

April 19, 2023

On behalf of the undersigned organizations, representing millions of American workers and employers, we write today to urge you to cosponsor the Employee Rights Act (ERA) of 2023, a vital piece of legislation that will empower American workers and protect their freedom of choice in the workplace.

Over the past several decades, America's workers have innovated to meet the demands of our changing economy. But America's labor laws haven't significantly changed since 1947. First introduced in 2011, the ERA will update our labor code to better protect workers' rights, while also reflecting major changes to our economy in recent years. According to polling from the Center for Union Facts, the legislation's key provisions are [overwhelmingly popular](#) with union households, as well as the American public more broadly.

The ERA will soon be introduced by Senator Tim Scott (R-SC) and Representative Rick Allen (R-GA), with support from Senate Republican Leader Mitch McConnell and other key Republicans. The bill has been condensed from previous versions to focus on several key provisions, including updates to address modern-day concerns such as new protections for franchise small businesses.

The legislation's key provisions are highlighted below:

- **Secret Ballot Elections.** The ERA will ensure that any vote to organize a workplace or hold a strike is done via private ballot. Today, unions can bypass private votes in favor of a public "card check" election – a means by which unions organize by collecting signatures or "cards." Without a private ballot, workers can be subject to harassment or intimidation to sign a card authorizing the union to represent them. The union boss-backed Protecting the Right to Organize (PRO) Act would essentially eliminate the secret ballot vote and replace it with a card check system. But a secret ballot ensures that workers always have a private, protected vote that reflects their true preference for unionization in their workplace. Simply put, workers should have the right to vote on their representation in the workplace the same way they vote on their representation in Congress.
- **Employee Privacy.** There is currently no ability for employees to prevent their personal information from being disclosed to the National Labor Relations Board and to the union that seeks to represent them. The ERA limits the amount of employee personal information a union receives during an organizing drive. In addition, the bill makes it an unfair labor practice if the union uses employees' personal information for any reason other than a representation proceeding.

- **Political Protection.** Many workers join a union in hopes that their dues will help improve their workplace. But hundreds of millions of dollars in union dues are spent each year supporting political candidates and causes, rather than collective bargaining issues. The ERA would require workers to consent to their union dues being used for anything other than collective bargaining efforts.
- **Protection for Independent Contractors.** The ERA updates the current law to keep the definition of an “employee” in line with the common-law definition used by numerous state statutes and in recent Supreme Court rulings. This common-law test determines the appropriate classification for a given worker by relying primarily on the degree of control and independence that worker maintains. The ERA creates consistency when it comes to defining employee and independent contractor status, providing much-needed clarity for both workers and employers.
- **Protection for Local Businesses.** The ERA includes the Save Local Business Act, which clarifies the joint employer standard to provide clarity and certainty for small business owners and workers. It would allow more franchisees to own their own businesses, giving more Americans the opportunity to realize their dream of starting their own business.

As technology advances and more industries seek to navigate a post-pandemic economy, it is common sense that our labor laws – which haven’t been meaningfully updated in decades – adapt to today’s diverse economy and provide the best protection possible for America’s workers.

We hope you’ll consider signing on to support this legislation and help bring America’s labor law into the 21st century. For more information on the Employee Rights Act, or to join as a co-sponsor in the Senate, please contact Ashling Preston in the Office of U.S. Senator Tim Scott (Ashling.Preston@scott.senate.gov). For House cosponsorship, please contact Lauren Hodge in the Office of Congressman Rick Allen (Lauren.Hodge@mail.house.gov).

Sincerely,

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