U.S. Chamber of Commerce

1615 H Street, NW
Washington, DC 20062-2000
uschamber.com

May 1, 2023

To the Members of the United States Congress:

The U.S. Chamber of Commerce strongly opposes S. 567 / H.R. 20, the "Richard L. Trumka Protecting the Right to Organize Act of 2023."

Numerous elements of the PRO Act by themselves would be objectionable to the business community; taken as a whole they would result in exceedingly negative consequences for employers and employees alike.

The PRO Act would abolish any sense of balance between union rights and employer rights in labor organizing and negotiations by explicitly eliminating employers as a party in elections to determine if a union would represent that employer's workforce. Moreover, a secret ballot election through which the employees chose not to be represented by a union could be overturned if enough employees signed cards saying they supported that union.

This legislation would also potentially take away workers' traditional opportunity to ratify a first contract. If the newly recognized union and the employer cannot agree to a first contract through negotiation and mediation, an arbitration process would result in a contract without employees' being able to vote on that contract.

This bill would also effectively repeal the Taft-Hartley Act, labor law reforms enacted 75 years ago to rein in some of the most abusive union organizing tactics of that era. Unions could once again engage in secondary boycotts and picketing, meaning that they could target any employer doing business with a targeted company even if those employers have no connection with the union. This would allow for the disruption of entire segments of the economy, a phenomenon that was common in 1947 when the law was passed.

Another key provision of the Taft-Hartley Act allowed states to pass right-to-work laws, meaning that workers could no longer be fired for not paying union dues. Twenty-eight states have enacted right-to-work laws. By repealing the Taft-Hartley Act, this bill would invalidate all states' right-to-work laws currently in place.

Moreover, the PRO Act would codify the National Labor Relations Board's unworkable definition of joint-employer liability as prescribed in its 2015 *Browning-Ferris* decision, which was based on "indirect" or "potential" control of another company's employees. It would also codify and nationalize the restrictive definition of independent contractors as defined in California's deeply flawed statute known as AB 5 that has made using or operating as an independent contractor extremely difficult in that state. In addition, this bill would reinstate the Department of Labor's "persuader" rule, which was intended to deprive employers of legal representation during union campaigns, a rule that a court found "defective to its core."

The PRO Act would codify bad labor policy and failed efforts at reform. The Chamber strongly urges Members of Congress not to cosponsor this bill.

Sincerely,

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