

ASSOCIATION OF CORPORATE COUNSEL 2022 LABOR UPDATE

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UNION RESURGENCE

PROTECTING THE RIGHT TO ORGANIZE ACT

- PRO Act passed the House in 2020, but not the Senate
- PRO Act passed the House again in March 2021
 - Expands definition of employer to include joint employers and definition of employee to include independent contractors, while narrowing definition of supervisor.
 - Solidarity strikes and intermittent strikes would be lawful.
 - Mandatory membership fees would be permitted regardless of right to work laws.
 - Posting requirements for all employers
 - Make unlawful acts such as mandatory attendance at meetings discussing union organizing and replacing strikers.
 - Adds up to \$100,000 in penalties for unfair labor practices, personal liability, liquidated damages, and no reduction in back pay based on intermittent earnings.

EMPLOYEE RIGHTS ACT

- Proposed March 2022 by Senators Tim Scott and Mitt Romney
- Provides for:
 - Guarantee of secret ballot elections
 - Easier union decertification
 - Political protection for union dues
 - Changes to majority of ALL employees, not just those who vote
 - Employee privacy protections
 - Allows for secret strike votes
 - Criminalizes union threats

UNIONIZING

- Unions are making a comeback in a big way and being backed by the most labor-friendly President of the past 75 years
 - Union organizing is up 56%
- Biden administration plans to siphoning federal dollars toward contractors and grant applicants that partner with labor organizations.
- The idea is that if the federal government encourages job training programs in certain industries such as electric vehicle production in order to direct opportunities at communities and groups that typically have been left out of the traditional, union trade industries—the administration can deliver on its promise for an equitable recovery while also repairing damaged roads, bridges, and pipes.

UNIONIZING

- Unions say that using their registered apprenticeship pathway ensures that workers safely get a full slate of training, while they also get a representative to bargain for benefits like childcare and transportation services.
- Offering assistance like childcare, retirement access, pre-apprenticeships, and other programs, are essential to ensuring the infrastructure money creates new job opportunities for those who haven't been able to access the trades, while also increasing equity, she added.
 - More than two-thirds of tradeswomen surveyed by the Institute for Women's Policy Research said difficulties finding childcare and lack of pregnancy accommodations were an important factor in leaving the industry.

UNIONIZING

- The Biden administration has also made an effort to expand the use of project labor agreements on federal projects.
 - Such pre-hire pacts guarantee a contractor will enter into collective bargaining agreements with at least one union covering the duration of the project.
- As part of its effort to ensure there's enough skilled laborers to complete the upcoming infrastructure projects, the Department of Labor in June announced a summer-long "Talent Pipeline Challenge."
 - The initiative calls on employers and local governments to take advantage of over \$800 million set aside for workforce development by working with organizations that offer job training, like unions, as well as seeking out women and workers of color, and to provide services like childcare and transportation assistance.

UNIONIZING

- A February executive order directed federal agencies to use such agreements on construction projects above \$35 million. Unions and Democrats hold up PLAs as a way to negotiate well-paying jobs and secure benefits to support workers who are underrepresented in the trades, like women.
- Remember that acronym, “PLAs”...we are starting to see it much more often, and not just in traditional trades
 - Developing industries like cannabis are subject to PLAs at the state level in places like New York and Illinois
 - Advanced by unions seeking to increase their membership