

TO SURVIVE
WORKERS

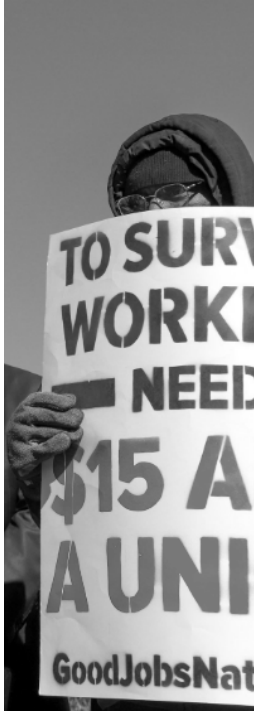
MAY
2019

THE MOMENT FOR LABOR LAW REFORM

GOOD
JOBS
NATION

Congressional Progressive Caucus Center

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Acknowledgements

The CPC Center gratefully acknowledges contributions and feedback on this report from Jaya Chatterjee at SEIU, Amy Fetherolf at CWA, LaQuita Honeysucker at UFCW, Lynn Rhinehart at the Economic Policy Institute, and Bill Samuel at the AFL-CIO.





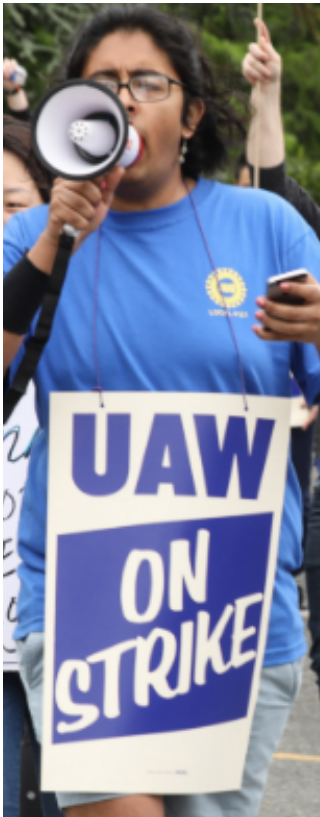
WORKING PEOPLE ARE STANDING UP FOR THEIR RIGHTS. IT'S TIME FOR THE LAW TO BACK THEM UP.

Working people want a voice on the job, and they aren't taking no for an answer. More than half of non-union workers would vote to join a union if they could.¹ Last year, more workers engaged in collective action than in any other year in the past three decades. There were a total of 485,000 people involved in work stoppages in 2018 - from teachers to hotel workers to workers in the telecommunications industry and more.²

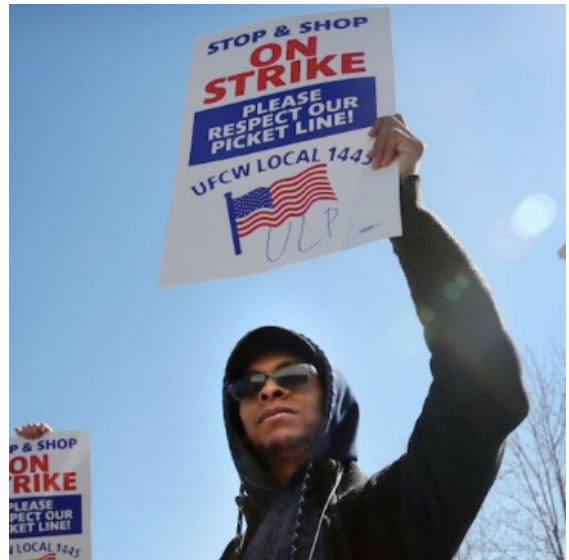
In 2019, working people's appetite for collective action shows no signs of slowing down. And, they're getting results. In April, workers at Stop & Shop ended the largest retail strike in nearly two decades, when their employer finally agreed to back off of proposed cuts to their paychecks and pensions. That same month, over 10,000 nurses in New York state threatened to strike for better nurse-to-patient ratios and won.³ Major teacher strikes and work actions have drawn attention from lawmakers and school boards across the country to the chronic underinvestment in our nation's schools.

Public support for unionization is at a 15-year high and has grown dramatically in recent years.⁴ This may be because of the wage and benefit premiums, and because increased unionization benefits not just union members but also the communities where they work and live.⁵

Despite widespread public support for unions, today less than 11 percent of the workforce is unionized.⁶ The gap between public support and the number of union members can be explained by the all-out assault on union organizing being conducted by the courts, regulators, lawmakers and employers. Stronger labor laws are critical to help working people close the gap.



From the late 1940s through the late 1970s, when about a third of the workforce was unionized, productivity rose steadily, and working people experienced significant wage growth.⁷ During this same period, there was an average of 300 work stoppages each year.⁸ Strike activity – which is widely regarded as a last resort and often comes at great personal cost to employees – has always been an important lever to restore the balance of power between employers and employees.



“THE RIGHT TO STRIKE IS THE MOST IMPORTANT LEVERAGE AN EMPLOYEE HAS. WHEN AN EMPLOYER CAN PERMANENTLY REPLACE WORKERS WHO ARE ON STRIKE, WORKERS HAVE LOST THAT RIGHT.”

AFL-CIO PRESIDENT RICH TRUMKA, TESTIMONY BEFORE THE HOUSE EDUCATION AND LABOR SUBCOMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS, MAY 8, 2018

The Union Advantage

The ability to engage in union activity is vital. When working people can organize and bargain for a fair paycheck, they do better, their families do better, and their communities do better. But for the past 40 years, as union density has declined, wage growth has stalled, despite rising productivity.⁹ Wealth has become increasingly concentrated in the top 1 percent of U.S. households.¹⁰ But for workers in unions, the union advantage remains as strong as ever.



UFCW STOP & SHOP WORKERS HOLD LARGEST PRIVATE SECTOR STRIKE IN THREE YEARS

UFCW members' recent strike against Stop & Shop is a powerful reminder of the economic leverage a strike provides. In April of 2019, 31,000 UFCW members at Stop & Shop went on strike after months of negotiation to protest proposed reductions in health care, take home pay, and other benefits. Stop & Shop's parent company, Ahold Delhaize, wanted to increase employees' health care costs, eliminate premium pay and raises, and dramatically reduce pensions for new hires by 32 percent. This is despite making \$2 billion in profits in 2018, \$4 billion in stock buybacks over the last 3 years, and an 11 percent increase in shareholder dividends.¹¹



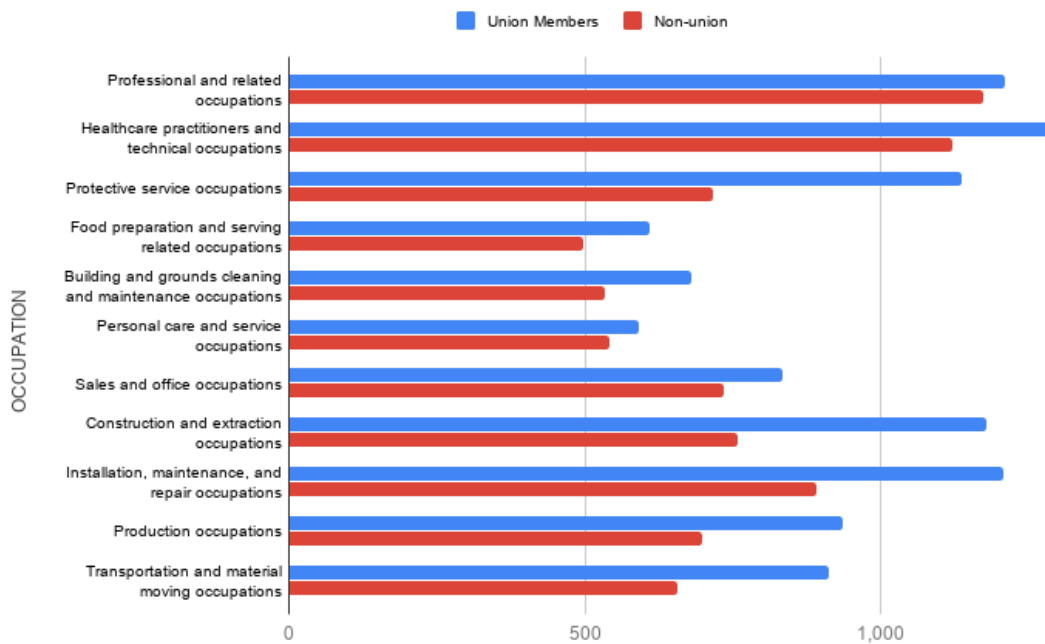
With the support of their fellow New Englanders, UFCW members from Locals 328, 371, 1445, 1459, and 919 stood up and fought back, ultimately reaching a

tentative agreement with management after 10 days. The contract preserved health care for workers and their families, kept time-and-a-half pay on Sundays and ensured that all pensions are maintained and fully funded.¹² This strike has been billed as the largest in the retail industry since 2003.

Union Membership Remains the Surest Way to Boost Paychecks

Union membership provides a significant boost to the pay and benefits of working people. The typical private sector union worker earns \$989 a week compared to \$848 for his or her non-union counterparts.¹³ Women in unions typically earn 25 percent more than those who are not union members.¹⁴ Black union workers, on average, earn 21 percent more than non-union black workers.¹⁵ Latinx union workers earn 37 percent more than their non-union counterparts.¹⁶

Weekly Median Wages of Union and Non-union Workers in Select Industries



Union Benefits Premium

Union members also typically have far greater access to workplace benefits than non-union workers. Ninety-four percent of union members have access to job-related medical benefits compared to 66 percent of other workers.¹⁷ Ninety-two percent have job-related retirement plans.¹⁸ Eighty-nine percent have paid vacations and 83 percent have paid sick days.¹⁹

Workplace Benefits for Union & Non-Union Workers (percentage)



The widespread benefits of unionization have engendered widespread support for unions among the public. There are few better examples of the groundswell of public support for unions than the recent repeal of so-called “right-to-work” legislation by Missouri voters in 2018.

MISSOURI DEFEATS "RIGHT TO WORK"

In August of 2018, Missouri voters resoundingly defeated a ballot measure in support of the state’s right to work law. The law, SB 19, passed the Missouri legislature and was signed by the Governor in 2017.



As with all so-called right-to-work laws, SB 19 would have prevented unions from collecting fair share fees from employees in the bargaining unit if the employee refused to pay. This has the effect of weakening unions by creating free-riders. (Imagine a workplace where the union negotiated a pay raise for all employees, and was required to enforce the collective bargaining agreement for all employees, regardless of whether they were in the union or paid a fair share fee, but only 60 percent paid dues or fair share fees. This could seriously jeopardize the union’s existence.)

This victory for labor was a clear indication of support for unions among members and non-members alike. 1.4 million people voted in the primary, the highest turnout since 2004.²⁰ Of these, 937,241 (67.5%) voted against the right to work law.²¹ There are 251,000 total union members in Missouri - this vote was a striking show of union support from people outside of unions. CWA members from Missouri (pictured above) played a significant role in helping turn out the vote to defeat SB 19.

Employer Interference with Organizing

Despite victories like these and growing support for unions, unionization rates remain far below historic highs. This is due, in large part, to persistent attacks on unions by corporations, legislatures, the courts, and anti-union regulators. Today, employer interference with union activity has become the norm, rather than the exception. The protections available under the National Labor Relations Act (NLRA) are far too limited to adequately address the constant onslaught of illegal interference with union activity.

Too many workers face threats and intimidation on the job when they try to organize.²² During union organizing campaigns:

- Seventy-five percent of employers hire union-busting consultants.
- Forty-seven percent of employers threaten to cut employee pay or benefits.
- Fifty-seven percent of employers threaten to close.
- Thirty-four percent terminate at least one employee.
- Ninety percent hold mandatory captive audience meetings to propagate anti-union messages.
- Even when workers do win an election to form a union, only 52 percent are able to negotiate a first contract within the first year, and after three years, 25 percent were still in the process of agreeing to a first contract. All too often, employers simply refuse to bargain in good faith.²³
- In one study, 80 percent of employers used more than five anti-union tactics to attempt to thwart a union organizing campaign.²⁴



STANDING UP FOR YOUR RIGHTS SHOULD NOT COST YOUR JOB



Jim Staus (pictured at left) began working at the University of Pittsburgh Medical Center (UPMC) in 2006 as a supply technician. UPMC, Pennsylvania's largest private employer, seemed like a good place to get a decent job to help support his family. But the starting pay was so low, Jim needed government assistance to put food on the table for his family the whole time he worked there. One particularly rough winter, his water was shut off so he and his wife had to melt snow to flush their toilets.

Jim still loved his job, though, so when some of his coworkers began to meet and talk about forming a union, he saw an opportunity to help improve his workplace. UPMC management did not. When they started to organize, Jim and his colleagues faced classic union-busting tactics day after day. Jim's employer started with a "captive audience" meeting, a mandatory meeting while on the clock in which management presents all of their reasons why they think unions are bad for the company and the employees. This progressed to following Jim around the hospital, throwing away any pro-union literature he distributed, and finally, firing him despite his record of good job performance.

In 2014, an NLRB judge agreed that Jim was illegally fired and ruled that he should be put back on the job with back pay, but UPMC appealed. The decision was upheld in 2018 and again UPMC appealed. In order to support his family, Jim had to find another job. Under current law, though, everything that Jim earns is subtracted from the UPMC back pay award that is still pending appeal. In other words, Jim is now working off UPMC's debt for illegally firing him and upending his life, all because he wanted to come together with his coworkers to make UPMC a better place to work.²⁵ There are far too many stories like Jim's.

THE PROTECTING THE RIGHT TO ORGANIZE ACT MAKES IT EASIER FOR WORKERS TO ORGANIZE AND BARGAIN FOR A BETTER WORKPLACE.

Our existing laws fail to provide adequate protections for working people who want to come together to form a union. The Protecting the Right to Organize (PRO) Act, H.R. 2474, would ensure that when working people engage in collective action, the law is on their side.²⁶

The Pro Act was introduced on May 2, 2019 by Rep. Bobby Scott (VA-03), Chairman of the House Education and Labor Committee; Rep. Frederica Wilson (FL-24), Chair of the Health, Employment, Labor, and Pensions Subcommittee; Congressman Andy Levin (MI-09), Vice Chair of the Education and Labor Committee; Congresswoman Pramila Jayapal (WA-07), Co-Chair of the Congressional Progressive Caucus; and Congressman Brendan Boyle (PA-02). The PRO Act would strengthen the National Labor Relations Act in these important ways:



The PRO Act streamlines organizing and negotiation

- The PRO Act makes it easier to file for and get a union election by streamlining the process. It makes the system fairer by requiring employers to negotiate with the union if the union has the support of a majority of employees and the employer interferes with the election.
- If the NLRB believes a worker has been illegally terminated for engaging in union activity, the PRO Act would require the NLRB to file for an injunction immediately, so that the employee can be reinstated while the case is pending. This would ensure that employees do not spend years out of work while their cases are being resolved.
- Under current law, bargaining for a first contract can drag on for years without any mechanism to quickly and effectively resolve disputes. To address this, the Act establishes a process for mediation and if necessary, binding arbitration, to reach a first contract.

The PRO Act enhances and protects workers' rights

- Court decisions have allowed for the permanent replacement of striking workers, which leaves these workers with no job and no economic leverage. Under the PRO Act, employers are prohibited from permanently replacing employees who strike. Workers who strike in solidarity with workers in other companies would also be protected.
- Workers with more than one employer are protected under the Act, which codifies the joint-employer standard established by the National Labor Relations Board in 2015. As a result, more than 24 million contract workers would enjoy stronger protections under the NLRA.²⁷
- The PRO Act prevents the misclassification of workers as independent contractors or supervisors, who are not covered by the NLRA.
- The PRO Act would allow unions to reach an agreement in all states with the employer to collect a “fair-share fee” from workers covered by a collective bargaining agreement.

The PRO Act ensures that employers who break the law face financial consequences

- Too many employers regard the very limited back pay remedy that currently may be assessed under the NLRA as a small price to pay to engage in unlawful activity. The PRO Act provides compensatory damages for employees and penalties against employers that illegally fire or retaliate against workers.
- The PRO Act also gives employees the right to bring a lawsuit in court.
- The PRO Act prohibits employers from requiring employees to attend “captive audience” meetings to discourage employees from joining a union. Captive audience meetings – compulsory, anti-union meetings that employees must attend – currently occur in 89 percent of union elections and can have a significant impact on the outcome. One study showed that unions won 47 percent of their elections when captive audience meetings were used, but won 73 percent of elections when they were not used.²⁸



The PRO Act would provide long overdue strengthened protections for people organizing to form a union and for people who are already members of a union. Increasing unionization rates would build bargaining power for workers, allowing more people to negotiate for the wages, benefits, and workplaces they deserve.

By creating real financial consequences for employers who violate workers' rights – as well as the corporate directors and officers who engage in or are aware of these violations – the PRO Act would provide a meaningful deterrent to corporate and employer behaviors that have stifled organizing efforts for decades. By empowering workers when they decide to organize, the PRO Act will increase bargaining power for millions of people, lift wages and working conditions, and restore balance to our economy.



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