



How New Labor Proposals Could Impact Workers and Businesses

Sen. Josh Hawley (R-MO) has introduced a new framework for labor law reform. Unfortunately, it borrows several elements from the Protecting the Right to Organize (PRO) Act as well as harmful elements from the Warehouse Worker Protection Act. As drafted, the framework helps union bosses rather than workers and would harm employers, especially small businesses.

Government-Mandated Contracts Strip Away Control and Choice

The framework would impose binding first contract arbitration, which is lifted directly from the PRO Act. It would allow the federal government to dictate contract terms.

- If a union wins an election, collective bargaining sessions would have to start within 10 days. If, after 90 days of bargaining, the parties had not reached a contract, either side could call in the Federal Mediation and Conciliation Service (FMCS). If the FMCS could not broker a deal with 30 days, a federal arbitration panel would write the contract and impose it on both parties for two years.
- Under current law, the parties can take the time they need to get the first contract right, so it works for both workers and the employer. Sen. Hawley's language replaces this with an arbitrary timeline.
- If the parties can't reach an agreement, the proposal empowers the government to step in and dictate a contract that is binding on all sides.

- The result would be that employers can get stuck with a contract they can't afford, and workers are deprived of the right to vote on the terms of the contract.
- Union bosses don't care what the contract looks like so long as it gets dues revenue flowing, which can't happen until the contract is done. So both workers and employers may get a bad deal, but union leadership gets its dues money regardless.

Outdated Rules Impose New Costs

This provision refers to the Warehouse Workers Protection Act, which would prohibit vaguely defined "unsafe work-speed quotas," and create a new OSHA ergonomics standard. OSHA tried to impose an ergonomics standard in 2000, but Congress determined it was unworkable and overturned it in the first use of the Congressional Review Act with strong bipartisan support.

Rushed Voting Undermines Informed and Fair Decisions

This includes two proposals borrowed directly from the PRO Act, both of which would be to the detriment of workers.

- The first would ban so-called “captive audience” meetings. This refers to meetings employers hold during the workday—while employees are being paid—to share their views on unionization. This is no different from employers requiring attendance at a meeting to discuss a new workplace policy, or harassment training, or any other subject.
- These meetings provide workers with information unions won’t tell them, for example about the cost of union dues, or ways in which a union will impact the workplace on a day-to-day basis. Since rules around union decertification are so onerous, if a union wins an election it’s usually there for good. As such, workers need balanced information to make the right decision. Unions, of course, would prefer that workers only get one side of the story
- The second proposal would require the National Labor Relations Board (NLRB or Board) to hold elections within 20 days, significantly shorter than the current average of 30 days. This rushed timeline, often referred to as ‘ambush elections,’ would severely limit the time workers have to educate themselves about an important workplace decision.

Heavy Fines Hurt Main Street Businesses

It is unclear what is meant by this proposal, but it could mean anything from increased use of 10(j) injunctions by the NLRB, to higher penalties under the National Labor Relations Act (NLRA), to imposing personal liability on corporate officers and boards of directors. The concern is that violations of the NLRA are often subjective and highly technical—for example language in employee handbooks, or particular dress codes. Statements about unions that might seem common sense can also result in violations. Small businesses that can’t afford large HR departments are most likely to be hit with new and higher penalties.

