State Representatives Gil Blair and Brigid Kelly

Chair Manning, Vice Chair Dean, Ranking Member Lepore-Hagan, and members of the House Commerce and Labor Committee, thank you for the opportunity to provide sponsor testimony on HCR 16 to urge the Congress to enact the Protecting the Right to Organize Act of 2019.

The Protecting the Right to Organize (PRO) Act of 2019 – which has been introduced and passed the US House[1] and has also been introduced in the Senate[2] – would strengthen protections for workers' rights to organize and collectively bargain for higher wages, better benefits, and safer working conditions.

Research from the Center on Budget and Policy Priorities[3] found that in Ohio, during the time frame from 1979-2016, the income change for the top 1% of households in our state increased by 74%. For everyone else, it was 4% less. Hardworking people in our state provide essential services that power our community every day, often for low pay, sometimes with no health care benefits, and often with erratic and unpredictable schedules. Many hardworking Ohioans patch together more than one job not just to get ahead, but to simply to try and get by. And now, in the midst of a global health crisis, it is even more important that they have the ability to come together to form and join their unions to negotiate over pay, benefits, and work rules. They should not have to fear retaliation, or even losing their jobs, for trying to create a better place to work. People have earned and deserve the opportunity to truly have a free and fair opportunity to weigh in on the important work they do every day.

It is critical that the Ohio General Assembly express strong support for passage of these historic federal efforts to restore fairness to our economy. The Pro Act legislation includes the following protections for workers:

- Meaningful penalties for violations of workers' rights;
- Support for workers who suffer retaliation for exercising their rights;
- Authorization for a private right of action for violations of workers' rights;
- Prevention of interference in union elections;
- Enhancements for workers' rights to strike for basic workplace improvements, including higher wages and better working conditions;
- Safeguards for workers' access to justice;
- Authorization for unions and employers to negotiate agreements that allow unions to collect fair-share fees that cover the costs of representation;
- Mediation and arbitration processes to ensure employers and newly formed unions reach a first contract;
- Prevention of misclassification of employees; and
- Increased transparency in labor-management relations by posting notices that inform workers of their rights under the National Labor Relations Act.

You can see in the attached chart, part of the Economic Policy Institute report on "Why unions are good for workers—especially in a crisis like COVID-19[4]," how the PRO Act will address existing loopholes and shortcomings in labor and employment law, and create a more level playing field for workers who want to form their unions.

We appreciate the opportunity to provide testimony and ask your support of this legislation to support better lives and more secure futures for workers and middle class families in our state.

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[1] https://www.congress.gov/bill/116th-congress/house-bill/2474
[2] https://www.congress.gov/bill/116th-congress/senate-bill/1306
[3] https://www.cbpp.org/sites/default/files/atoms/files/12-15-16sfp-factsheet-ohio.pdf
[4] https://www.epi.org/publication/why-unions-are-good-for-workers-especially-in-a-crisis-like-covid-19-12-policies-that-would-boost-worker-rights-safety-and-wages/

The Protecting the Right to Organize (PRO) Act expands workers' rights on the job

Examples of loopholes in current labor law and how the PRO Act closes them

Deficiency in the National Labor Relations Act	Policy reform under the PRO Act
Employers drag out the election process through litigation at the National Labor Relations Board (NLRB).	Workers and the NLRB set union election procedures. The employer is not involved.
Employers have free rein to hold captive audience meetings where they deliver anti-union messages without an opportunity for the union to respond.	Employers are prohibited from forcing workers to attend captive audience meetings.
Workers wait months and even years to be reinstated or receive back pay after they were unlawfully discharged by their employer for engaging in activities protected under the National Labor Relations Act (NLRA).	The NLRB is required to go to court and get an injunction to immediately reinstate workers if the NLRB believes the employer has illegally retaliated against workers for union activity.
Employers who violate workers' rights under the NLRA face no civil penalties.	Employers who commit violations under the NLRA face civil penalties, including individual liability for responsible corporate officials.
Workers are prohibited from bringing civil lawsuits against their employer for violating their NLRA rights.	Workers gain a private right to civil action.
Employers are allowed to force workers to sign arbitration agreements in which they waive the right to collective or class action litigation.	Collective and class action waivers are banned.
Employers are allowed to misclassify workers as independent contractors without violating the NLRA.	Employers must follow an "ABC" test to determine employee status and employee misclassification is a violation under the NLRA.
Multiple employers are able to dictate workers' terms of employment while evading collective bargaining with employees.	Employers are less able to evade their responsibilities because the PRO Act codifies a strong joint-employer standard (a defined set of criteria ensuring that employers who dictate workers' terms of employment are considered joint employers and thus responsible for workplace protections).
States may have "Right-to-work" laws that prohibit employers and unions from negotiating contracts that require dues or "fair share" fees from all represented workers.	States must allow private employers and unions to enter into "fair share" agreements.
Employers have the ability to drag out the process of bargaining over a first collective bargaining agreement.	Employers must follow a process for reaching a first agreement when workers organize, a process that uses mediation and then, if necessary, binding arbitration, to enable the parties to reach a first agreement.
Workers face limits on their fundamental right to strike.	Workers gain their full fundamental right to strike because the PRO Act removes prohibitions on secondary strikes, prohibits employers from permanently replacing striking workers, and bans the use of proactive lockouts by employers in which employers lock out employees who want to keep working.

Source: Authors' analysis of current labor law and the Protecting the Right to Organize Act of 2019, H.R. 2474, 116th Cong. (2019).

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