

June 2, 2021

The Honorable Shelly Moore Capito
United States Senate
172 Russell Senate Office Building
Washington, DC 20510

The Honorable David B. McKinley
U.S. House of Representatives
2239 Rayburn House Office Building
Washington, DC 20515

The Honorable Joe Manchin
United States Senate
306 Hart Senate Office Building
Washington D.C. 20510

The Honorable Alex Mooney
U.S. House of Representatives
2228 Rayburn House Office Building
Washington, DC 20515

The Honorable Carol Miller
U.S. House of Representatives
465 Cannon House Office Building
Washington, DC 20515

Dear West Virginia leaders:

The undersigned organizations strongly oppose the PRO Act and every provision within this bill that may be considered in separate legislation or through federal regulatory actions. The PRO Act would drastically undermine the rights and interests of workers, employees, and the public here in the Mountain State.

Instead of fostering an environment of cooperative relationships between employers, workers, and labor unions, the PRO Act deprives workers of fundamental rights, eliminates opportunities for those seeking financial independence, and imposes significant costs on small businesses. Just as principled state lawmakers have recently enacted reforms to improve worker choice and flexibility in the Mountain State, this top-down federal law would invalidate those efforts and cause irreparable harm to our economic recovery at a time when West Virginians can least afford it.

Among other provisions, the PRO Act would:

- **Invalidate Right to Work laws enacted in 27 states, including West Virginia**, which gives private sector employees the freedom to choose whether or not to pay fees to unions out of their hard-earned paychecks. All West Virginians enjoy this right, and it should be expanded to all workers in America rather than taken away.
- **Restrict the ability of millions of people to work as independent contractors by instituting a California style “ABC” test that West Virginia lawmakers *just* removed in 2021 to protect the ability of independent workers to pursue careers that meet their personal and family needs.** Restrictive ABC tests subject self-employed workers to unionization and reclassification while costly, unpredictable penalties of \$50,000-\$100,000 are placed on businesses and clients using contractors even as they try to comply with requirements in good faith.
- **[Infringe on individual privacy](#) by requiring employers to provide extensive employee contact information to unions, including home addresses, private phone numbers, and more.** Union officials use this information to confront workers anywhere and everywhere, often in intimidating manners even at their homes.

- **Remove secret ballot protections**, ending the right to a private vote under certain circumstances on whether workers wish to be represented by a union. Instead, workers would face further harassment and intimidation from union organizers who could get them to sign union interest cards that become automatic yes votes for the union against the will of the workers that signed them.
- **Repeal the ban on secondary boycotts**, massively expanding the ability of unions to subject neutral third parties to harassment and economic injury during organizing drives. Unions could picket, boycott, and more against any consumer, vendor, supplier, business partner, or other entity that merely does business with the company the union is attempting to organize.
- **Enact a vague, confusing joint-employer standard** that eliminates franchising and contractor-subcontractor arrangements as we know them, and even undermines relationships between businesses and vendors, all of which help entrepreneurs and small businesses thrive and create jobs.
- **Slant organizing efforts heavily in favor of unions at the expense of employee and employer rights** by limiting legal communication between employers and their staff; drastically shortening election timeframes to stifle discussion; limiting the ability of employers to challenge concerning union practices; and potentially awarding unions organizing victories by requiring the NLRB to dismiss legitimate election issues raised by employers.
- **Force labor negotiations to be settled through binding arbitration**, which can lead to mandatory contracts employers lack resources to meet and which can conflict with the interests of individual employees. Employees would not even be able to vote on the union contracts that define their employment terms.
- **Eliminate attorney-client privilege for a wide array of communication between employers and legal professionals that businesses rely on to be educated about representative elections.** The PRO Act damages not only the ability of employers to be properly informed but also the ability of employers to communicate with and inform their own employees about workplace matters.

Instead of supporting wrongheaded measures that undermine worker freedom, like the PRO Act, policymakers in West Virginia have worked hard to expand choice and opportunity for workers. We now call on federal lawmakers from the Mountain State to reject the PRO Act and instead prioritize defending and expanding choice and flexibility for workers so that they are well positioned to maximize opportunity in the 21st century and recover stronger in the wake of the economic challenges arising from the COVID-19 pandemic.

Sincerely,

Ben Beakes, President
Metallurgical Coal Producers Association

Rebecca R. McPhail, President
West Virginia Manufacturers Association

Bryan Hoylman, President/CEO
Associated Builders & Contractors of West Virginia

Traci Nelson, President
West Virginia Oil Marketers and Grocers Association

Jason Huffman, West Virginia State Director
Americans for Prosperity

Traci Nelson, President
West Virginia Trucking Association

Steve Roberts, President
West Virginia Chamber of Commerce