go to an organizing drive, I can tell these workers, ‘If you don’t like this arrangement, you don’t have to belong.’ Versus, ‘If we get 50 percent of you, then all of you have to belong, whether you like to or not.’ I don’t even like the way that sounds, because it’s a voluntary system, and if you don’t think the system’s earning its keep, then you don’t have to pay.”¹⁴

Academic research confirms these union leaders’ intuitions. Research finds union members report greater wellbeing and view their economic situation more positively in right-to-work states than in non-right-to-work states. “[T]hese improvements in well-being are consistent with an increase in competition among unions, which prompts them to provide higher-quality services that are valued by their members.”¹⁵

13 Lydia DePillis, “The Supreme Court’s threat to gut unions is giving the labor movement new life,” *The Washington Post*, July 1, 2015 at <https://www.washingtonpost.com/news/wonk/wp/2015/07/01/the-supreme-courts-threat-to-gut-unions-is-giving-the-labor-movement-new-life/>

14 Lydia DePillis, “Why Harris v. Quinn isn’t as bad for workers as it sounds,” *The Washington Post*, July 1, 2014 at <https://www.washingtonpost.com/news/wonk/wp/2014/07/01/why-harris-v-quinn-isnt-as-bad-for-workers-as-it-sounds/>

15 Christos Makridis, “Do Right-to-Work Laws Work? Evidence on Individuals’ Well-Being and Economic Sentiment,” *The Journal of Law and Economics*, Vol. 62, No. 4 (November 2019).

FEWER JOBS

Abolishing right-to-work also reduces workers' job opportunities. Right-to-work laws attract employers, especially manufacturing employers.¹⁶ Consequently right-to-work laws attract investment and jobs. As David Brandon, the President of an Economic Development consulting firm, explained in 2004:

“About 35-to-40 percent of manufacturing enterprises in the automotive industry insist on operating in a right-to-work state. Another 20-to-25 percent say it is a very important factor and will be used as a second- or third-tier factor in site selection. More than half of our companies either make it a threshold or a very important factor in making a decision on where to locate a factory and other operations.”¹⁷

Economic studies confirm these reports. Several studies have compared manufacturing employment in counties in right-to-work states with bordering counties in non-right-to-work states. Such border counties share similar labor forces, regional costs of living, and local economic conditions. They primarily differ in right-to-work status. These studies find manufacturing employment is one-fifth to one-third higher in RTW counties.¹⁸ Right-to-work laws have a large effect on manufacturing jobs.

Evidence from states that more recently adopted right-to-work reinforces this conclusion. Over the past decade, five states enacted right-to-work laws: Indiana (2012), Michigan (2012), Wisconsin (2015), West Virginia (2016), and Kentucky (2017). Subsequent research found that these newly RTW states “experience more growth in total manufacturing employment than non-RTW regions. In addition, foreign manufacturing employment also grows larger in new RTW regions than in non-RTW regions and to a greater extent than domestic manufacturing employment.”¹⁹

Research also shows workers in RTW states have an unemployment rate that averages 1.2 percentage points lower than the unemployment rate for similar workers in non-RTW states.²⁰ Right-to-work laws help American workers find work.

16 David Ellwood and Glenn Fine, “The Impact of Right-to-Work Laws on Union Organizing,” *Journal of Political Economy*, No. 95 (April 1987), pp. 250–273.

17 Ron Starnier, Mark Arend, and John McCurry, “Locked in on Labor,” *Site Selection*, July 2004, <http://www.siteselection.com/issues/2004/jul/p500/>

18 Thomas J. Holmes, “The Effect of State Policies on the Location of Manufacturing: Evidence from State Borders,” *Journal of Political Economy*, Vol. 106, No. 4 (1998), pp. 667–705; Charlene M. Kalenkoski and Donald J. Lacombe, “Right-to-Work Laws and Manufacturing Employment: The Importance of Spatial Dependence,” *Southern Economic Journal*, Vol. 73, No. 2 (October 2006), pp. 402–418.

19 Eunbi Kim, “The impact of right-to-work legislation on foreign manufacturing employment in the United States,” *International Journal of Urban Sciences*, April 26, 2021.

20 James Sherk, “Union Membership and Compulsory Dues Do Not Increase Workers' Overall Living Standards,” Heritage Foundation Backgrounder #3051, November 9, 2015, Table 5 at <http://thf-reports.s3.amazonaws.com/2015/BG3051.pdf>

CONCLUSION

Right-to-work laws ensure that American workers cannot be forced to pay union dues. These laws can save unionized workers between \$500 and \$1,000 a year. Since unions generally do not raise their members' wages enough to offset the cost of compulsory dues, RTW laws can create meaningful savings for American workers. Right-to-work also pressures unions to provide better services. And they attract job-creating investment -- with a particularly strong effect on attracting manufacturing jobs.

The PRO Act would abolish all RTW laws nationwide. It would force at least 2.7 million American workers to pay union dues. Up to 61 million Americans in existing RTW states could be compelled to pay union dues if all of their workplaces were organized. Abolishing RTW would make America less attractive for investors and would thereby reduce job opportunities for Americans. The PRO Act would cost workers heavily.

METHODOLOGICAL APPENDIX

The Institute for the American Worker (I4AW) estimated the number of unionized workers in RTW states who would be forced to pay dues by examining the 2019 Current Population Survey (CPS) microdata. I4AW focused on 2019 because the 2020 COVID pandemic significantly disrupted employment relations, making 2020 data not representative of the non-pandemic economy at large. I4AW classified a worker as subject to the National Labor Relations Act (NLRA) if they were a private-sector employee and not employed in either the railway or airline sectors (which are governed separately by the Railway Labor Act). I4AW treated an NLRA covered worker as currently affected by the PRO Act's abolition of RTW laws if they resided in a RTW state and reported they were either in a union or represented by a union at work.

I4AW used data reported by the Department of Labor, Office of Labor-Management Standards, to estimate average union dues in Arizona, Georgia, and Virginia. I4AW examined form LM-2 data from the eight largest union locals in each state that were governed by the NLRA (e.g. excluding government unions and RLA unions). I4AW divided the total dues and agency fees the union reported (line 36 of form LM-2) by the total number of dues-paying members or fee payers the union reported on Schedule 13 of the LM-2. This calculation produces average annual dues for each local. I4AW then averaged these dues across locales, weighing the average by each locale's paying membership. As with the CPS data, I4AW examined 2019 LM-2 data because the COVID pandemic made 2020 data not representative of the non-pandemic economy.

In one case, International Association of Machinists Lodge 1759 in Virginia, the LM data presented inconsistent results. Lodge 1759 is a smaller local that files a less detailed LM-3 report, not the full LM-2 report. Lodge 1759's LM-3 reports that it charges between \$60.90 and \$61.28 a month in dues, or \$733 on an annual basis. However, Lodge 1759's total dues divided by reported members yields total annual average dues of approximately \$84 a year. These figures cannot be reconciled, and the calculated dues are an order of magnitude smaller than those estimated for other union locals. I4AW speculates that the inconsistency may result from Lodge 1759 not differentiating between dues paying and honorary or retired members— the way many unions filling LM-2 forms do. This would artificially inflate the denominator in calculations dividing total dues by total membership, thus deflating the estimated dues per paying member. As a result, I4AW has used the midpoint of Lodge 1759's reported monthly dues in its calculations (\$61.09) and converted that to an annual figure -- \$733.08 a year, a figure similar to that charged by other union locals.



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