



Good Jobs for Workers with More Power

BY STEVEN GREENHOUSE

Key Points

- The pandemic underscored that the American economy works best when it is equitable and inclusive, with jobs that compensate workers in ways closer to the true value of their labor.
- Legislation and executive orders over the past two years have paved the way for the creation of good infrastructure, manufacturing, high-tech, and clean energy jobs for more workers, as well as better benefits and job protections.
- Moving forward, President Biden can use executive actions and the presidential megaphone to promote things like overtime pay, the removal of mandatory arbitration from work contracts, worker protections from extreme heat, raising the minimum wage, and calling out illegal union-busting by employers.

America thrives when people have access to good jobs, a strong voice in determining their pay and working conditions, and fair opportunities to build economic security and wealth. During President Biden's first two years in office, America's workers benefited from newly enacted policies that helped keep millions of working families afloat during the pandemic and helped the nation weather and rebound from the pandemic-induced recession—policies that often provided much-needed help to the most vulnerable Americans.

In the coming months and years, America's workers will further benefit from other recently enacted laws—the Infrastructure Investment and Jobs Act, Inflation Reduction

Act, and the CHIPS and Science Act—that will help rebuild the nation's battered infrastructure and manufacturing base, and move the nation toward cleaner energy, all while creating hundreds of thousands of jobs.

In addition to working with Congress, the Biden administration has turned to executive orders as a way to support workers. The president has issued orders that require federal contractors to pay a minimum of \$15 an hour (also eliminating payment of subminimum wages in federal contracts) and require companies that win federal service contracts, such as cleaning companies or cafeteria contractors, to hire the workers of the previous service contractor. The president has also made pro-worker, pro-union appointments at key agencies like the U.S. Department of Labor and the National Labor Relations Board (NLRB). In addition, as mentioned above, to prepare many workers without college degrees to obtain good jobs, the administration has invested in apprenticeships, including by launching the Apprenticeship Ambassador Initiative, a public-private partnership, and a number of other apprenticeship initiatives focused on developing a skilled, diverse workforce ready to fill high-demand jobs.

The administration has also issued an executive order creating the White House Task Force on Worker Organizing and Empowerment as a way to empower workers. It has sought to further protect workers by proposing rules to make it harder for employers to improperly classify employees as independent contractors, a move that often denies them benefits and legal protections. It has also proposed banning

This report can be found online at: <https://tcf.org/content/report/a-2023-plan-for-economic-equity-and-progress/>

noncompete clauses, which have reduced the mobility and wages of millions of workers.

To strengthen the enforcement of national labor laws, the president worked with Congress and pushed hard to secure a 9 percent funding increase for the National Labor Relations Board, although the administration and labor unions had sought a far larger increase. The NLRB's budget had been frozen since 2014 due to Republican hostility to the board, forcing large-scale layoffs at the NLRB and making it hard for the board to keep up with its rapidly growing workload at a time of increased unionization—and union-busting efforts.

Lessons about Good Jobs and Worker Power

Many economists say the American Rescue Plan Act, the ambitious \$1.9 trillion resilience plan to help Americans weather and rebound from the pandemic-induced recession, helped the U.S. economy bounce back faster and unemployment fall faster than they otherwise would have. Over the past two years, the nation has added a very impressive 12 million jobs, and the jobless rate has fallen to 3.45 percent, its lowest rate in fifty-four years. Moreover, even though many experts said manufacturing in the United States was on an irreversible decline, the sector has added 800,000 factory jobs since President Biden took office.

Yet, the recovery has not been felt equally. The unemployment rate has remained far higher for Black workers, and the spike in inflation has hit the poor and working class hardest. Women faced higher unemployment rates than men during the pandemic, due to their overrepresentation in hard-hit industries. Furthermore, care responsibilities forced many women out of the labor force entirely. And as described below, disabled workers still face disproportionately high unemployment and underemployment—though, now three years into remote work and the shifting of job expectations, new opportunities exist for workers with disabilities with workplaces offering more accommodations.

The president and Congress showed that the government can help offset these inequities—and provide a lifeline to the

most vulnerable—with policies that included a \$300-a-week unemployment supplement, checks of \$1,400 per person, and a \$3,600-a-year tax credit for families with children under age 6. As discussed above, the \$300 weekly unemployment supplement was especially helpful to many laid-off workers of color, who live disproportionately in states with stingy unemployment insurance programs that often shortchange lower-wage workers.

The successes of the past two years show how legislative and executive action can protect and lift workers. In light of the divided makeup of the new Congress, fractiousness and gridlock are likely to stall legislative progress. As a result, the best tools to use to lift workers and build worker power over the next two years will be executive actions and the presidential megaphone. Beyond that, the administration also needs to address the deep resentment that many workers felt over the president's decision to block the threatened national freight rail strike.

Labor unions applauded President Biden for championing the Protecting the Right to Organize Act (PRO Act), legislation that would go far to make it easier for workers to unionize. (Passed by the House in 2021, that legislation didn't stand a chance in the Senate because of a potential GOP filibuster.) But many labor leaders and union members felt that the administration came off as more pro-business than pro-union when it blocked the rail strike in a way that many thought undermined the freight rail workers' demands to include paid sick days in their contract. Not having any paid sick days was a huge issue in that labor dispute. Biden could go far to mend fences by getting his U.S. Department of Transportation to rule that the railroads' rigid attendance policies, with their lack of paid sick days, wear down the industry's overstretched workers to such a degree that those policies undermine rail safety and that the railroads therefore need to give their workers seven paid sick days a year.

Looking Forward: Executive Actions

The Biden administration should lift workers and build worker power by issuing executive orders that address overtime pay, prohibit mandatory arbitration clauses in federal worker

contracts, and protect workers of all types in all regions from extreme heat.

Overtime Pay

The Biden administration can continue to use executive actions to support workers. For example, under existing federal rules, many salaried employees who earn less than \$40,000 a year and work fifty- or sixty-hour workweeks do not receive any overtime pay. With over 10 million salaried employees not qualifying for overtime pay, many groups are calling on President Biden to increase the overtime threshold to \$70,000 so that all workers who earn less than that would qualify. By raising the overtime threshold to \$70,000, which can be done through U.S. Department of Labor rulemaking, President Biden would ensure that millions more dedicated, hard-working Americans get the overtime pay they deserve when they work forty-five, fifty, or sixty hours a week.

Mandatory Arbitration

President Biden should also issue an executive order that prohibits federal contractors from requiring their workers to sign mandatory arbitration clauses. (Federal contractors employ about 25 percent of the nation's workforce.) These provisions, often buried deep in the papers workers sign when they're hired, bar employees from taking their employers to court in work-related disputes, whether about sexual harassment, racial discrimination, or failure to pay overtime. These clauses cover more than 60 million workers, more than half of America's private-sector nonunion workers. These clauses relegate workers to having their claims against their employers heard by arbitrators in a secretive procedure that the dean of Cornell's School of Industrial and Labor Relations found "overwhelmingly favors employers." These clauses are more common in low-wage workplaces and in industries that are disproportionately composed of women workers and Black workers. Moreover, it is clear that many corporations and executives would much prefer having any sexual harassment or racial discrimination cases against them heard not in public courts, but in private, secretive procedures. Any step that President Biden can take to reduce the use of mandatory arbitration clauses would be

a step toward increased fairness and justice for American workers.

Protecting Workers from Extreme Heat

In addition, executive action can help protect workers from extreme heat, which disproportionately affects workers of color and immigrants, who account for many of the nation's farm workers and construction workers—outdoor jobs that are especially vulnerable to high heat. With global warming worsening, more workers are dying from today's higher temperatures, not just in states like Arizona and Texas, but in northern states like Oregon and New York.

Back in 1972, some prominent workforce experts began calling on president after president to issue a rule or standard that would protect workers from dangerous levels of heat—not just farm workers and construction workers, but also delivery drivers, landscaping workers, and warehouse workers. After previous administrations ignored pleas to create such a standard—which might include requiring rest breaks and access to shade and drinking water—the Biden administration announced a plan in September 2021 to draft workplace heat regulations. But in light of ever-worsening heat waves, such as the scorching 116-degree heat that hit Portland, Oregon in 2021, the sooner the administration issues regulations to protect workers from high heat, the more lives will be saved.

Looking Forward: Using the Megaphone

The Biden administration should also continue to use the president's megaphone to champion unions and workers' rights by pushing to raise the minimum wage and by speaking out against illegal union busting.

Raise the Minimum Wage

Even though most GOP lawmakers in the House and Senate strongly oppose Biden's push for a \$15 minimum wage, the president and congressional supporters should keep pushing hard to increase the federal minimum, which has

A 2023 Plan for Economic Equity and Progress

been stuck at a mere \$7.25 an hour since 2009. Because of inflation, the federal minimum wage has lost over 30 percent of its value since then. Increasing the federal minimum wage is so popular with the public that it's possible that a confluence of circumstances could move a sizable number of Republicans to support an increase. A 2021 Pew poll found that Americans, by 71 percent to 27 percent, favor raising the federal minimum in general and that the public, by 62 percent to 38 percent, supports a \$15 minimum. In relatively conservative Florida, voters overwhelmingly approved—by 61 percent to 39 percent—a ballot initiative to raise the state's minimum wage to \$15 an hour by 2026.

The Economic Policy Institute (EPI) says that raising the federal minimum to \$15 would help workers of color most, increasing pay for nearly one in three Black workers (31 percent) and for one in four Hispanic workers (26 percent), compared with about one in five white workers. With a \$15 minimum, EPI said, yearly pay would rise by at least \$3,500 for Black and Hispanic workers who work year round. The institute's report also said that most (59 percent) of the workers who would benefit are women, even though men are a majority of the nation's workers. Although it might be an uphill battle at the moment, the president should keep pushing to raise the minimum wage and keep the issue in the public eye because at \$7.25, the federal minimum has been far too low for far too long.

Speak Out for Workers

Unions have cheered President Biden for backing Amazon workers' effort to unionize and repeatedly talking about how unions have built the middle class. But many labor leaders say the president should go further in speaking out on behalf of unions, especially since he and Congress failed to enact labor's top legislative priority, the Protecting the Right to Organize Act.

The president and his administration should speak out loudly against the many illegal tactics that the National Labor Relations Board says Starbucks has used to try to stifle its baristas' unionization drive. The NLRB has accused Starbucks of illegally firing pro-union workers, closing stores

that had recently unionized, and refusing to bargain in order to sabotage its workers' union drive. Fierce employer opposition to unions is the biggest obstacle to the growth of labor unions, and President Biden should be willing to speak out when companies repeatedly violate federal law in their efforts to quash unionization.

The president has repeatedly boasted about how pro-worker and pro-union he is, and notwithstanding the obstacles he faces in Congress, he can still do a lot more over the next two years to help lift America's 159 million workers.