



Fighting for Worker Power through Legislative and Political Engagement

We must engage in proactive fights to expand worker power on all fronts

Laws intended to give workers power in our economy were not weakened beyond recognition by corporate executives and Wall Street profiteers in one year, month or decade. They, along with an army of lobbyists and lawyers have engaged in an 85-year long relentless campaign to get us to where we are today. Too often, legislators from both parties have enabled this effort.

We must reverse this trend and once again build power for all workers in the U.S. economy. We must remain focused on pushing federal policymakers to enact the meaningful and transformative reforms our national labor laws need. We must continue to build power through all avenues available to us. All of these efforts are vital as we focus on not just fighting off attacks but advancing our agenda for worker power on all fronts.

This document lays out the opportunities for making progress through executive action by the new administration, passing legislation through the Democratic-controlled House and Senate and at the state level.

The 85 year war to weaken worker power

In 1935, as a result of the Great Depression, President Franklin Roosevelt and the U.S. Congress passed into law the historic “Wagner Act” formally known as the [National Labor Relations Act \(NLRA\)](#). This legislation was the culmination of decades of efforts to give workers some form of power in the workplace and more importantly in the economy. The NLRA created the legal right for private sector workers to organize into unions, collectively bargain with their employers and the right to strike. The NLRA made it clear that “It is declared to be the policy of the United States to...encourage the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self- organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.”

The NLRA was vehemently opposed by the business community and wealthy corporate interests and immediately after its passage they joined with the Republican Party and Dixiecrats in Congress to begin an effort to repeal or undermine the NLRA. While never successful in repealing it entirely or eliminating the clearly declared policy of the United States to encourage unionization and collective bargaining, over the ensuing 85 years they have been successful at eroding the power given to workers in the NLRA through legislation, lawsuits and loopholes.

The first major effort at weakening the NLRA came in 1947 when the Congress passed and overrode President Truman's veto of the Taft-Hartley Act. This legislation, pushed by the Republican Party and unfortunately supported by a number of Congressional Democrats, allowed states to pass "Right to Work" laws that allowed workers to enjoy the benefits of a union and a contract without having to become a member, made solidarity strikes and secondary boycotts illegal, and included a "free speech clause" for employers that companies routinely utilize to hold intimidating captive audience meetings.

Since enactment of the Taft-Hartley Act, 27 states have passed "Right to Work" freeloader laws. Years of right wing, pro-corporate ideologues appointed to the National Labor Relations Board (the body tasked with implementing and enforcing the NLRA) have successfully weakened worker power through regulatory and legal machinations and in many cases working against the stated goal of the NLRA to encourage worker unionization. In addition, efforts by radicalized, pro-corporate, right wing activist federal judges have chipped away at the power afforded to workers under the NLRA through embracing legal theories like Constitutional free speech rights for corporations.

The success of these efforts to weaken worker power are made clear by the fact that today only 6.3% of private sector workers belong to a union, from a high of almost 36%. The efforts to further weaken workers' power in the U.S. economy can also be seen in the decline of workers' share of wealth in the U.S. economy. Even though the amount of wealth that U.S. workers generate in the economy has steadily increased over the decades, their share of that wealth in the form of take home pay has declined over the last 40 years. U.S. workers today are actually taking home less in inflation adjusted wages than they were in the mid-1970s.

This 85 year effort to steadily erode the power given to workers through the NLRA must be halted and reversed in order to once again build power for workers in the U.S. economy. We need to mobilize to enact meaningful reforms to ensure that the stated goal of the United States to encourage unionization and collective bargaining is achievable. These efforts can be done through comprehensive federal labor law reforms, efforts at the state and local levels to allow and encourage worker unionization in the public and private sectors, presidential executive action, procurement decisions by governments at all levels and changes to the tax code.

CWA believes that these are all necessary steps that must be taken to once again give workers some form of power in the economy. Just as the 85 year effort to undermine the NLRA and all worker power has not happened in one fell swoop but through years of concerted efforts on multiple fronts, we must focus on building worker power through as many means as necessary while also focusing on the needed transformative federal labor law reforms that are needed.

Transformative Federal Labor Law Proposals

Our major goal is to pass two pieces of federal legislation that would transform our labor laws. Passing these laws would give workers tools they need to build power and improve their working conditions. The first would enhance workers' legal rights in the private sector and the

other would give all public sectors workers in the United States the opportunity to exercise their fundamental rights on the job.

PRO Act: The [PRO Act](#) is a comprehensive piece of legislation that would address many of the barriers faced by workers attempting to organize and bargain collectively and their exercise of those rights in the private sector. It is the most far reaching Labor Law reform since the Employee Free Choice Act a decade ago. It would, among other things:

- Protect strikes and other protest activities. The bill will make it illegal for employers to permanently replace striking workers and make secondary strikes and boycotts legal.
- Make it easier to bargain. The bill will eliminate obstacles for workers to get their first union contract.
- Help strengthen protections for workers forming a union. The bill will establish compensatory damages for workers and penalties against employers when they fire or retaliate against workers for forming a union. It also blocks employers from gerrymandering bargaining units or causing needless election delays.
- Prevent the misclassification of workers as independent contractors.
- Enable workers to negotiate contracts with fair share payments, regardless of a state's "right-to-work" laws.

Public Service Freedom to Negotiate Act (PSFNA): Currently, there is no federal law that protects the freedom of state and local public service workers to join a union and collectively bargain. As public sector workers have organized in states and localities across the country, increasing the number of public sector workers belonging to a union, corporate executives and anti-union ideologues have focused their resources on destroying public sector unions. Numerous states have passed free rider so-called "right-to-work" laws that force public service unions to advocate on behalf of workers who haven't paid their fair share for those services. Since the outrageous, anti-worker Supreme Court decision in *Janus vs. AFSCME*, public service workers across the country work under this unfair free rider law. It's time to level the playing field by establishing federal protections guaranteeing public service workers the right to join together and collectively bargain. The PSFNA would do just that.

The [Public Service Freedom to Negotiate Act](#) gives dedicated public employees in every state the freedom to:

- Join together in a union selected by a majority of employees;
- Collectively bargain over wages, hours, and terms and conditions of employment;
- Access dispute resolution mechanisms (such as mediation or arbitration);
- Use voluntary payroll deduction for union dues;
- Engage in other concerted activities related to collective bargaining and mutual aid;
- Not have their union be subject to rigged recertification elections; and
- Sue in court to enforce their labor rights.

Because of the amazing political work across CWA in the 2020 elections resulting in the election of Joe Biden as President, keeping Democratic control of the House and winning functional

Democratic control of the Senate, we have an opportunity to advance these bills. The path forward is clear but not easy. We must focus on building majority support. Fortunately, the House of Representatives passed the PRO Act in February 2020 on a bipartisan vote of 224-194. PSFNA did not receive a vote but had the support of a strong majority of House members (229) as cosponsors. With a number of PRO Act and PSFNA supporters defeated by anti-worker power Republicans in the 2020 elections, the margin of support is smaller but we believe there is still a majority in the House of Representatives. The major struggle will be overcoming Senate Republicans and their current ability to filibuster the legislation, preventing them from getting a debate or a vote in the Senate. Our focus will be on building majority support for both bills in the US House and Senate and working to overcome the Senate filibuster.

Other avenues to enhance worker power through legislation, regulations and executive action

- **Bypassing the Senate filibuster through budget reconciliation**

CWA has for over a decade been fighting to eliminate the Senate filibuster, which has been used for decades to block pro-worker and pro-civil rights legislation. We believe that we are close to achieving that goal, but have been exploring ways to advance legislation to enhance worker power through the budget reconciliation process in case we are unable to end the filibuster or are delayed in doing so. [This is a parliamentary process that requires a simple majority vote in the U.S. Senate.](#)

CWA is working closely with Congressional allies, other unions and progressive partners in determining what parts of comprehensive legislation like the PRO and Public Service Freedom to Negotiate Acts could be accomplished through the reconciliation process. Some changes to enhance worker power through the federal tax code [have already been identified as doable](#) under the reconciliation process. Those three proposals would:

1. Allow for union members to deduct their union dues from their federal income taxes “above the line” meaning they are automatically deductible whether you itemize your deductions or not.
2. Prevent businesses from deducting from their taxes business expenses incurred in fighting workers efforts to unionize, hiring of striker replacements and any other expenses used to fight the workers or their unions.
3. Reduce the misclassification of employees as independent contractors through changes to the tax laws.

- **Executive action expanding federal contractor employees power**

The federal government has a huge impact on employers’ behavior through the federal contracting process, as millions of workers nationwide work in the private sector under federal contracts. The Biden Administration is working towards creating executive orders that could require companies contracting with the federal government to not only pay employees a living wage and provide necessary family supporting benefits, but would strengthen the rights of workers at federal contractors to organize.

- **Pro-Worker Power Department of Labor**

For the first time in nearly a half century, we will have a union leader as the Secretary of Labor once Marty Walsh is confirmed. The Department of Labor can help influence Congress to pass pro-worker legislation, support with bargaining and organizing campaigns, and expand and enforce federal worker protection rules.

- **Strengthen worker power at companies receiving federal funds**

Since it has been the stated policy of the federal government for 85 years to encourage worker organizing and collective bargaining, any funds appropriated by the federal government should require that corporations or any entities that employ workers using those funds should remain neutral if the workers are not already unionized. This is currently a requirement in the [Broadband expansion legislation](#) passed last year by the House of Representatives and introduced in the U.S. Senate. We believe that all federal spending programs should require that companies must remain neutral if the workers decide to exercise their legal rights to organize a union.

- **State and local policies to expand worker power**

As we fight to expand worker power at the federal level through reforms to the national labor laws, we must continue to build worker power in our states and local communities. We must fight any efforts to expand “Right to Work” freeloader laws, work to repeal those laws in states where they currently exist, require state and local procurement funds prioritize unionized workforces and require employer neutrality on organizing efforts, and pass laws to allow for public sector workers to exercise their rights to join a union and bargain collectively. We can also help build power for all workers by ensuring that workers have just cause protections against dismissal, regardless of whether they are represented by a union.