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April 21, 2023

The Honorable Jason Dawkins
150 Main Capitol Building
P.O. Box 202179
Harrisburg, PA 17120
via electronic submission

RE: HB 950: Right To Organize

These comments are submitted on behalf of the National Federation of Independent Business in Pennsylvania (NFIB PA). NFIB is the nation's leading small business advocacy organization, representing nearly 13,000 members in Pennsylvania and about 300,000 members throughout the United States. Founded in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. These comments will address an expansion of private-sector unions, and the negative impact many small business owners would face.

For context, the average NFIB business employs 10 workers. Typically, there is no in-house human resource department, accountant, or attorney on staff. They must outsource, at a cost, for many of these services. NFIB businesses are not smaller versions of large corporations. While the large multinational corporation has the economies of scale to absorb regulatory complexities, additional costs/taxes, and other mandates, small businesses struggle to keep up with the multitude of cost-drivers.

The effort to enshrine enhanced union bargaining rights into the Pennsylvania Constitution dramatically jeopardizes employer rights and taxpayer protections.

The proposed Constitutional Amendment does four things:

1. Creates a "**fundamental right**" to organize and bargain:
 - Over and above any current law restricting bargaining activity and regardless of any employer rights currently in law, workers will be provided a **fundamental right** to bargain.

2. Expands the right to bargain over wages, hours, working conditions, **and economic welfare and safety** at work:
 - The National Labor Relations Act and the Pennsylvania Public Employee Relations Act already guarantee employees' ability to bargain over wages, hours, and working conditions. Period. However, this amendment will dramatically expand those rights to include an undefined "economic welfare and safety" at work.
 - What is "economic welfare" and how much will this cost employers and taxpayers in the future?
3. Prohibits lawmakers from interfering with, negating, or diminishing those rights:
 - The constitutional amendment specifically prohibits lawmakers from passing laws that restrict the ability to bargain over limitless subjects, or to protect or provide employer rights in the collective bargaining process.
4. In conflict with the Supreme Court *Janus* decision and prohibits a worker's ability to choose to be a member of a union.
Should voters approve this amendment, it will be the one of the first constitutional provision of its kind in the nation to:
 - make organizing and bargaining a "fundamental right";
 - mandate negotiations over limitless subjects;
 - prohibit lawmakers from limiting union power;
 - constitutionally ban a worker's ability to choose to be a union member or not.

Governor Josh Shapiro has stated that he wants the Commonwealth to compete for business with other states, but amending the Constitution in this manner will not accomplish this goal. Quite to the contrary, it will put us in line with Illinois who recently passed an identical amendment and ranks 50th among all states in economic stability. That's not a cohort NFIB wants to see Pennsylvania join.

Notably, small businesses rely on flexibility and the ability to adapt to changing market conditions. When sales are low, a business needs the ability to trim hours, so as not to run a deficit and potentially bankrupt the business. The small business owner would lose this flexibility with a unionized workforce and be forced to honor a collectively bargained schedule and payrate, even if the work doesn't exist. A business cannot survive if the expenditures are more than the revenue.

Unionizing private business employees limits the ability for a small business owner to promote those who exceed expectations, or fire those who fail to meet expectations. As in many unions, individuals are often promoted based on job classification and seniority. This does not work for the small business owner. Productivity produces higher compensation. When pay is set by collective bargaining, worker productivity may not compare to non-unionized employees as the motivation to produce more will disappear.

Small business owners need the autonomy to make quick decisions based upon what is best for the business. Having a unionized workforce will strip the owner of that ability and may create an environment of 'workers versus ownership'.

Employees are a business owners greatest asset. Without them, the business will likely fail. That is why NFIB business owners have raised compensation levels far above any state minimum wage, regardless of government actions. Many employers are seeking to enact better benefits packages, flexible work arrangements, paid time-off, and many other benefits, because they understand how valuable their employees are. One-size fits all approaches simply don't work for small business owners. Again, small businesses are not smaller versions of large corporations.

Having a unionized workforce will force a small business owner to hire outside counsel to deal with the National Labor Relations Act due to the complexity of the Act. This may cost tens of thousands of dollars on an annual basis, while the large corporation will simply have their internal team of attorneys as support.

Finally, a worker strike would put a small business out of business. If you are looking to destroy the small business community and promote large corporations, this is the legislation you are looking for.

Thank you again for the opportunity to comment on behalf of Pennsylvania's small and independent businesses.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Moreland', with a stylized flourish at the end.

Gregory B. Moreland
NFIB PA State Director