The Daily Dish

The PRO Act Passes

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Eakinomics: The PRO Act Passes

Readers are excused if they missed the moment when the House of Representatives passed the Protecting the Right to Organize (PRO) Act. After all, the media has been mesmerized by the American Rescue Plan, the sweeping partisan expansion of the social safety net, pension bailout, and helicopter drop of taxpayer dollars. There was also some sort of to-do with the royals.

Nevertheless, the PRO Act did pass, a threatening development as the PRO Act is a sweeping revision of labor law that includes changes to the joint-employer standard, worker classification, and a repeal of right-to-work laws in 28 states. Isabel Soto has a complete analysis. The PRO Act also passed the House last year but stalled in the Senate. This year, all that stands between the PRO Act and massive interference in the U.S. labor market is adherence to the Senate filibuster.

To begin, the PRO Act would pre-empt state laws in 28 Right to Work (RTW) states. This is an aggressive override of workers' desires in those states; it is also poor policy. As Soto notes, "economic research shows that RTW states perform better than non-RTW states along key metrics including employment growth, real private-sector output, and growth in number of businesses." The last thing the U.S. economy needs is to erect further headwinds to the recovery.

In addition, the PRO Act would re-write the National Labor Relations Act to limit workers' ability to be classified as independent contractors. The PRO Act reverses the default and presumes that a worker is an employee unless they can meet the three criteria of the "ABC test" to qualify as independent contractor. Soto notes: "This reclassification would go directly against the preferences of independent workers and significantly increases costs on employers. Based on a survey from the Bureau of Labor Statistics, fewer than 1 out of every

10 independent contractors would prefer a traditional employment relationship. There are many benefits to independent work including flexibility, entrepreneurial opportunity, and a level of autonomy not typically found in hourly employment. Assuming 15 to 50 percent of independent contractors would be reclassified as employees under the ABC test, businesses could face between $3.6 billion and $12.1 billion in additional costs."

Finally, the PRO Act would change the definition of a joint employer. In the past, a firm had to have direct control over an employee to be considered an employer. The PRO Act would change this to include entities that exert direct or indirect control over workers. Soto notes that: "Changes to the joint-employer standard affect business relationships across industries including contracting, subcontracting, and franchise agreements. American Action Forum research found that the broadened joint-employer standard would impact 44 percent of private-sector employers, or 54.6 million workers. Furthermore, this change could lead to $17.2 billion to $33.3 billion in lost annual output for the franchise business sector."

The PRO Act is not dominating the policy discussions. But that does not mean that it is not a threat to the effective functioning of the U.S. labor market.