

What is the PRO Act?

- The “Protect the Right to Organize” Act
- 213 House cosponsors and 47 Senate cosponsors, publically supported by the Biden administration
- A comprehensive overhaul of the National Labor Relations Act, it would be the most significant change in labor laws since the Taft-Hartley Act (1947).
- Could allow 10s of millions of workers to join unions.
- Creates a bigger powerbase for working families to press lawmakers on legislation that benefits the middle and working class.

What does the PRO Act do?

1. It gives workers more rights
2. It allows more workers to form unions
3. It gives unions more power
4. It weakens employers' power
5. It gives the NLRB* teeth

*National Labor Relations Board

1. It gives workers more rights

- Bans captive audience meetings
- Closes loophole in labor law that hurt immigrant workers
- Prevents employers from forcing workers to waive their right to sue
- Allows a private right of action for violations of workers' rights.
- Adds whistleblower protections
- Clarifies that employees have the right to use their employers' electronic property to communicate

2. It allows more workers to form unions

- Amends the definition of “employee” to include the so-called “ABC” test
- Amends the definition of “employer” to include those that exercise “direct or indirect” control over employees, allowing more “joint employers” to be considered.
- Narrows the definition of “supervisor.”
- Forces employers to inform their employees of their rights to organize

3. It gives unions more power

- Bans “right-to-work” laws at a national level.
- Allows intermittent, slowdown, and partial strikes
- Repeals ban on secondary boycotts, jurisdictional strikes, and recognitional picketing
- Repeals ban on “hot cargo” agreements
- Protects union elections from employer interference

4. It weakens employers' power

- Bans offensive lockouts
- Employers would not be allowed to knowingly or even unintentionally mislabel their workers' employment status.
- Requires employers to disclose if they hire union busters
- Prevents employers from permanently replacing economic strikers
- Makes it illegal for employers to implement their "last, best, and final" offer
- Makes it illegal for employers to withdraw recognition w/o election
- Requires employers to meet with union within 10 days of certification; allows either party to implement mediation/arbitration in bargaining

5. It gives the NLRB teeth

- Authorizes meaningful penalties for violating workers' rights.
- Allows NLRB to enforce its own rulings
- Repeals the Taft-Hartley Act's ban on the NLRB hiring economists.

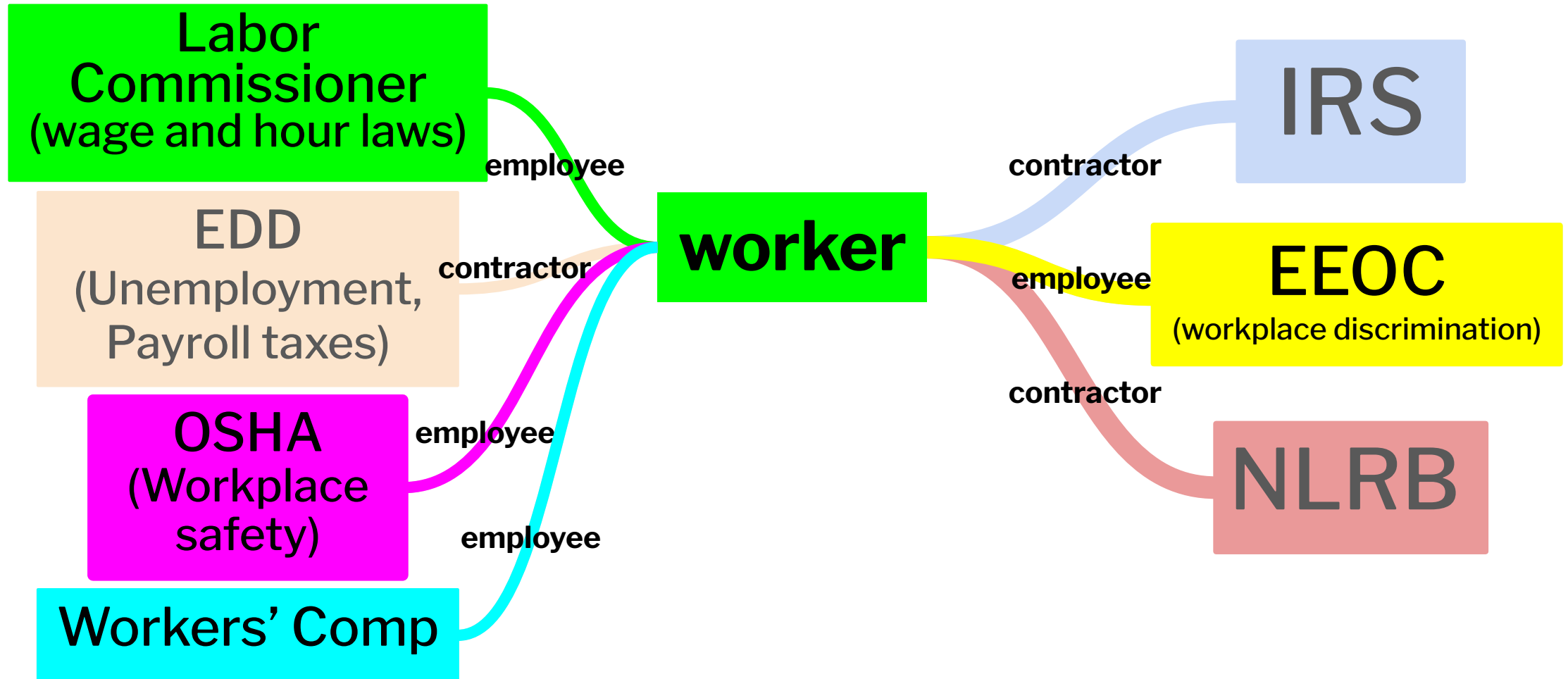
It allows more workers to form unions

- Amends the definition of “employee” to include the so-called “ABC” test, *for the purposes of NLRB determination*

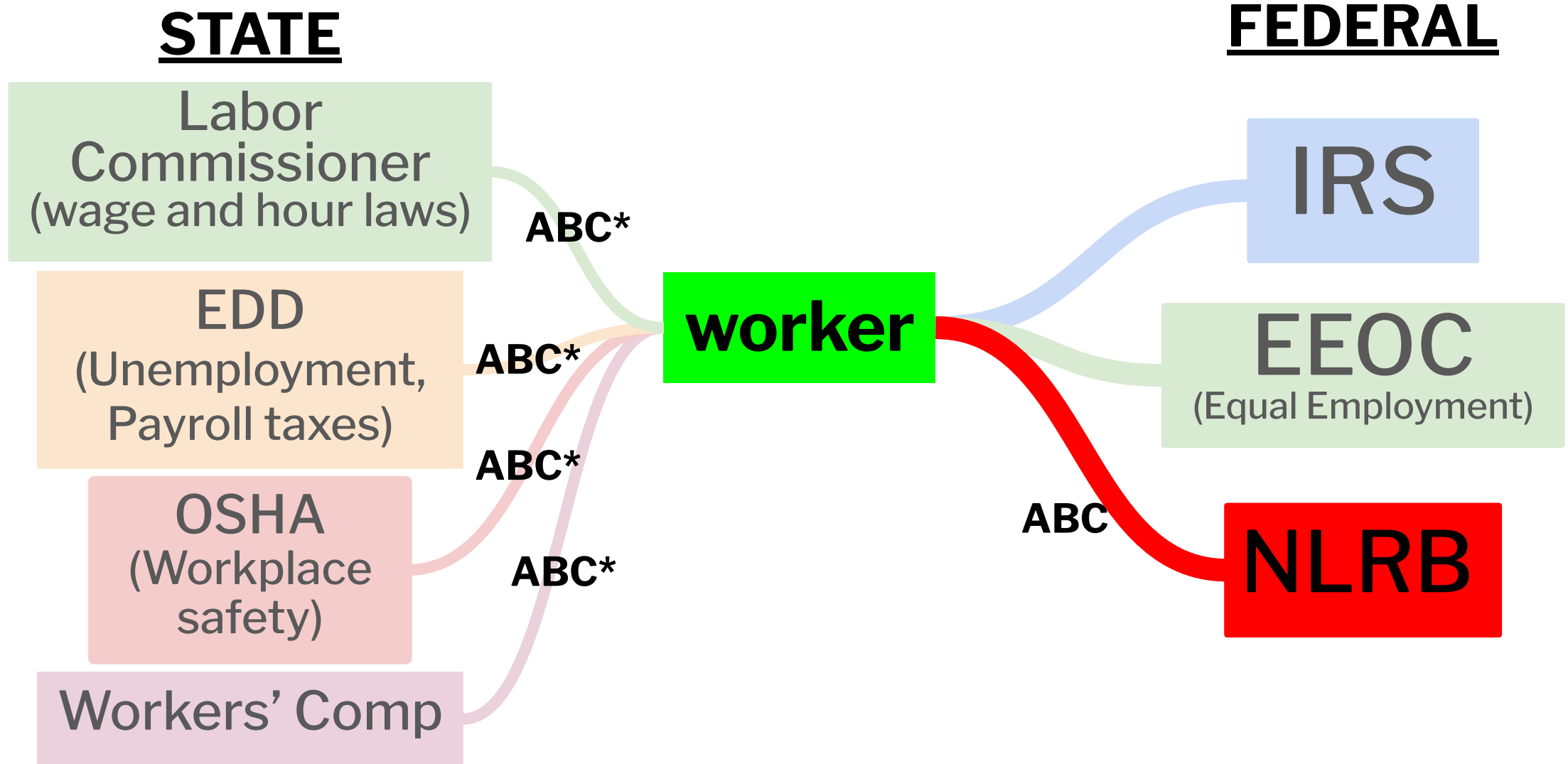
Who decides if a worker is an employee?

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Who decides if a worker is an employee?



What is the ABC Test?

A worker is presumed to be an employee unless the employer can show that all three of the following conditions are satisfied:

- A. The worker is free from the control and direction of the hiring entity in connection with the performance of the work;
- B. The worker performs work that is outside the usual course of the hiring entity's business; and
- C. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

	Worker #1	Worker #2	Worker #3	Worker #4
A. Free from direction and control	✓	✗	✓	✓
B. Performing work that is outside the usual course of business	✓	✓	✗	✓
C. Worker is customarily engaged in an independently established trade, occupation, or business	✓	✓	✓	✗
	Contractor	Employee	Employee	Employee

How the NLRB would apply the ABC Test

1. A majority of workers petition the NLRB for recognition or certification
2. NLRB applies ABC Test to determine if workers have the legal right to do so
3. If they do, petition moves forward

The ABC Test

A worker is presumed to be an employee unless the employer can show that all three of the following conditions are satisfied:

- A. The worker is free from the control and direction of the hiring entity in connection with the performance of the work;
- B. The worker performs work that is outside the usual course of the hiring entity's business;** and
- C. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

With the PRO Act

We can organize a union:

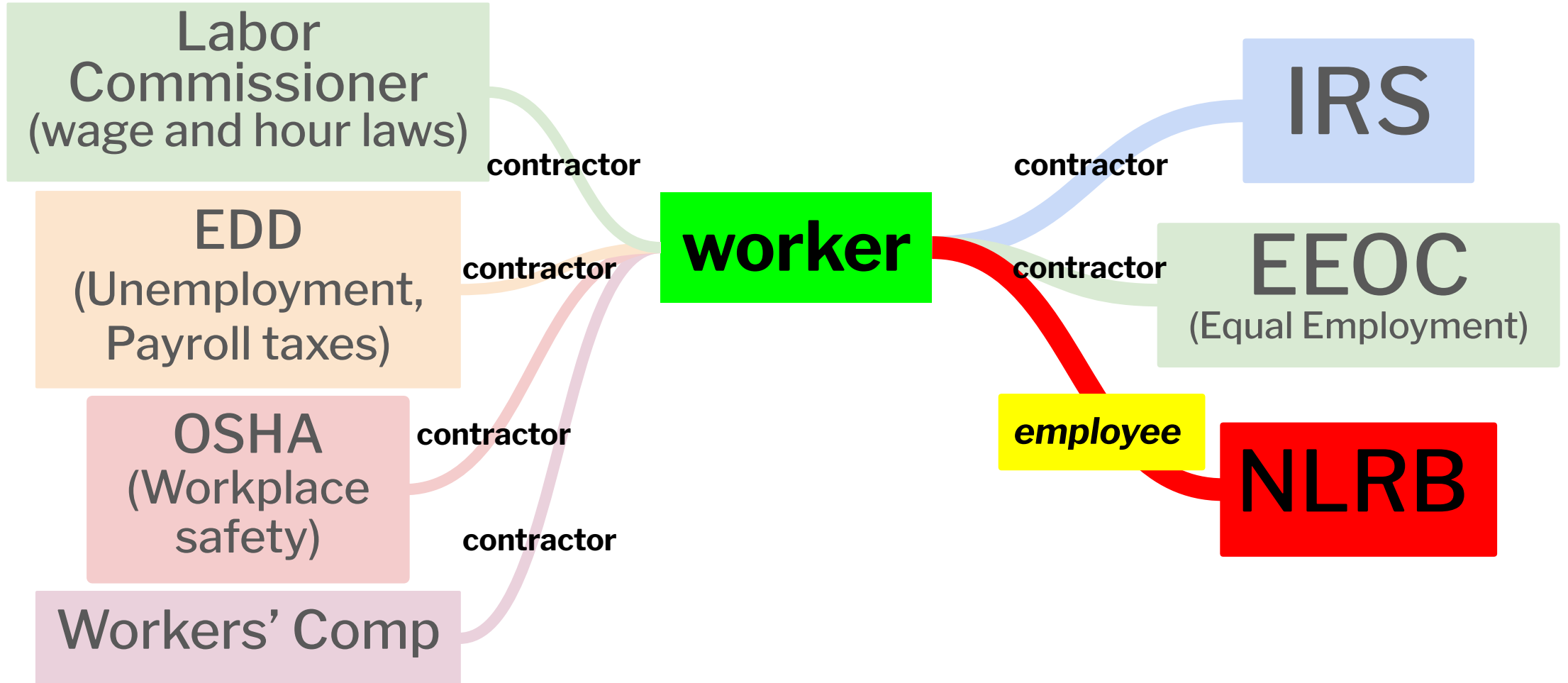
1. Even if we are free from direction and control of our employer; and
2. Even if we have our own business; as long as
- 3. The work is within the usual course of the employer's business.**

With the PRO Act:

Independent Contractors can
organize a union *as long as the
work is within the usual course of
the employer's business.*

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How do we get it passed?

- Supported by Americans 58%-28%
- Passed the House 225 - 206 (1 Dem nay, 5 Rep yea)
- Currently 47 Senate cosponsors (all Dems + Ind)
 - Sinema (AZ), Kelly (AZ), Warner (VA) holding out
- Publically supported by the Biden administration
- Three ways to pass it:
 - Get all 50 Senate Democrats, plus 10 Republicans to vote for cloture.
 - Reform the filibuster so only 51 votes are needed for cloture. 46 Senators currently in favor of some sort of filibuster reform; Sinema (AZ), Manchin (WV), Leahy (VT) against, Cantwell (WA) unclear
 - Include the PRO Act as part of broader infrastructure bill; needs the Senate parliamentarian to agree that PRO Act is allowed under the rules of reconciliation (only 51 votes needed).

**Let's pass the
PRO Act!**