

IRI INTELLIGENCE BRIEFING

NEWS AND DEVELOPMENTS AFFECTING THE WORKPLACE

NOVEMBER 2020

PRO Act

Labor unions, who are taking credit for increased voter turnout in support of Joe Biden in key swing states, are now looking for payback for that effort in legislation.

“Joe Biden’s firewall was union made...We call on Congress to pass and Biden to sign the Protecting the Right to Organize (PRO) Act early in 2021 to make sure every worker who wants to form or join a union is able to do so freely and fairly.”

Richard Trumka – AFL-CIO President

The PRO Act, which has 200 cosponsors in the House and 40 more in the Senate, would significantly alter more than seventy years of established labor law and completely tilt the balance towards organized labor. It is a top priority for organized labor and supported by the Biden-Harris economic recovery plan as outlined on their transition website.

In the first of three Intelligence Briefings, we will highlight key provisions of the PRO Act, and what your organization needs to do today to raise awareness and prepare for a series of potentially wide sweeping labor changes.

KEY COMPONENTS OF THE PRO ACT

Listed below are significant elements of the PRO Act that employers must know and be prepared to modify their existing strategies to address.

Provision in PRO Act	What This Means To Your Organization...
Card check	Unions are recognized without a secret ballot election simply by presenting a majority of signed authorization cards, even if employees didn't realize what they were signing
Expedited first contract bargaining and binding arbitration	If a first contract isn't reached within 90 days, a third-party arbitrator will decide on a contract that your organization will have to follow
Secondary boycotts will be legal	Labor unions who have disputes with contractors or vendors will be allowed to picket in front of your organization
Severely limiting procedural rights for employers in bargaining unit and election proceedings	Your organization could lose the right to contest many issues and may be prevented from being a party to legal proceedings

Provision in PRO Act	What This Means To Your Organization...
Overturn right to work laws in 28 states	All union-represented employees will potentially be required to pay dues or fees to the union or face termination from their jobs
Private cause of action for unfair labor practices	Plaintiff's attorneys can sue your organization for alleged violations of law
Supervisory status threshold raised	Supervisors who occasionally perform the work of their employees would be considered "bargaining unit-eligible" and would be included in a collective bargaining unit
Expanding definition of employee status and narrowing scope of independent contractor status (codifying ABC test)	Many of your current contractors would be considered employees of your organization, with all the associated responsibilities and liabilities that come with employees
Civil penalties for employer violations of labor laws	Your leaders and corporate representatives may be personally fined for unfair labor practices – no similar penalties for union unfair labor practices
Unions granted access to employee personal information	Infringing on employee privacy by requiring employers to provide union organizers personal information for all employees without prior employee approval
Ban employers from requiring employees to attend meetings during working hours in union campaigns	Your organization would be prohibited from exercising your free speech right to inform employees in on-site meetings about union representation and why you would prefer to work with them directly
Reinstating "ambush" election rules	Election time frames would be shortened again, providing little time for you to respond to organizing activity
Reinstate the Obama administration persuader rule	Your organization would be required to publicly disclose all funds spent on legal counsel, consultants, and other outside experts regarding labor relations or employee engagement activities

...and the list goes on...

WHAT YOU NEED TO DO TODAY

STEP 1: EDUCATE YOUR EXECUTIVE TEAM

Educating executives on the business impact of not only the PRO Act, but how third-party representation can affect overall quality, patient satisfaction, finances, talent, community relations, etc. is absolutely essential, so you can develop appropriate strategic contingency plans.

STEP 2: ENGAGE YOUR GOVERNMENT RELATIONS STAFF

In order to stay current on these issues, your Government Relations team needs to be brought up to speed on the PRO Act, and its potential impact on your organization. Alignment between senior leadership, human resources leadership and government relations should be hardwired to ensure consistent planning, messaging, and education.

NEXT STEPS

If you would like to learn more about the PRO Act, and the detailed steps you should take to prepare, reach out to the experts at IRI Consultants.

Our next Intelligence Briefing on the PRO Act will focus on three key action steps you should take following the election regardless of the outcome.

Have questions about how to proceed? Contact IRI Consultants at (313) 965-0350 for more information.