

WebMemo



Published by The Heritage Foundation

No. 2265
February 3, 2009

Reform Collective Bargaining to Enable Hard Working Americans to Get Ahead

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Congress wants to rejuvenate the economy, and many Members believe that expanding collective bargaining is the way to do so. Few in Congress are aware that America's outdated labor laws prevent many workers from earning raises. Most collective bargaining agreements (CBA) specify seniority-based promotions and raises that ignore individual effort. Federal law prohibits employers from paying individual workers more than their union contracts provide. This restriction holds high-performing employees back. No matter how hard they work, union members cannot earn more than their unions have negotiated for them.

This problem will only worsen as the economy shifts toward jobs that require more individual skills and initiative and that do not lend themselves to general representation. Congress should bring labor law into the 21st century by allowing businesses to pay hard working and productive employees more than is provided for in a CBA. This flexibility will raise both wages and productivity. Unions should not put a ceiling on workers' wages.

General Representation Ignores Individual Contributions. When workers at a company join a union, that union becomes their exclusive bargaining representative that negotiates their employment contracts. One contract covers every worker. As a practical matter, union officials cannot assess the merit and productivity of hundreds or thousands of workers at a company and negotiate appropriate individual compensation packages.

Therefore, companies with union contracts must instead pay their workers according to strictly defined job classifications that do not distinguish between individuals. Most union contracts base promotions and raises on seniority; individual performance reviews for the purpose of wage increases are the exception, not the rule, in unionized firms.¹ No matter how hard—or idly—union members work, they get paid according to the same job classification and seniority system. CBAs treat workers identically irrespective of their effort or contribution.

Holding Back Good Workers. CBAs protect less competent workers—they are guaranteed the same raises that every worker receives—while holding good workers back. The National Labor Relations Board repeatedly strikes down bonuses and merit pay not first negotiated with the union.² During negotiations unions usually oppose merit and performance pay, preferring collective seniority-based wage increases.³ The law prevents unionized companies from paying high-performing workers more than mandated by a CBA.

This is not a theoretical problem: Good business practices lead companies to raise high-performing employees pay in the absence of a union. Businesses

This paper, in its entirety, can be found at:
www.heritage.org/Research/Labor/wm2265.cfm

Produced by the Center for Data Analysis

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002-4999
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Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

want to incentivize hard work and individual effort, and firms must pay higher wages to keep successful employees at their companies.

Consequently, union contracts mean lower wages for high-performing workers.⁴ More experienced and more educated union members earn substantially less of a premium for their skills than they would without general representation.⁵ Union members are also between one-third and one-quarter less likely to be promoted than non-union workers.⁶ Hard-working union members cannot get ahead: No matter how hard they work, they cannot earn more than mandated by their CBAs.

Hurts Workers and the Economy. Preventing companies from raising the wages of good workers hurts both those workers and the economy. Many productive employees simply refuse to work at unionized companies because they can do better at companies where their talents are rewarded.⁷ This hurts unionized businesses that lose good workers.

These laws also hurt the workers who remain in the union. Academic research confirms common sense: Employees work harder and become more

productive when they are rewarded. Basing pay partly on individual performance raises both workers' earnings and corporate profits because employees work harder.⁸ CBAs that prevent individual raises hurt the economy.

Out of Step with Modern Economy. The inability of CBAs to reflect individual effort is out of step with the modern economy. One-size-fits-all CBAs were workable when all workers brought essentially the same skills to the bargaining table—individual skills and effort do little to distinguish workers on the assembly line. But the nature of work in the economy is changing. Employers are automating many rote repetitive tasks. The fastest growing job sectors are positions requiring jobs requiring individual skills: professional specialty, executive and managerial, and technical and sales jobs.⁹

At the same time, employers are also flattening the job hierarchy. The line between management and workers is blurring. Employers increasingly expect workers to exercise independent judgment and take initiative on the job.¹⁰ The unique skills of individual financial planners, web developers, or

1. David Metcalf, Kirstine Hansen, and Andy Charlwood, "Unions and the Sword of Justice: Unions and Pay Systems, Pay Inequality, Pay Discrimination and Low Pay," *National Institute Economic Review*, Vol. 176, No. 1 (2001), pp. 61–75; Richard B. Freeman, "Union Wage Practices and Wage Dispersion Within Establishments," *Industrial and Labor Relations Review*, Vol. 36, No. 1 (October 1982), pp. 3–21; Assar Lindbeck and Dennis Snower, "Centralized Bargaining and Reorganized Work: Are They Compatible?" *European Economic Review*, Vol. 45, No. 10 (December 2001), pp. 1851–1875(25).
2. *Colorado-Ute Electric Assn*, 295 NLRB 607 (1989), *McClatchy Newspapers*, 322 NLRB 812 (1996), *The Edward S. Quirk Co., Inc. dba Quirk Tire v. NLRB*, 241 F.3d 41 (1st Cir. 2001), *Detroit Typographical Union No. 18 v. NLRB*, 216 F.3d 109 (D.C. Cir. 2000), *Register-Guard Co.*, 339 NLRB 353 (2003).
3. Metcalf, Hansen, and Charlwood, "Unions and the Sword of Justice"; Freeman, "Union Wage Practices."
4. See the following papers for discussion of unions compressing wages and reducing the wages of the most productive union members: Daniele Checchi, Jelle Visser, and Herman G. Van de Werfhorst, "Inequality and Union Membership: The Impact of Relative Earnings Position and Inequality Attitudes," *IZA Discussion Paper* No. 2691, March 2007; Metcalf, Hansen, and Charlwood, "Unions and the Sword of Justice"; David Card, Thomas Lemieux, and W. Craig Riddell, "Unions and the Wage Structure," in *International Handbook of Trade Unions* (Cheltenham, U.K.: Edward Elgar, 2003).
5. Metcalf, Hansen, and Charlwood, "Unions and the Sword of Justice."
6. Kristin McCue, "Promotions and Wage Growth," *Journal of Labor Economics*, Vol. 14, No. 2 (April 1996), pp. 175–209.
7. David Card, "The Effect of Unions on the Structure of Wages: A Longitudinal Analysis," *Econometrica*, Vol. 64, No. 4 (July, 1996), pp. 957–979; Checchi, Visser, and Van de Werfhorst, "Inequality and Union Membership"; Card, Lemieux, and Riddell, "Unions and the Wage Structure."
8. Edward P. Lazear, "Performance Pay and Productivity," *American Economic Review*, Vol. 90, No. 5 (December 2000), pp. 1346–1361.
9. James Sherk, "A Good Job Is Not So Hard to Find," Heritage Foundation Center for Data Analysis Report No. 08-04, June 17, 2008, at <http://www.heritage.org/research/labor/cda08-04.cfm>.
10. Lindbeck and Snower, "Centralized Bargaining and Reorganized Work."

medical specialists do not lend themselves to general representation. Employers want to reward—and employees want to be rewarded for—individual contributions that no collective contract can reflect. Private-sector union membership has fallen sharply because workers' demand for union representation has decreased.¹¹ America's outdated labor laws that ignore individual effort do not appeal to workers in the modern economy.

Permit Raises. Congress should bring federal labor law into the 21st century by allowing companies to pay individual workers more than their CBAs mandate. This could be accomplished by amending the National Labor Relations Act so that employers may provide individual workers with greater remuneration than their CBAs provide—a union's exclusive bargaining representative status or the terms of a CBA notwithstanding. Workers who want union representation would still have all the benefits of collective bargaining, but unions would no longer place a ceiling on hard-working employees' wages.

Higher Wages and a Stronger Economy. Allowing companies to raise wages on the basis of individual performance would strengthen the economy. Companies do not simply give employees their pay: Workers earn their wages through the wealth they create on the job. Employees work harder and create more wealth when they reap the fruits of their labor.¹² Absent a union-imposed wage ceiling businesses would raise wages for productive employees to encourage hard work and keep successful

employees from leaving. Instead of redistributing wealth, workers create more wealth. In such instances, both businesses and workers win.

The experience of other countries shows that allowing employers to reward successful employees encourages greater productivity that leads to both larger profits and higher average wages.¹³ The United Kingdom and New Zealand allow employees to earn higher wages than a CBA awards—policies that have benefited their workers.¹⁴ With the economy in a recession, it is critical that Congress allow companies to reward achievement and incentivize successful employees.

Recommendations to Congress. Many in Congress believe that unions help workers achieve prosperity, but antiquated American labor laws are standing in the way. It makes no sense for unions to place a legal ceiling on workers wages when the economy is shifting toward jobs that require individual skills and initiative. Consequently, Congress should allow companies to reward achievement and incentivize successful employees by paying them more than their union contracts provide. Workers should be free to earn raises through their own hard work. This freedom will increase productivity, strengthen businesses, and raise workers' wages. More than ever before, businesses need the freedom to motivate productivity, and workers need higher earnings.

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11. Henry S. Farber and Alan B. Krueger, "Union Membership in the United States: The Decline Continues," NBER Working Paper No. 4216 (1992).
12. Lazear, in "Performance Pay and Productivity," demonstrates that performance-based pay raises productivity, profits, and workers' earnings.
13. Per Lundborg, "Individual Wage Setting, Efficiency Wages and Productivity in Sweden," Trade Union Institute for Economic Research, Working Paper Series No. 205. This paper shows that average wages and productivity rose in sectors of the Swedish economy where unions allowed individual wage setting relative to those sectors where unions did not. Other studies do not expressly examine union contracts but look at the consequences of pay packages that provide greater pay for greater performance. See Fredrik Heyman, "Pay Inequality and Firm Performance: Evidence from Matched Employer—Employee Data," *Applied Economics, Taylor and Francis Journals*, Vol. 37, No. 11 (June 2005), pp. 1313–1327; Rudolf Winter-Ebmer and Josef Zweimuller, "Intra-Firm Wage Dispersion and Firm Performance," *Kyklos*, Vol. 52, No. 4 (1999), pp. 555–572.
14. For a discussion of the effects of the New Zealand Employment Contracts Act on the productivity of New Zealand workers, see L. J. Perry, "Ignoring the Evidence: Comments on the Debate on Antipodean Neoliberal Workplace Reform and Labour Productivity," *Australian Bulletin of Labor*, March 2007.