



Opening Statement

COMMITTEE ON EDUCATION & LABOR

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The Hon. Robert C. "Bobby" Scott • Chairman

Opening Statement of Madam Chairwoman Frederica Wilson (FL-24)

Subcommittee on Health, Employment, Labor, and Pensions Hearing
Protecting the Right to Organize Act: Modernizing America's Labor Laws

2175 Rayburn House Office Building

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Today, we are gathered for a legislative hearing on how the *Protecting the Right to Organize Act*, or PRO Act, would protect workers' rights to organize unions in the modern economy.

Unions are essential for there to be dignity in the on the job. Protecting the right to organize is critical for reversing decades of wage stagnation and income inequality.

Yet, the rapidly changing relationship between employers and employees is undermining workers' ability to negotiate for better wages, benefits, and working conditions. Today's workers are increasingly hired—not as full-time employees with middle class jobs—but as independent contractors and permatemps.

As our witnesses will testify, employers exploit ambiguities and loopholes in the N-L-R-A to prevent their employees from organizing unions—even though those employers control the terms and conditions of employment for their subcontracted employees.

Rather than working to strengthen the right to organize in this changing economy, corporate interests and their allies in the Trump administration are exploiting weaknesses in this outdated law to aid their assault on workers' rights.

For example, under the Trump Administration, the National Labor Relations Board, or N-L-R-B, has further enabled employers to misclassify their employees. Earlier this year, the N-L-R-B denied SuperShuttle drivers employee status because of their alleged "entrepreneurial opportunity," even though SuperShuttle prohibited workers from using their vehicles to work for any competitor.

And what if a worker has multiple employers? As our witnesses will testify, for many workers, the name on the door of the building where they work is not the name of the company that signs their paycheck.

Thanks to a 2015 N-L-R-B decision, known as *Browning-Ferris*, both the user of permatemps and the supplier of permatemps would have a responsibility to collectively bargain with employees, since they jointly control—directly and through contractual provisions—the terms and conditions of employment for permatemps. That joint control makes them "joint employers."

However, despite an Appeals Court ruling that affirming this decision on the definition of a joint employer, the Trump administration is continuing its efforts to obliterate the court's direction through a rulemaking.

As the workplace becomes increasingly fissured, we must protect employees' First Amendment rights to free speech and protest, in addition to preventing employers from evading their legal obligations.

The N-L-R-A currently impairs workers' First Amendment rights by barring them from protesting for their right to unionize and from standing in solidarity with workers from other employers, which would be otherwise constitutionally protected.

These laws prevent workers from peacefully protesting companies that do business with unscrupulous employers. As work relationships become more complicated, the First Amendment becomes even more essential for those workers to advocate for better pay and conditions.

But the Trump administration is seizing upon current law to further undermine workers' rights. The Republican General Counsel of the N-L-R-B recently argued that workers break the law when they use balloon animals while peacefully protesting. This makes a mockery of our First Amendment.

The organization of the workplace becomes even more fissured and employers are able to exploit these arrangements to eviscerate workers' rights. The federal government has a responsibility to ensure that labor law continues to protect workers.

The PRO Act would help achieve this goal by modernizing labor law to meet the challenges facing today's workers.

The PRO Act would prevent the misclassification of employees by codifying a clear standard for when a worker is an employee or an independent contractor.

The PRO Act also clarifies the standard for determining joint employment so that employers cannot evade their obligations under labor law. By codifying the N-L-R-B's current standard, workers can hold each of their employers accountable under the law.

And, the PRO Act protects workers' First Amendment rights by repealing prohibitions on peaceful union picketing, to guarantee organizing workers the same freedom of speech to which all Americans have a right.

By passing the PRO Act, Congress and this Committee would modernize our nation's foundational labor law to ensure that all workers can join together and bargain with employers for better pay and working conditions.

I look forward to hearing from our witnesses today and the discussion that will ensue. I now recognize the Ranking Member, Mr. Walberg, for an opening statement.