

Biden's labour bill faces uphill fight, but indicative of wider shift?

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The United States House of Representatives has approved what has been described as the “most significant enhancement of labor rights since the New Deal”, although commentators agree that the measure faces a Senate filibuster due to Republican opposition.

The move is, however, seen as indicative of the Democrats' agenda as President Biden sets out his priorities, which includes a major overhaul of employment rights legislation in a bid to revive collective bargaining after decades of decline.

The most recent evidence of the struggle faced by labour unions have been the so-called 'right-to-work laws' in 27 states, which undermine trade unions' collective bargaining reach.

‘Some unions have adapted well, others are stuck in the past’

The new administration's proposed legislation, entitled the Protecting the Right to Organize Act — would — by amending existing legislation, provide protection for activists seeking to organise and strengthen, as well as preventing employers organising to prevent union recruitment drives.

According to the New York Times, it would also make it harder for companies like Uber and Lyft to classify workers as independent contractors, “paving the way for a potentially substantial expansion in the pool of workers eligible to unionize”.

‘WORKER POWER’

President Biden, a long time union supporter, believes that strengthening organised labour will assist in efforts to tackle economic and racial inequality, as well as attracting back working-class voters lost to the Democrats who switched their allegiance to the former president, Donald Trump.

“As America works to recover from the devastating challenges of deadly pandemic, an economic crisis and reckoning on race that reveals deep disparities, we need to summon a new wave of worker power to create an economy that works for everyone,” the President said this week.

His comments came days after he got involved in the current labour row at Amazon in the US.

This tilt toward labour not gone unnoticed here in Ireland.

READY TO ENGAGE

Ibec CEO Danny McCoy observed recently that the new Biden Administration is “very firmly in its initial 100 days citing collective bargaining rights and trade union recognition as forming part of the conversation in the United States, in a way that has not been seen since the late 1970s”.

Mr McCoy signalled that the employer's organisation is ready to engage with the new collectivist mood, Ibec agreeing to be part of a special study undertaken by the social partners' Labour Employer Economic Forum (LEEF), which is to examine how collective bargaining "might be developed in a way that is consistent with Irish business competitiveness". ([IRN09-04-2021](#))

IRN commented last week that the involvement of Ibec, ICTU and government in such a forum is a development that will be watched with considerable interest "by both sides of industry, and by various state agencies and government departments".

The unions have yet to comment on the initiative, which although likely to be welcomed by a majority of their leaders, may also present them with a set of challenges that test their capacity for both strategy and delivery on the ground.

Meanwhile, the Biden administration's efforts have not been welcomed by the U.S. Chamber of Commerce, the largest lobbying group for business in the United States. It claimed that the bill would "eliminate any sense of balance" in federal labour law since it was codified in the New Deal of the 1930s.

The *New York Times* reports that "of particular concern" to the bill's opponents would be the elimination of the 'right-to-work laws' that "have barred workers from negotiating contracts that require all members of the workforce — even those who do not join the union — to pay dues".

'TOTEMIC' BATTLES

Separately, writing in the FT this week, Sarah O'Connor comments that when Boris Johnson, the UK prime minister, told people to go back to work after the first lockdown, the website that helps people find a trade union to join had more hits than ever before.

"Organise, the worker campaign platform, had fewer than 100,000 members this time last year; now it has more than 1m," she reports.

The article, addressing the dispute at an Amazon warehouse in Alabama, the one currently exercising the new US President, where 6,000 workers are voting on whether to unionise, observes:

"The impetus for the union drive is less about pay and more about the way workers are paced by robots and monitored by algorithms. It is a totemic battle for the US's beleaguered unions, which want to show they have a role in the 21st-century economy."

The piece concludes that even the OECD, "hardly a hotbed of socialism", encourages collective bargaining, reasoning that while important, "laws and regulations are not as responsive as good industrial relations, particularly with regards to the deployment of automation or electronic surveillance".

CAN UNIONS ADAPT?

But Sarah O'Connor poses another question: are unions themselves fit for the future?

Some have adapted well, like Germany's IG Metall, which has opened up to self-employed members and collaborated with Swedish white-collar union, Unionen, to help workers on "crowd labour" platforms.

“But others are stuck in the past, dominated by structures and work cultures from the 1970s that leave them with no high ground from which to criticise private-sector employers”, she says.

SUMMARY OF BIDEN BILL

An official brief summary of ‘Protecting the Right to Organize Act of 2021’, is as follows:

‘This bill expands various labor protections related to employees’ rights to organize and collectively bargain in the workplace.

‘Among other things, it (1) revises the definitions of employee, supervisor, and employer to broaden the scope of individuals covered by the fair labor standards; (2) permits labor organizations to encourage participation of union members in strikes initiated by employees represented by a different labor organization (i.e., secondary strikes); and (3) prohibits employers from bringing claims against unions that conduct such secondary strikes.

‘The bill also allows collective bargaining agreements to require all employees represented by the bargaining unit to contribute fees to the labor organization for the cost of such representation, notwithstanding a state law to the contrary; and expands unfair labor practices to include prohibitions against replacement of, or discrimination against, workers who participate in strikes.

‘The bill makes it an unfair labor practice to require or coerce employees to attend employer meetings designed to discourage union membership and prohibits employers from entering into agreements with employees under which employees waive the right to pursue or a join collective or class-action litigation.

‘Finally, the bill addresses the procedures for union representation elections, modifies the protections against unfair labor practices that result in serious economic harm, and establishes penalties and permits injunctive relief against entities that fail to comply with National Labor Relations Board orders.’