



## Insight

# State-level Costs of the PRO Act: Update

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### Executive Summary

- The recently reintroduced Protecting the Right to Organize (PRO) Act ([H.R. 20](#)) seeks to strengthen labor unions through provisions that include repealing right-to-work laws, reclassifying independent contractors, and broadening the joint-employer standard.
- Many of the provisions ignore stated worker preferences and would likely harm the labor market by limiting worker freedom and increasing costs to small businesses, franchisees, and entrepreneurs.
- This state-by-state analysis of these provisions, updating previous [American Action Forum Research](#), indicates that the right-to-work states that would be most harmed through increased employment costs and risk of gross domestic product loss by the PRO Act are Alabama, Florida, Georgia, Nebraska, North Carolina, South Carolina, Texas, Virginia, and Wyoming.

### Introduction

The Protecting the Right to Organize (PRO) Act ([H.R. 20](#)) is sweeping legislation that seeks to strengthen labor unions by increasing their collective bargaining power. The PRO Act would, among other things, repeal all right-to-work (RTW) laws, narrow the classification criteria for independent contractors (ICs), and broaden the joint-employer standard. Though intended as pro-worker legislation, many of the bill's provisions do not align with most workers' stated preferences, would likely limit worker freedoms, and put upward pressure on costs to employers, freelancers, and entrepreneurs.

Previous American Action Forum (AAF) [research](#) estimated the economic costs of the noted

PRO Act provisions to the nation as a whole. As these impacts are unlikely to be evenly distributed across states, however, this analysis attempts to quantify how they would affect each state. This update to previous [AAF research](#) finds the right-to-work states that would be most negatively affected by the PRO Act are Alabama, Florida, Georgia, Nebraska, North Carolina, South Carolina, Texas, Virginia, and Wyoming. These states would see the greatest rise in employment costs and risk of reduced gross domestic product.

## **Right-to-work and the PRO Act**

RTW laws, found in 26 states nationwide, prevent union membership from being a condition of employment and make compulsory union dues illegal. Research suggests that RTW states generally enjoy higher levels of employment, greater state investment, and enhanced productivity. Repealing every state's RTW law, as the PRO Act would do, would therefore carry significant economic costs.

### *Right-to-work and Employment*

The benefits of RTW laws on employment apply not just to specific industries but state economies broadly. According to a 2018 [report](#) from NERA Economic Consulting, states with RTW laws witnessed 27 percent employment growth from 2001–2016 compared to 15 percent growth in non-RTW states. Looking at year-to-year changes in employment, RTW states outpaced non-RTW states in employment growth. From March 2022–2023, for example, RTW states averaged 2.5 percent employment growth, whereas non-RTW states hovered around 2.1 percent growth.

Unemployment rates are consistently lower in states with RTW laws, too. NERA Economic Consulting also found that the annual unemployment rate in RTW states was 0.4 percentage points lower than in non-RTW states. Currently, the average unemployment rate for RTW states is 3.1 percent, compared to 3.5 percent in non-RTW states.

### *Right-to-work and Investment*

RTW states benefit from higher employment relative to non-RTW states in part due to the preference of businesses to invest in and relocate to RTW states. [Data](#) suggest that RTW states have preferable business environments. Between [2009–2021](#), California, closely followed by New York, saw the greatest loss in the number of corporate headquarters. The states that gained the most corporate headquarters over the same period were Arizona, Florida, Massachusetts, and Texas, three of which are RTW states.

Businesses also openly testify on the importance of RTW status for determining their location. In a [2017 survey](#) of 500 CEOs, over half indicated a preference for

locating in states with RTW laws.

### *Worker Freedom*

In addition to economic benefits, RTW laws provide workers with greater freedom of choice regarding employment and representation.

Workers value free choice. A [2018 paper](#) by economist Christos Makridis found, for example, that RTW laws are associated with improvements in employee well-being, workplace conditions, and culture. In addition, [survey data](#) find that voters support the protections that RTW legislation provides, with 70 percent reporting concern that the PRO Act would abolish RTW and force workers to pay union dues.

### **Independent Workers and the PRO Act**

The PRO Act would narrow the definition of ICs in the National Labor Relations Act, resulting in the reclassification of many independent workers as traditional W-2 employees. States with high concentrations of independent contractors would be disproportionately affected.

The independent workforce has been steadily growing and could include as many as [73.3](#) million workers (up to 46.2 percent of the labor force) in the United States. Of these workers, only [9 percent](#) report preferring traditional employee status over their IC role. Many ICs cite higher wages and the flexibility that independent work provides as motivation to participate in independent work. Reclassifying ICs as traditional W-2 employees would erase these benefits and put upward cost pressures on employers, particularly in California, Florida, Georgia, Illinois, New York, Pennsylvania, and Texas (see appendix for all states).

### *Benefits of Independent Work*

Independent work allows individuals to supplement existing sources of income or accumulate multiple sources of income to cushion against economic instability. [12 percent](#) of the workforce reported turning to some form of independent work during the pandemic, for example. Of those, [75 percent](#) reported doing so for financial stability. What's more, approximately [44 percent](#) of freelancers say that they make more money from gigs than they would as traditional W-2 employees. This includes full-time independent workers who earn, on average, [\\$69,000](#) per year from gig work alone.

Another benefit of independent work is the flexibility it affords workers. When surveyed about the motivation to freelance, approximately [73 percent](#) of independent workers report wanting a flexible schedule as a driving factor for their participation in the gig economy.

## Reclassification Costs

Beyond impacting workers' incomes and flexibility, the PRO Act's reclassification of independent contractors as traditional workers would put upward pressure on employers' costs. To calculate the costs of reclassification, this study used data from the Chamber of Commerce to estimate the number of independent contractors by state. The original data reports the IC workforce of 2016, which is about 220 percent smaller than the current IC workforce. Ideally, this research would have access to more recent data that breaks down the IC workforce by state. As such data is not available, this research bases all calculations off the 2016 data by assuming that the distribution of independent workers across states is similar to the conditions of 2016 and therefore that the IC population in each state grew by 220 percent between 2016–2023. Table 1 reports the approximate number of independent workers per state proportional to 2016.

The latest regional [Employer Costs for Employee Compensation](#) data for legally required benefits of traditional W-2 employees were used to identify the increase in employer costs due to reclassification (see regional benefit costs in appendix). This analysis does not estimate the effects of alternative cost-saving measures, such as layoffs or increasing consumer prices, that employers could take to counteract cost increases. In addition to the 15–50 percent of ICs likely to be impacted, the reclassification would also interrupt small business operations.<sup>[i]</sup> This analysis indicates that RTW states facing the greatest costs from reclassification are Florida, Georgia, North Carolina, Texas, and Virginia (see Table 1). Nationally, the total cost amounts to **\$18 billion** at the 15 percent reclassification level and **\$61 billion** at the 50 percent reclassification level.

Table 1: Estimated State-level Reclassification Costs

RTW States	Est. Number of Independent Workers	Est. Cost of Reclassification (\$) - 15% of workers	Est. Cost of Reclassification (\$) - 50% of workers
Alabama	964,272	600,261,634	2,000,872,114
Arizona	1,425,683	1,063,459,150	3,544,863,833
Arkansas	657,952	444,885,035	1,482,950,117
Florida	5,613,120	4,111,686,738	13,705,622,461
Georgia	2,715,158	1,988,890,161	6,629,633,870
Idaho	324,342	241,936,298	806,454,328

Indiana	1,207,466	946,042,849	3,153,476,164
Iowa	664,291	472,342,787	1,574,475,957
Kansas	605,517	430,551,652	1,435,172,173
Kentucky	789,133	491,237,186	1,637,457,288
Louisiana	996,410	673,738,963	245,796,542
Mississippi	598,394	372,501,701	1,241,672,337
Nebraska	414,579	294,785,569	982,618,563
Nevada	663,069	494,602,794	1,648,675,980
North Carolina	2,265,562	1,659,554,977	5,531,849,922
North Dakota	171,670	122,065,610	406,885,367
Oklahoma	881,629	596,127,907	1,987,093,024
South Carolina	1,016,918	744,906,265	2,483,020,884
South Dakota	201,805	143,493,042	478,310,139
Tennessee	1,552,022	966,137,420	3,220,458,066
Texas	8,280,816	5,599,209,544	18,664,031,813
Utah	547,587	408,461,352	1,361,537,840
Virginia	1,784,458	1,307,139,754	4,357,132,512
West Virginia	254,278	186,262,093	620,873,644
Wisconsin	915,706	717,450,523	2,391,501,743
Wyoming	130,045	97,004,415	323,348,049

### **Joint-employer and the PRO Act**

The PRO Act would also significantly affect how business is conducted by broadening the joint-employer standard. Under the broader definition, a business entity could be classified as a joint employer if it “possesses the authority to control or exercises the power to control particular employees’ essential terms and conditions of employment.” This would be a change from the previous standard specifying that the employer must also exercise that power to fulfill joint-employment status. If classified as a joint employer, an entity may be

responsible for participating in union negotiations and responding to unfair labor practice claims. They would likely also be subject to accretion, the addition of employees to existing bargaining unions without an election. (See additional information about the joint-employer rule [here](#).)

A broadened joint-employer standard would likely disincentivize franchising significantly. Under the current joint employer standard, franchisors are not considered employers of the franchisees, but the broadened definition would likely cause franchisors to be labeled as joint employers because of the brand-specific rules and procedures that they impose on franchises. Though this oversight is often beneficial for the franchisee when starting a business, it will likely be seen as possession of authority to control terms and conditions of employment, therefore subjecting the franchisor to the responsibilities of a joint employer. Such reclassification would significantly disincentivize the franchise business model.

[Research](#) surrounding the broadened standard finds that it would cost franchises \$33.3 billion a year, lead to the loss of over 350,000 jobs, and increase lawsuits by 93 percent. In addition, recent [AAF research](#) estimated that if the PRO Act were to pass, between \$20-\$38.7 billion of U.S. gross domestic product would be at risk.

The potential change to the joint-employer standard would impact states differently based on the prevalence of franchising across states. RTW states that could experience significant consequences from a broadened standard include Alabama, Georgia, Nebraska, South Carolina, and Wyoming. (See Table 2.) Among all RTW states, franchise employment represents at least 5.4 percent of total employment and nearly 4.5 million workers.

Table 2: State-level Franchise Employment

RTW States	Franchise Employment	Percent Franchise Employees
Alabama	140,998	6.6
Arizona	189,308	6.0
Arkansas	83,265	6.2
Florida	624,681	6.4
Georgia	315,224	6.5
Idaho	50,401	6.0
Indiana	188,387	5.8
Iowa	91,000	5.7

Kansas	88,029	6.1
Kentucky	120,695	6.0
Louisiana	122,960	6.3
Mississippi	75,802	6.4
Nebraska	68,164	6.5
Nevada	89,514	5.8
North Carolina	298,122	6.1
North Dakota	24,956	5.7
Oklahoma	109,863	6.4
South Carolina	161,135	7.1
South Dakota	29,133	6.3
Tennessee	205,457	6.2
Texas	826,292	6.0
Utah	95,001	5.6
Virginia	246,479	6.0
West Virginia	38,939	5.6
Wisconsin	161,064	5.4
Wyoming	20,309	7.0

## Conclusion

The PRO Act would increase unions’ collective bargaining negotiation power at the expense of worker freedom and higher costs for small businesses and entrepreneurs. The state-level effects would vary, but the costs of repealing RTW laws, IC reclassification, and broadening the joint-employer standard as estimated in this research indicate those states that will face the greatest challenges under the PRO Act are Alabama, Florida, Georgia, Nebraska, North Carolina, South Carolina, Texas, Virginia, and Wyoming.

## Appendix

State	RTW	Number of Independent Workers	Cost of Reclassification (\$) - 50% of Workers	Franchise Employment
Alabama	x	964,272	2,000,872,114	140,998
Alaska		140,330	463,134,831	13,120
Arizona	x	1,425,683	3,544,864,330	189,308
Arkansas	x	657,952	1,482,950,117	83,265
California		9,733,850	32,124,974,253	886,057
Colorado		1,448,064	3,600,512,668	186,356
Connecticut		756,608	2,266,979,154	76,016
DC		203,325	496,460,604	26,336
Delaware		178,829	436,648,427	11,787
Florida	x	5,613,120	13,705,622,461	624,681
Georgia	x	2,715,158	6,629,634,847	315,224
Hawaii		317,498	1,047,848,759	32,341
Idaho	x	324,342	806,455,322	50,401
Illinois		2,786,893	7,278,383,007	352,174
Indiana	x	1,207,466	3,153,475,119	188,387
Iowa	x	664,291	1,574,476,431	91,000
Kansas	x	605,517	1,435,171,699	88,029
Kentucky	x	789,133	1,637,456,873	120,695
Louisiana	x	996,410	2,245,795,641	122,960
Maine		276,374	828,084,032	24,500
Maryland		1,471,645	3,593,332,768	152,122
Massachusetts		1,567,200	4,695,707,328	116,706
Michigan		1,976,118	5,160,925,667	247,936

Minnesota		1,666,326	3,949,460,180	151,641
Mississippi	x	598,394	1,241,671,507	75,802
Missouri		1,150,330	2,726,465,205	165,659
Montana		228,893	569,126,382	32,739
Nebraska	x	414,579	982,619,037	68,164
Nevada	x	663,069	1,648,675,483	89,514
New Hampshire		273,674	819,991,787	32,188
New Jersey		1,690,726	5,353,137,350	203,438
New Mexico		397,350	987,984,750	51,923
New York		3,881,357	12,289,058,748	291,390
North Carolina	x	2,265,562	5,531,848,945	298,122
North Dakota	x	171,670	406,886,315	24,956
Ohio		2,413,091	6,302,144,806	314,787
Oklahoma	x	881,629	1,987,092,573	109,863
Oregon		815,085	2,690,053,708	104,487
Pennsylvania		2,507,565	7,939,391,488	289,858
Rhode Island		218,656	655,145,853	21,925
South Carolina	x	1,016,918	2,483,021,860	161,135
South Dakota	x	201,805	478,309,665	29,133
Tennessee	x	1,552,022	3,220,458,896	205,457
Texas	x	8,280,816	18,664,031,813	826,292
Utah	x	547,587	1,361,538,337	95,001
Vermont		141,946	425,303,085	11,040
Virginia	x	1,784,458	4,357,131,535	246,479
Washington		1,286,362	4,245,425,497	179,011

West Virginia	x	254,278	620,874,621	38,939
Wisconsin	x	915,706	2,391,500,699	161,064
Wyoming	x	130,045	323,347,552	20,309

### Cost of Legally Required Benefits by Region

Region		States	Cost of Legally Required Benefits (\$/hour)
Northeast	New England	Connecticut Maine Massachusetts New Hampshire Rhode Island Vermont	3.35
	Middle Atlantic	New Jersey New York Pennsylvania	3.54
South	South Atlantic	Delaware Florida Georgia Maryland North Carolina South Carolina Virginia West Virginia	2.73
	East South Central	Alabama Kentucky Mississippi Tennessee	2.32
	West South Central	Arkansas Louisiana Oklahoma Texas	2.52

Midwest	East North Central	Illinois Indiana Michigan Ohio Wisconsin	2.92
	West North Central	Iowa Kansas Minnesota Missouri Nebraska North Dakota South Dakota	2.65
West	Mountain	Arizona Colorado Idaho Montana Nevada New Mexico Utah Wyoming	2.78
	Pacific	Alaska California Hawaii Oregon Washington	3.69

[i] The reclassification estimate is the same as that used in previous [AAF research](#).