



March 8, 2021

Congressman Ami Bera  
1727 Longworth House Office Building  
Washington, DC 20515

***Sent via email***

Dear Representative Ami Bera:

On behalf of the California Chamber of Commerce, I would like to thank you for not co-sponsoring **H.R. 842**, the “Protecting the Right to Organize (PRO) Act,” and urge you to **vote NO** on this legislation that would be harmful for California’s economy.

The PRO Act would radically rewrite American labor policy and erase any sense of balance that has existed since Congress passed the National Labor Relations Act (NLRA) of 1935. While the bill includes many harmful provisions, some of the most damaging include: undermining secret ballot union elections, eliminating the right to contract to arbitrate disputes, violating worker privacy, forcing workers to pay union dues, and imposing California’s stringent independent contractor ABC test nationwide. In addition, the legislation would effectively repeal state right-to-work laws in the 27 states that have them.

Being in California, we specifically want to address the detrimental impact that the ABC test has had on our businesses. Because of the rigidity of the ABC test, many individuals who control their own schedule, control the projects or tasks that they take on, and control the way in which they perform the tasks or projects lost existing contracts and work opportunities after the test was adopted. It has also made it difficult for businesses to recover from the detrimental impacts of COVID-19 because businesses were unable to hire independent contractors to perform temporary or one-time jobs. The ABC test’s lack of flexibility is underscored by the fact that since California codified the test in its Labor Code there have been **more than 100** exemptions added to the law, with many still seeking an exemption through new bills introduced this year. The test is unworkable for many industries and is sure to result in a myriad of arbitrarily chosen exemptions as it has in California.

This Congress, the PRO Act has a number of additional provisions that make the bill even worse. These include:

- **Additional Violations of Worker Privacy:** **H.R. 842** requires employers to turn over their workers’ personal information in a “searchable electronic format” with no privacy protections, thus risking exposure of their confidential information and opening the door to intimidation.
- **Decrease Turnout In Elections:** The National Labor Relations Board (NLRB) has always preferred in-person voting for union elections. In limited cases it has allowed mail-in ballots. During the COVID-19 pandemic, mail-in ballots have been far more frequent. This process, however, has led to decreased turnout. **H.R. 842** would allow unions to permanently demand mail-in ballots, reducing opportunities for workers to express their choice about a critical workplace decision.
- **Further Limits on Free Speech:** **H.R. 842** prohibits businesses from explaining that, per existing law, independent contractors are excluded from coverage of the NLRA.
- **Workers Can Check-In, But Can’t Check Out:** **H.R. 842** codifies the NLRB’s so-called “election bar” doctrine prohibiting a decertification election prior to the end of an existing contract. This would, effectively, deny workers the option of voting out a union they were unhappy with.

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- **Further Disruption of the NLRA's Balance:** The NLRA establishes a careful balance between the rights of unions and employers. Unions can launch strikes, but employers are given the commensurate ability to lock out the workplace. **H.R. 842** would take away that right, leaving unions with one-sided power to apply economic pressure in a labor dispute.

These are just some of the harmful labor policies included in the PRO Act. The California Chamber of Commerce is grateful for your consideration of this matter and respectfully requests your support in maintaining a balanced labor environment for the Western region and for the United States.

Sincerely,

Sincerely,

A handwritten signature in blue ink, appearing to read "Ashley Hoffman", with a long horizontal flourish extending to the right.

Ashley Hoffman  
Policy Advocate

AH:ll