



Workers' Freedom to Negotiate Act

A Better Deal for America's Workers

Fact Sheet

While the economy is working very well for the wealthy, the well-connected, and the massive corporations—it's stagnating for everyone else. From 1980 to 2014, wages for the bottom half of income earners grew by one percent, while wages for the top one percent of earners **grew by 205 percent**. This inequality, stagnation, and instability for so many is not a natural product of a functioning economy, it is the result of policy choices that have stripped workers of the power to stand together and bargain for fairer wages, benefits and working conditions.

The *Workers' Freedom to Negotiate Act* is a historic proposal that restores fairness to the economy by strengthening the federal laws that protect workers' freedom to stand together and [negotiate a Better Deal](#).

Unions are critical to increasing wages and addressing income inequality, but special interest-funded attacks on labor laws have eroded union membership. Today, union members earn 25 percent more than those who are not represented by a union. However, toothless labor laws have been exploited by unscrupulous employers, which has slashed union membership from 33 percent in 1956 to just 10 percent in 2017.

The Workers' Freedom to Negotiate Act protects the freedom to join a union by

- (1) Bolstering Remedies and Punishing Violations of Workers' Rights
- (2) Strengthening Workers' Freedom to Stand Together and Negotiate for Better Working Conditions
- (3) Restoring Fairness to an Economy that is Rigged Against Workers

Deterring and Punishing Violations of Workers' Rights

The National Labor Relations Act (NLRA), the federal law that protects workers' right to stand together and negotiate with their employers, does not empower workers to enforce their labor rights in court or permit the Board to assess monetary penalties that could deter and punish unlawful conduct, such as firing workers for seeking a union or insisting on better working conditions. In response, the Workers' Freedom to Negotiate Act:

- **Authorizes a private right of action for violations of workers' rights.** The bill allows workers to seek justice in court when employers unlawfully interfere with their NLRA rights or retaliate against them for exercising NLRA rights. Under current law, workers' may turn only to the NLRB General Counsel to enforce their NLRA rights.
- **Authorizes meaningful penalties for employers that violate workers' rights.** The bill authorizes the National Labor Relations Board (NLRB) to assess monetary penalties for each violation in which a worker is wrongfully terminated or suffers serious economic harm. The bill also permits the Board to impose liability on corporate directors and officers who participate in violations of workers' rights or have knowledge of and fail to prevent such violations.
- **Strengthens support for workers who suffer retaliation for exercising their rights.** Rather than enduring a long period of unemployment waiting for their case to be heard, the bill requires NLRB to immediately seek an injunction to reinstate the employee while their case is pending. It also gives the NLRB the power to enforce its own rulings like other federal agencies, instead of waiting for a decision from the Court of Appeals.

- **Prevents employers from interfering in union elections.** The bill prohibits employers from requiring workers to attend meetings designed to persuade them against voting in favor of a union. If a violation takes place or the employer otherwise interferes and makes a fair election impossible, the NLRB will be empowered to issue an order that requires the employer to bargain with the union. The bill also prevents employers from interfering in representation cases, which exist to determine workers' free choice, not corporations' preference about how their employees should exercise protected rights.

Strengthening Workers' Freedom to Join Together and Negotiate for Better Working Conditions

In the Supreme Court, in Congress, and in state legislatures, conservative ideologues have attacked workers' rights to stand together to improve their working conditions. In response, the Workers' Freedom to Negotiate Act:

- **Enhances workers' right to support boycotts, strikes, or other acts of solidarity.** The bill removes prohibitions on workers acting in solidarity with workers at other companies. It protects workers who engage in peaceful protest actions with their fellow workers and. Also, the bill safeguards the right to strike by clarifying that "intermittent" strikes don't lose their federal protection and prohibiting companies from permanently replacing workers who participate in a strike.
- **Safeguards workers' access to justice** by overturning Justice Gorsuch's assault on workers in *Epic Systems v. Lewis*. The bill will clarify that employers may not force employees to waive their right to engage in collective or class-action litigation.
- **Ensures unions can collect "fair share" fees.** To prevent free-riders from benefitting from the representation and services unions must render without paying their fair share for those services, this legislation allows employers and unions to enter into a contract that allows unions to collect fair-share fees that cover the costs of collective bargaining and administering the agreement.
- **Facilitates initial collective bargaining agreements.** Even when workers succeed in forming a union, nearly half of newly formed unions fail to ever reach a contract with the employer. The bill facilitates first contracts between companies and newly certified unions by requiring mediation and arbitration to settle disputes.

Restoring Fairness to an Economy that is Rigged Against Workers

Too often, greedy employers have exploited labor laws to deprive workers of their pay, benefits, and rights, and the federal government does too little to ensure the contractors they hire with taxpayer funds are following labor laws. In response, the Workers' Freedom to Negotiate Act:

- **Closes loopholes in the federal labor laws.** The bill prevents employers from misclassifying their employees as supervisors or independent contractors, and prevents workers from being denied remedies due to their immigration status. It also ensures employees have the right to collectively bargain with all of the companies that control the terms of their employment and are necessary partners for meaningful collective bargaining.
- **Increases transparency in labor-management relations.** The bill requires employers to post notices that inform workers of their rights under the National Labor Relations Act, and to disclose contracts with consultants hired to persuade employees on how to exercise their rights.
- **Uses federal purchasing power to protect workers.** The bill requires contractors to disclose violations of labor laws over the previous three years and mandates that federal agencies must consider the contractor's record of compliance in awarding contracts valued at more than \$500,000.