

Fair Union Elections

Problem:

There are a number of policy initiatives being considered by Congress and the agencies that are designed to promote increased unionization. Many of these initiatives threaten to negatively impact small businesses, the self-employed, and the economy. Over the course of the last two years, we have seen moves to reinstate Obama-era labor policies at the U.S. Department of Labor (DOL) and National Labor Relations Board (NLRB), even though many of these policies were previously rejected on a bipartisan basis, widely criticized by the regulated community as unworkable, and rejected by federal courts.

Members of Congress and administration officials must be mindful to focus on maintaining U.S. economic growth, and prevent organized labor from expanding their reach, and the rules they have championed, primarily through the NLRB.

- *PRO Act*: As part of his labor goals, Biden has championed the *PRO Act*, a substantive rewrite of the 85-year-old National Labor Relations Act that was passed by the House in early 2020. The *PRO Act* would codify the ambush election rule and micro-unit policy, neuter employers' ability to mount counter-campaigns to union organizing attempts and weaken right-to-work laws that protect employee free choice. This legislation also would permit the NLRB to issue monetary penalties on employers for violating the NLRA and would more strictly require bargaining after an initial certification of a new union.
- *Employee Free Choice Act or "Card check"*: As a co-sponsor of the original *Employee Free Choice Act*, Biden supports workers choosing to form a union if a majority signs authorization cards empowering a union to represent them. He plans to go beyond the *PRO Act* by allowing workers to use this process "card check" as an initial option for forming a union.

Solution:

NSBA supports fair labor, economic growth and job creation, and will continue to oppose unfair and burdensome efforts to bolster organized labor's stronghold through a number of concerted efforts. These kinds of rules and legislative proposals are non-starters for America's small businesses and should be rejected by lawmakers.

- Oppose the *PRO Act* and other similar tactics that will severely hamstring small employers' ability to fairly push back against a unionizing campaign.
- Reject any effort to pass the *Employee Free Choice Act* or other card check legislation.