

# BARGAINING GREEN NEW DEALS AT WORK

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## **UNION MEMBERS SUPPORT THE GREEN NEW DEAL**

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News coverage of the Green New Deal portrays organized labor as a major obstacle to its enactment. But a new report from Data for Progress paints a different picture. In a poll conducted for the think tank by YouGov Blue, union members overwhelmingly favored the proposed reforms, with 62 percent in support and 22 percent against.<sup>1</sup>

In step with the rank-and-file, some union leaders have already backed the ambitious plan. In a resolution adopted by its executive board, the Service Employees International Union called the Green New Deal “an unprecedented opportunity to unite the fights for environmental, racial, and economic justice.”<sup>2</sup> Los Angeles County Federation of Labor secretary-treasurer

Rusty Hicks said the “framework is vital to fighting both” inequality and climate change.<sup>3</sup> Association of Flight Attendants president Sara Nelson explained that it is “not the solutions to climate change that kill jobs,” but climate change itself.<sup>4</sup>

Still, the current political climate in Washington means that passage of the Green New Deal is unlikely unless Democrats win back the presidency and the Senate, even as union support for the measure continues to grow. But labor leaders have a more immediate way to translate worker power into environmental victories: bargaining green union contracts.

This memo explains why climate change is an appropriate topic for workplace negotiations, charts the legal landscape for bargaining over green issues, and surveys the work some unions are already doing to forestall impending climate disaster.

## CLIMATE CHANGE IS A WORKPLACE ISSUE

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The workplace is a natural forum for organizing around environmental issues because American job sites are a major source of greenhouse gas emissions.<sup>5</sup> This is particularly true of traditional industry. Production in the manufacturing, mining, and utilities sectors made up 22.2 percent of all U.S. greenhouse gas emissions in 2017. But non-industrial workplaces are also leading polluters. Together, the residential and commercial sectors accounted for 11.6 percent of emissions in 2017. Commercial buildings expend significant energy for functions such as cooling, heating, lighting, and refrigeration, and businesses also produce substantial waste. Moreover, transportation emissions, which constituted 28.9 percent of total U.S. emissions in 2017, are fueled in part by employees commuting to, from, and during work.

Not only are workplaces contributing to climate change, but some are also feeling its early effects. Outdoor industries such as agriculture and construction have been especially susceptible. A report released last year by Public Citizen found that an average of 1.1 million farm and construction workers labored in extreme heat conditions each day of July 2017.<sup>6</sup> In that same period, at least six workers died.<sup>7</sup> Meanwhile, indoor industries are facing the prospect of poorer indoor air quality, ventilation issues, and a rise in infectious diseases and pests.<sup>8</sup>

Individual workers are relatively powerless to change a company's carbon culture on their own, but through unions, workers can join together and pressure employers to agree to binding commitments to improve conditions in the workplace and combat a warming world.

## THE ROLE OF LABOR LAW

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Labor law both facilitates and limits workers' ability to engage employers in the fight against climate change. In the private sector, the National Labor Relations Act (NLRA) governs the process of collective bargaining between employers and unions. Section 8(a)(5) of the NLRA makes it an unfair labor practice for an employer "to refuse to bargain collectively with the representatives of his employees." 8(d) defines "bargain collectively" as "the performance of the mutual obligation of the employer and the representative of the employees to . . . confer in good faith with respect to wages, hours, and other terms and conditions of employment." In other words, employers break the law when they rebuff a union's effort to bargain over certain "mandatory" subjects that are directly related to workers' jobs. On the other hand, employers can legally decide not to bargain over other topics, called "permissive" subjects, that lack a direct job nexus. Some topics that unions have sought to bargain over have shifted as the nature of work changes. For instance, unions today are bargaining over issues ranging from digital surveillance to the role of artificial intelligence in the workplace.<sup>9</sup>

Climate change has a clear impact on occupational health and safety. Under the "terms and conditions of employment" requirement for a mandatory subject, unions can make the case that employers must bargain on this subject. As climate change proceeds unabated, this line of argument strengthens. Alternatively, if climate goals are strictly viewed as permissive subjects, employers and unions are still free to bargain over them. Unions have succeeded in getting employers to agree to any number of contract provisions involving permissive subjects, from benefits for retired members to requiring the employer to use the union label on products. Given the restrictions of labor law, and

particularly the current Republican majority on the National Labor Relations Board, making employers bargain over climate change may not always be possible, but a growing number of unions are showing how it can be done.

## EXISTING MODELS

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Efforts to build climate protection goals directly into collective bargaining agreements are already high on labor's agenda in countries like Australia, Canada, and the United Kingdom. Work in a Warming World (W3) has undertaken an extensive project to document green clauses in union contracts across the globe.<sup>10</sup> Their research provides a roadmap for American unions seeking to create sustainable workplaces.

For one, unions can bargain for the establishment of workplace environment committees that give workers real power to set sustainability benchmarks and to play an active role in implementation. In an agreement with a leading Canadian metals and mining company, the United Steelworkers Local 408 won contract language establishing a committee for workers and management to jointly develop programs aimed at preventing pollution, minimizing environmental impact, and protecting employee health.<sup>11</sup> The clause included an enforceable requirement that management furnish the union with all relevant data about the company's environmental impact.<sup>12</sup> Union involvement in designing sustainability initiatives can be particularly critical to ensuring there is real bite behind green programs that can otherwise be empty public relations ploys. For instance, when several American hotel chains rolled out a "green choice" program that rewarded guests who forwent housekeeping services, it was hotel staff who called the employers' bluff that these programs were effectively helping out the environment.<sup>13</sup> Not only were

they were working double duty cleaning dirtier rooms, but many guests were "cheating" by requesting extra towels and linens while still reaping the program's perks. Because they had a union, they were not afraid to point out the program's flaws.

Unions can also demand that employers commit to specific environmental goals directly in their contracts. Some activists have sought to get employers to agree to annual carbon footprint reductions, or to purchase union-approved carbon offsets if reductions cannot be achieved.<sup>14</sup> Others have successfully bargained for building efficiency improvements and recycling and composting programs.<sup>15</sup> Seeking to reduce greenhouse gas emissions caused by transportation, some unions have even won telework provisions that give employees more flexibility to work from home.<sup>16</sup> Where in-person work is required, unions have obtained company support for employee transit programs that promote the use of public transportation, bikes, and carpooling.

Bargaining green contracts will surely be most difficult in fossil fuel-linked industries, where the work itself contributes to climate change. But union contracts have an important role to play in ensuring a just and fair transition to a green economy. Employees worried about a Washington-negotiated Green New Deal can take control of planning for our climate change future at their own workplaces. To ensure that workers can compete for the growing number of green jobs, unions can bargain for employer-sponsored training programs that give employees an opportunity to learn new skills. They can also negotiate for robust severance pay and layoff benefit plans and even early retirement to ensure workers and their families are not left behind as transition nears. And while the NLRA does not require employers to bargain with workers over entrepreneurial decisions about the firm, unions can push management to pursue green projects themselves, so that workers can stay on as the company itself shifts missions.

## CONCLUSION

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Each of these goals will be far easier to achieve with government intervention, which is why passing the Green New Deal is paramount. But we have no time to wait. American workers may not have a seat at the table in Washington, but organized labor can take advantage of its seat at the bargaining table now. If unions negotiate green new deals at work, we can promote good jobs while averting a climate disaster.

## ENDNOTES

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