



May 1, 2023

To the Members of the U.S. House of Representatives:

The U.S. Chamber of Commerce strongly supports H.R. 2700, the “Employee Rights Act” (ERA). The ERA contains numerous elements that are desirable by themselves, and taken as a whole, the bill would benefit employers and employees alike. The ERA would bring much-needed balance between union rights, employee rights, and employer rights in labor organizing and limit radical changes in labor policy based on the makeup of the National Labor Relations Board (NLRB).

This bill would guarantee employees the right to express their will through a secret ballot election overseen by the NLRB rather than through the collection of signature cards. Employees deserve the right to register their support for union representation in the privacy of a voting booth and not in the presence of labor organizers or their employer. Guaranteeing secret ballot elections would also put an end to the current NLRB General Counsel’s effort to adopt the long-discarded practice known as the *Joy Silk* doctrine, which would force employers to bargain with a union once they receive union cards signed by a majority of their employees.

The ERA also would guarantee unions the ability to receive voter registration lists while simultaneously protecting employees’ privacy interests by limiting the amount of their personal contact information that must be disclosed. The bill would further protect employees’ privacy interests by requiring that their personal information not be disclosed for any purpose other than union organizing or after the conclusion of a representation proceeding.

In addition, the ERA would guarantee employees the right not to subsidize activities that are unrelated to representation of a union’s members. Financial disclosure forms filed by unions over the past 20 years clearly demonstrate that organized labor spends tens if not hundreds of millions of dollars collected through member dues to support political causes and candidates. These expenditures are made regardless of whether members actually support those causes or candidates and despite union officers’ fiduciary obligation to spend funds in the interest of their members.

The ERA would also establish a clear standard for determining whether an individual may be classified as an employee versus an independent contractor. This would bring much-needed clarity to this issue, which has been a source of substantial confusion in recent years.

Similarly, the ERA would bring clarity to the issue of joint employment by establishing a definitive standard for evaluating a potential joint employment relationship. The bill would ensure that an employer may only be considered a joint employer of another employer’s employees when the former directly exercises control over the essential terms and conditions

of employment of the latter's employees. Such a definition will clarify for all parties who is—or is not—a joint employer.

Moreover, the ERA would establish that certain factors may not be construed to establish an employer-employee relationship between franchisors and their franchisees' employees. The bill would make clear that providing employee handbook templates, trainings, or other resources will not create a joint employment liability for franchisors seeking to assist their franchises.

H.R. 2700, the "Employee Rights Act," would enact meaningful reform to America's labor laws. The Chamber strongly urges Members of Congress to cosponsor this bill.

Sincerely,



Neil L. Bradley
Executive Vice President, Chief Policy Officer and
Head of Strategic Advocacy
U.S. Chamber of Commerce