



COALITION FOR A **DEMOCRATIC WORKPLACE**

April 19, 2023

Dear Members of Congress:

The Coalition for a Democratic Workplace (“CDW”) writes to express our support for the Employee Rights Act of 2023 (“ERA”), which will modernize federal labor and employment law to more appropriately align with the modern workforce and economy. The ERA makes critical changes to the law that will protect workers’ rights and business models that have helped workers and the economy thrive for decades. Congress should pass this legislation as soon as possible to help spur our nation’s economic growth.

CDW is a broad-based coalition of hundreds of organizations representing hundreds of thousands of employers and millions of employees in various industries across the country concerned with private sector labor policy, including possible legislative changes to the National Labor Relations Act (“NLRA”), regulatory actions by the National Labor Relations Board (“NLRB”), and federal court decisions implementing the NLRA.

The Employee Rights Act makes several critical changes to federal labor law that will ensure workers’ rights are protected. The bill safeguards workers’ privacy by guaranteeing workers will use secret ballots to choose whether or not to unionize, ensuring they can vote their conscience without being harassed, retaliated against, or threatened by union organizers, colleagues, or employers looking to pressure them to vote a certain way. This right has been under threat by the NLRB and its General Counsel, who are striving to replace secret ballots with “card check” – a system in which workers simply sign authorization cards to indicate their support for a union. Card check provides no NLRB supervision, is notorious for harassment and intimidation tactics, and violates the NLRA. The Supreme Court and federal courts have routinely criticized card check for being “admittedly inferior” and an “unreliable method.”

The ERA also protects workers’ privacy by giving them the power to decide who receives their personal contact information. The NLRB currently forces employers to provide workers’ contact information, including home addresses, phone numbers, email addresses, work shifts, and job classifications, to union organizers and provides workers with no opportunity to demand their private information be kept confidential. The bill also ensures workers can choose if their membership dues should be spent on political activity by requiring an “opt-in” provision for all union dues other than collective bargaining efforts. Under this bill, workers would have the right to choose how their hard-earned paychecks are spent.

The Employee Rights Act protects independent entrepreneurs and local small businesses as well. The bill enshrines into law an independent contractor standard that ensures workers who want to be self-employed can work freely and independently. It does so by clarifying and safeguarding independent contractor status. This is a much-needed provision as the NLRB, its General Counsel, and the administration continue to push policies that would make it nearly impossible to qualify as an independent contractor and would forcibly reclassify millions of these entrepreneurs into traditional employees with no flexibility or autonomy over their work or their schedules.



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The ERA protects small business owners by clarifying the joint employer standard, only allowing joint employer status to be triggered if an employer holds direct and immediate control over workers' terms and conditions of employment. Joint employer status comes with significant liability and responsibilities under federal labor and employment law, so ensuring only true joint employers are labeled as such is critical to maintaining the economy and ensuring workers can bargain over their work conditions with the appropriate entities. The Board and General Counsel are advocating for an expanded standard that would put at risk nearly every contractual relationship in the economy – from the franchise business model to contracts with suppliers and vendors.

The changes proposed in the Employee Rights Act are critical for improving the nation's labor and employment law and modernizing these laws to more appropriately address the 21st Century workplace.

Thank you for considering this important legislation. CDW looks forward to working with Congress to advance the Employee Rights Act into law.

Sincerely,

Kristen Swearingen
Chair
Coalition for a Democratic Workplace