



The Employee Rights Act helps **WORKERS**

while the Protecting the Right to Organize Act aids
forced unionization

Key Differences: ERA vs. PRO Act

SECRET BALLOT ELECTIONS

- Current policy: Employers can protect the secret ballot for their employees if they choose to have an election when a union presents them with unionization cards. However the union can also be recognized via an open petition process called card check that can lead to workers being coerced, intimidated, or deceived.
- **ERA:** Guarantees workers the right to a private ballot for union certifications and bans union "card check" which is rife with opportunity for union intimidation.
- **PRO:** Weakens the secret ballot by allowing the NLRB to overturn secret ballot elections and recognize a union via card check if an employer cannot prove they are innocent of union accusations

EMPLOYEE PRIVACY PROTECTIONS

- Current policy: Employee contact information is given to a union during an organizing campaign when the union applies for an election.
- **ERA:** Employees may select one piece of their personal contact information to be shared with a union. Personal information that is shared with a union could only be used for purposes related to an organizing campaign.
- **PRO:** Requires workers personal information to be given to unions with no limitation on how that information can be used.

RIGHT TO WORK

- Current policy: States have the right to adopt right-to-work laws granting workers the ability to opt-out of paying union fees without losing their job.
- **ERA:** No provision, maintains current law giving states the right to choose to protect workers.
- **PRO:** Eliminates state right-to-work laws, allowing unions to get private sector workers fired for not paying them.

Data based on the following bills:

PRO Act, H.R. 20, as introduced on Feb. 28, 2023.

ERA, H.R. 7194, as introduced on Mar. 24, 2022



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LEGAL CLARITY FOR INDEPENDENT CONTRACTING

- **Current policy:** The definition of employee and, by default, independent contractor is covered by several sections of federal code each having a different test. Further, some administrations have attempted to shift away from the traditional definitions to restrict independent contracting.
- **ERA:** Provides clear definitions of the traditional independent contracting standard and legal clarity so independent contractors can continue to enjoy the flexibility they seek to run their own business.
- **PRO:** Restricts the ability to work as an independent contractor and expands coverage of who is deemed an employee under the National Labor Relations Act (NLRA) – a move designed to increase opportunities for unionization.

POLITICAL PROTECTION FOR UNION MEMBERS

- **Current policy:** Private-sector workers in non-right-to-work states must follow a complicated process to receive a rebate of their union dues going to political purposes.
- **ERA:** Gives union members an opportunity to opt-in for union dues used for political purposes, rather than requiring them to opt-out.
- **PRO:** Maintains current law.

JOINT-EMPLOYER STANDARD

- **Current policy:** Like the definition of independent contractor, some administrations have attempted to redefine the joint employer standard away from the traditional interpretation of keeping employees of a small business franchise or subcontractor as their employees as opposed to those of a distant large corporation.
- **ERA:** Codifies the traditional joint employer standard meaning that small businesses owning franchise stores and subcontractors can still be the sole employer of their employees.
- **PRO:** Codifies the Obama-era joint employer standard to include companies that may have only indirect control over the terms and conditions of employment rather than “direct and immediate” control. This could jeopardize small businesses across the country turning business owners into managers at large corporations.