The Daily Dish

The PRO Act and the States

DOUGLAS HOLTZ-EAKIN | AUGUST 16, 2021

Eakinomics: The PRO Act and the States

There has already been much (virtual) ink spilled over the Protecting the Right to Organize (PRO) Act (H.R. 2474) because of its dramatic impact on the labor market. It would, for example, significantly change the classification criteria for independent contractors (ICs) to make it harder to qualify as an IC, expand the number of business arrangements subject to joint-employer liability, repeal all state-level right-to-work laws (RTWs), and restrict employers from permanently replacing strikers. Isabel Soto has catalogued the negative impacts and their costs in previous research.

Yet one would expect that the PRO Act would have differential impacts across states. Twenty-seven states have RTW laws, and the mix of industries and occupations would lead to differences in the impact of joint-employer and worker-classification rules. Luckily, Isabel Soto has new research that looks at precisely those differences. It’s a great read.

Among the highlights, she finds that the business climate is better in RTW states, with the result that “between 2000 and 2015, RTW states saw a 13.3 percent increase in the number of businesses while non-RTW states only saw 4.1 percent growth in businesses.” Soto provides a new estimate of the independent worker reclassification provision and finds that it could reach a cost of $57 billion nationwide. Finally, she looks at the impact of the joint-employer changes on the successful franchise business model. Her estimate is that it would cost “up to $33.3 billion a year, lead to over 350,000 job losses, and increase lawsuits by 93 percent.”

But most important is the fact that these analyses are also done for each RTW state. She concludes that those “that would be most negatively affected by the PRO Act are Arizona, Florida, Georgia, Indiana, Louisiana, Nevada, North Carolina, South Carolina, Texas, Tennessee, and Virginia.”