



President Biden's First 100 Days and ABC's Priority Issues

PRIORITY ISSUE Protecting the Right to Organize Act

STATUS

The [ABC-opposed](#) PRO Act ([H.R. 842/S. 420](#)), which [passed](#) the U.S. House on March 9 by a vote of [225-206](#), is currently awaiting consideration in the U.S. Senate. Majority Leader Chuck Schumer (D-N.Y.) has promised labor leaders that the PRO Act will receive a vote in the Senate if it obtains at least 50 cosponsors. While President Joe Biden's [American Jobs Plan](#) calls on Congress to pass the bill, the U.S. Senate has yet to take up the legislation which, as of April 28, has gained the support of 47 Democrats and Independents in the Senate. Democrats Kyrsten Sinema (D-Ariz.), Mark Kelly (D-Ariz.) and Mark Warner (D-Va.) have not co-sponsored.

DESIRED OUTCOME

The PRO Act's [harmful provisions](#) would have a devastating impact on construction throughout the nation and cause significant harm to our nation's economy at this critical juncture when many small businesses are attempting to recover and rebuild from the impacts of the COVID-19 pandemic. ABC and the ABC-led [Coalition for a Democratic Workplace](#) are leading the fight against the PRO Act, engaging with key audiences to stop this attempt to implement radical labor policies. Visit freeenterprisealliance.org/proact to learn more and take action.

PRIORITY ISSUE Infrastructure

STATUS

On March 31, President Biden released the more than \$2 trillion [American Jobs Plan](#), which calls on Congress to tie federal investments in infrastructure to [ABC-opposed](#) government-mandated project labor agreements, prevailing wage regulations via the [90-year-old Davis-Bacon Act](#), government-registered apprenticeship programs and the [ABC-opposed](#) PRO Act.

The plan notably does not address a multi-year reauthorization of the expiring surface transportation legislation, called the Fixing America's Surface Transportation Act. The [FAST Act](#) expires in September 2021. Nor does it include a proposal to shore up the Highway Trust Fund, instead leaving the typically bipartisan reauthorization for Congress to settle. In addition, the [American Jobs Plan](#) includes tax increases that would take 15 years to cover the plan's price tag, which would negatively impact job-creating construction firms that are still recovering from the effects of the COVID-19 pandemic.

Finally, President Biden's plan fails to address the bipartisan issue of streamlining the regulatory review, environmental decision-making and permitting processes for construction activities undertaken, reviewed or funded by federal agencies. However, permit streamlining and NEPA modernization remain one of Senate Republicans' infrastructure priorities as they seek to negotiate a bipartisan infrastructure proposal. The [Senate Republican infrastructure framework](#) was introduced as a starting point to develop bipartisan infrastructure bills that will move by regular order and to authorize \$568 billion in construction projects over five years through new and existing federal programs. ABC will continue to support legislative language that would modernize the permitting process to make it more efficient for major infrastructure projects while maintaining a healthy environment.

DESIRED OUTCOME

ABC continues to [advocate](#) for an infrastructure plan to include policies to reduce costly and inefficient regulations, ensure fair and open competition, address the construction industry's skilled worker shortage, streamline the federal permitting process, embrace innovation and pursue value-adding public-private partnerships that can help bring critical construction projects to market in a more economical and efficient manner.

ABC [joined dozens of members](#) of the Unlock American Investment Coalition in [calling on Congress](#) to improve and modernize the federal permitting process under the National Environmental Policy Act.

Additionally, ABC [supports](#) the Building U.S. Infrastructure Through Limited Delays & Efficient Reviews (BUILDER) Act ([H.R. 8333](#)), which would modernize the outdated National Environmental Policy Act to make infrastructure project reviews more efficient, reduce project costs, spur economic recovery, and rebuild America.

ABC [believes](#) that the path forward on infrastructure legislation should be a bipartisan process, as we will continue to work with Congress and the Biden administration to ensure that any federal investment in our nation's infrastructure will benefit all Americans, regardless of labor affiliation. Visit freeenterprisealliance.org/proact and freeenterprisealliance.org/foca to learn more and take action.



PRIORITY ISSUE **Fair and Open Competition on Taxpayer-funded Federal and Federally Assisted Construction Projects**

STATUS	DESIRED OUTCOME
<p>ABC opposes the anti-competitive measures included in President Biden's infrastructure plan because government-mandated PLAs exclude the more than 87% of the U.S. construction workforce that chooses not to join a union from rebuilding our communities and benefitting from well-paying, middle-class jobs created by taxpayer investments in infrastructure.</p>	<p>As Congress considers infrastructure-related legislation, ABC will continue to ensure that all contracts will be awarded through a fair and open competitive bidding process that allows qualified union and nonunion contractors to compete on a level playing field based on merit, experience, quality and safety. ABC urges Congress to pass the Fair and Open Competition Act (H.R. 1284/S. 403), which would prevent the government from mandating a PLA as a condition of winning federal or federally assisted construction contracts. Since its introduction in the 117th Congress, FOCA has been supported by a diverse coalition of construction and business associations as well as a large group of taxpayer, free market and consumer advocates. Additionally, members of the House and Senate have drafted letters to their respective committees of jurisdiction over infrastructure issues expressing strong opposition to PLA mandates and enthusiastic support for a fair and open competitive bidding process. Visit freenterprisealliance.org/foca to learn more and take action.</p>

PRIORITY ISSUE **Immigration**

STATUS	DESIRED OUTCOME
<p>On Feb. 18, Sen. Bob Menendez (D-N.J.) and Rep. Linda Sanchez (D-Calif.) introduced the U.S. Citizenship Act of 2021 (H.R. 1177/S. 348) to implement President Biden's proposal on immigration reform. ABC is concerned that this proposal largely ignores the drivers of illegal immigration and the enforcement needed to prevent the circumvention of our nation's borders and immigration laws over the coming years. The legislation seeks to create a pathway to citizenship for more than 11 million undocumented immigrants in the United States, including those currently authorized to legally live and work in the country through the Deferred Action for Childhood Arrivals program and Temporary Protected Status designation.</p>	<p>ABC believes any proposal that is to pass Congress must implement bipartisan solutions to fix our nation's failing immigration system. ABC has advocated for permanent protections of Deferred Action for Childhood Arrivals and Temporary Protected Status recipients that contribute to the country's workforce and economy, including the more than 100,000 in the construction industry. Comprehensive immigration reform must include necessary improvements to our country's visa system that anticipate the future flow of immigrants to the United States and eliminate incentives for individuals to illegally enter the country in search of work opportunities. Despite the impacts of the COVID-19 pandemic on our industry, construction continues to face worker shortages that have numbered in the hundreds of thousands each year. Providing employers with a flexible visa system that allows sufficient access to permanent and temporary foreign workers must be included in any final proposal to fix our immigration system. The enforcement of our nation's immigration laws will also be critical preventing future illegal immigration into the United States and holding those who violate our immigration policies accountable.</p>

PRIORITY ISSUE **Workforce Development**

STATUS	DESIRED OUTCOME
<p>President Biden rescinded the Trump administration's Industry-recognized Apprenticeship Program executive order and asked the U.S. Department of Labor to consider a new rulemaking to reverse these programs and immediately slow support for IRAPs by pausing approval of new Standards Recognition Entities and ending new funding for existing SREs. President Biden also supports the U.S. House-passed and ABC-opposed National Apprenticeship Act of 2021 (H.R. 447), which would not achieve its goal of expanding apprenticeship opportunities, as it would further restrict small businesses' ability to access federally registered apprenticeship programs and government funding, limit job opportunities in the construction industry and create additional obstacles for the construction industry to meet future workforce demand and needs.</p>	<p>ABC will continue to advocate for an all-of-the-above workforce development strategy, including industry-driven and government-registered apprenticeship programs, so workers and employers have freedom to choose the best way to provide value and help rebuild America. ABC also believes that expanding access to all post-secondary credentials as defined by the Workforce Innovation and Opportunity Act is critical to ensuring that we can fill the critical jobs gap facing construction and a host of other industries throughout the country. ABC supports legislation, including the Freedom to Invest in Tomorrow's Workforce Act, to expand 529 plans for all recognized postsecondary credentials as defined by the Workforce Innovation and Opportunity Act, and Jumpstarting Our Businesses by Supporting Students Act, which would expand Pell Grant eligibility to cover high-quality and rigorous short-term job training programs.</p>



PRIORITY ISSUE Tax Reform

STATUS	DESIRED OUTCOME
<p>President Biden's American Jobs Plan includes tax increases that would increase the corporate tax rate from 21% to 28%, eliminate tax subsidies and tax credits for fossil fuel industries and beef up IRS enforcement on corporations. Further, it is anticipated that additional proposals from the White House will call for increasing the top individual rate and repealing the Tax Cuts and Jobs Act's tax reduction for pass-through businesses, which would affect most of our nation's construction companies and contractors.</p>	<p>ABC will continue to advocate for the beneficial tax proposals included in the Tax Cuts and Jobs Act that spur economic growth and assist job-creating construction firms that are still recovering from the effects of the COVID-19 pandemic. Before the TCJA passed, the construction industry paid the highest effective tax rate of any industry in the country.</p>

PRIORITY ISSUE Davis-Bacon Act

STATUS	DESIRED OUTCOME
<p>President Biden's American Jobs Plan calls on Congress to tie federal investments in infrastructure to prevailing wage regulations via the 90-year-old Davis-Bacon Act.</p>	<p>ABC supports the full repeal of the Davis-Bacon Act via the Davis-Bacon Repeal Act (S. 805) as well as any state and local prevailing wage laws that mandate wage and benefit rates. In the absence of full repeal of the Davis-Bacon Act and state prevailing wage laws, ABC continues to support legislative and regulatory reform efforts designed to mitigate their negative effects and failure to reflect the current market rate. ABC opposes expansion of Davis-Bacon and state and local prevailing wage laws into areas of public and private projects in which they have not been previously mandated.</p>

PRIORITY ISSUE National Labor Relations Board

STATUS	DESIRED OUTCOME
<p>Immediately after taking office, President Biden fired incumbent NLRB general counsel Peter Robb, a move without precedent since the establishment of the Independent Office of General Counsel to the NLRB in 1947. President Biden appointed Peter Sung Ohr as acting general counsel, who has taken several steps to advance Biden's labor agenda, which includes the ABC-opposed PRO Act. Provisions of the PRO Act would violate basic employee privacy rights, forcing employers to turn over employees' phone numbers, addresses and email addresses without consent and replace secret ballots in union elections.</p>	<p>The NLRB must serve as a neutral arbiter of federal labor law. ABC supports balanced policies that reflect the NLRB's original mission, to fairly interpret and enforce federal labor law. Additionally, the ABC-opposed PRO Act now goes to the U.S. Senate, where only three Democratic senators currently do not support the legislation: Kyrsten Sinema (D-Ariz.), Mark Kelly (D-Ariz.) and Mark Warner (D-Va.).</p>

PRIORITY ISSUE Right-to-Work

STATUS	DESIRED OUTCOME
<p>Since 1943, 27 states have passed right-to-work laws prohibiting employers from requiring employees to join unions as a condition of employment, incentivizing competition and producing a better work environment for businesses and workers. However, the ABC-opposed PRO Act would completely reject this choice by eliminating these independently passed state laws, forcing individuals to join a specific union and forfeit a portion of their hard-earned paychecks to support the activities and influence of unions if they want a job at a unionized factory, jobsite, school or company.</p>	<p>ABC will continue to support the right of all individuals to work without having to join a union or pay union dues or fees as a condition of employment. Right-to-work laws ensure workers have an opportunity to choose whether union representation makes sense for them and allow workers who do not want to participate in the union to opt out of joining the union or paying dues or fees. Further, right-to-work laws do not eliminate unions or outlaw the right to organize. ABC is supportive of the National Right to Work Act, which would preserve and protect the free choice of individual employees to form, join or assist labor organizations or to refrain from such activities. Visit freeenterprisealliance.org/proact to learn more and take action.</p>



PRIORITY ISSUE Independent Contractor

STATUS	DESIRED OUTCOME
<p>President Biden supports the ABC-opposed PRO Act, which would curb the freedom and flexibility to work independently through gig economy platforms and traditional independent contractor roles. Additionally, President Biden’s DOL issued a proposed rule to withdraw the Trump-era independent contractor final rule under the Fair Labor Standards Act, and ABC submitted comments opposing it. ABC strongly supports the Trump DOL’s independent contractor final rule, which would clarify the DOL’s interpretation of independent contractor status and promote certainty for employers, independent contractors and employees. On March 26, ABC, ABC Southeast Texas Chapter and the Coalition for Workforce Innovation filed suit against DOL for delaying the effective date of the independent contractor final rule and proposing to withdraw it.</p>	<p>Independent contractors are an essential lifeline to the construction industry—they provide specialized skills, entrepreneurial opportunities and stability during fluctuations of work common to construction. Any independent contractor reform effort must recognize that independent contractors are necessary, productive participants in the construction industry, and their ability to contribute to the marketplace must be preserved. Visit freenterprisearchitecture.org/proact to learn more and take action.</p>

PRIORITY ISSUE Joint Employer

STATUS	DESIRED OUTCOME
<p>President Biden’s DOL issued a proposal to rescind the Trump-era joint employer final rule under the Fair Labor Standards Act, which ABC opposed in submitted comments. ABC strongly supported the 2020 joint employer final rule; however, shortly after its issuance, 18 states sued the Trump DOL in federal court to strike it down and a judge ruled that parts of the rule were illegal. A business coalition that includes ABC intervened in the case, in part to defend the construction industry against unwarranted attacks on the industry’s long-established methods of doing business by the state plaintiffs. The litigation is ongoing. In addition, the House-passed PRO Act includes language that would codify the ABC-opposed 2015 Browning-Ferris NLRB ruling, which redefined who qualifies as a “joint employer” under the National Labor Relations Act.</p>	<p>ABC is seeking a legislative solution to bring clarity to the joint-employer issue. ABC supports the re-introduction of the Save Local Business Act, which passed the House in 2017. The bill would codify a “direct” control joint employer standard in both the Fair Labor Standards Act and NLRA. Visit freenterprisearchitecture.org/proact to learn more and take action.</p>

PRIORITY ISSUE Pension Plans

STATUS	DESIRED OUTCOME
<p>On March 11, President Biden signed the American Rescue Plan Act of 2021 (H.R. 1319) into law, including a controversial provision providing a Congressional Budget Office-estimated \$86 billion taxpayer bailout of struggling union multiemployer pension plans. The structural flaws of MEPPs and potential for costly MEPP withdrawal liability and plan insolvency have been recognized for decades. Small businesses work hard to provide good benefits for their employees and call the concession to these plans a costly bailout.</p>	<p>ABC will continue to monitor all legislative proposals concerning the Pension Benefit Guaranty Corp. and MEPPs and oppose government-mandated PLAs and other laws mandating contractor and employee participation in MEPPs. Visit freenterprisearchitecture.org/foca to learn more and take action.</p>