Season 3 | Episode 97

Order Up: Fast-Food Stakeholders in CA Now Setting Policy

Gene Marks

CPA, Columnist, and Host

David Madland

Senior Fellow & Senior Advisor at American Worker Project, Center for American Progress

Announcer:
Welcome to THRIVE, a Paychex Business Podcast, where you'll hear timely insights to help you navigate marketplace dynamics and propel your business forward. Here's your host, Gene Marks.

Gene Marks:
Hey everybody. And thanks for coming back and joining us again. My name is Gene Marks, you're here on the Paychex THRIVE Podcast. And I am talking with David Madland. David is a Senior Fellow and a Senior Advisor at American Worker Project at American Progress. So first of all, David, thank you so much for joining me. I'm so glad that you're here.

David Madland:
Thanks very much for having me.

Gene Marks:
Sure. Where am I speaking to you from? Where are you at right now?

David Madland:
I'm in Washington, DC.

Gene Marks:
Very good. I just traveled through Reagan International Airport yesterday and Washington is busy.

David Madland:
Yeah, things are picking back up you know, the pandemic... We're not fully there and downtown's still a little bit vacant, but we're definitely picking up.

Gene Marks:
It is, it really is. So David, first of all, tell us a little bit about American Progress and tell us a little bit about the American Worker Project and what your involvement is with it.

David Madland:
So, the Center for American Progress is a think tank based in Washington, DC. We research all areas, economic policy, national security, energy, environment, education, and the like. And the American Worker Project is a specific project there that focuses on, it's kind of the economy from the workers' perspective. How do we ensure that workers have good jobs with good wages and benefits? And I've been leading the team there for 15 years.

Gene Marks:
That's great. And give us a little bit about your background as well. Are you an economist by training? Are you a journalist by training? Tell us a little bit about yourself.

David Madland:
Sure. So, I've got PhD in political science, undergrad in economics. I've worked for decades in sort of political economic world, worked for members of Congress doing economic policy, done this think tank work. And I recently wrote a book on strategies to strengthen the labor movement called 'Re-Union.'

Gene Marks:
That is great, okay. All right. I'm glad to hear that. That's very interesting. And is your work at the Center of America Progress, is that your full-time gig or do you work anywhere else?

David Madland:
No, that's my full-time gig or more than full-time gig, I'd say.

Gene Marks:
I believe it. All right, very good. So, good, I mean, we've established your background and where you work and this is really good. So, like I told you, before we started recording David, our audience are business owners, employer-owned businesses, I mean, these are the people that are out there. So many of my clients, I'm a CPA by the way. So, many of my clients have been reading about what's been going on in California. There is new legislation that just was signed into law on Labor Day, that impacts fast food workers and fast food restaurants. So, if I can ask you to maybe walk us through what that legislation is and maybe we can get into what you think the impact would be. So, tell us a little bit about the bill.

David Madland:
So the bill does several things, but I think the core of it is creates what's called this sectoral council or this council that brings together representatives from workers in the industry and fast food industry as well as employers. And that includes both franchisees and franchisors as well as representatives from government regulators too. And the idea is that those parties are going to come together and discuss the workplace challenges around wages, scheduling, safety, and the like. And they will come to an agreement and then the government will use that discussion to set the standards that are going to cover all workers in the industry. This is based on some models that have worked in other places that we can talk about. But really, the idea is setting standards across an industry based on participation of the key stakeholders.

Gene Marks:
That's really interesting. So, most industries are sort of self-regulating, but what's sort of groundbreaking about this at least, and I'd like to hear about some of the other examples. But what's groundbreaking about this is now we're saying the government of California is saying, "we're going to take this commission." It's going to be made up of representatives from the industry, both employers and employees, but whatever this commission recommends, as far as safety rules, for example, wages, minimum wages as well, the government is going to take that and implement that. They're going to be setting the policy, am I explaining that correctly?

David Madland:
Close. There are some boundaries that they can't raise wages beyond a certain limit, I think it's $22. The safety standards will need to be reviewed by the state OSHA agency, for example. But yes, the idea you are getting at is that this is a way to regulate an industry that's a little bit different than just having the government say, here is the new standard that's going to apply.

Gene Marks:
Which frankly, it makes sense to me because everywhere else in this country, you've got the legislators that are making regulations and rules for an industry. And these legislators don't necessarily have the knowledge, the background, the experience to, many cases, know what they're talking about.

David Madland:
I think you're hitting the nail right on the head. To me, that's what makes me most optimistic about this, is that the participants who have the most knowledge and the most at stake, that's both the workers, as well as the employers here have a voice and a say in a way they don't normally have in setting the standards for their industry. The way they might normally have that is they have to go lobby their legislators, and that's kind of a different, strange process. But here it's a more public formal sort of discussion where you can have your arguments out. And the aim is that hopefully, it can come to an agreement that works for both parties.

David Madland:
Certainly, there is the backstop that the government is the ultimate decider here. But the idea of having the employers and the workers give their knowledge and say, "actually, wages really need to be this and here's how" And I think what we'll get into this, but as you know, fast food is structured a little bit differently than many industries with this franchisees and franchisors. And so, having something that can work for all parties, I think is really important here.

Gene Marks:
That's great. And so David, and again, if I'm getting too much into the weeds here, just tell me. But this actual committee, can you tell me, many people on the committee, if you know? And how is it divided up between, like who's on this committee, is it if I'm an employer? Who's on the committee and how many people? That's the basic question.

David Madland:
Got it. So there were some amendments at the last minute that we'll have to double check, but the structure-

Gene Marks:
It could be around numbers by the way, or just the concept. It doesn't have to be specific.

David Madland:
Yeah. It's equal numbers of employers and that's half franchisees, half franchisors. And I think it's two and two, it could be one, one and then an equal number of workers. So if employers have two, that's two workers and then the government is the same number. And I think that's also two and that's the department of the basically industrial relations folks. How they'll be selected and that's a little bit to be determined in how this works out. But the idea is that the leading industry representatives, the franchise association, and the lead brands will sort of pick their representatives. The workers will pick their representatives.

Gene Marks:
What do you think? We talked about some of the benefits to this, which again, you're having people representing an industry from all different size, they're suggesting what the regulations that would be coming from experience. What do you think are some of the downsides to something like this? What would be your concerns if you're an employee or if you're an employer?

David Madland:
Well, I think the concerns from both, especially employers, but also this is a little bit new and different and how is it going to work? So just that it's a different process and that's some fear inherent in something new. And then, there's how it might work. And I think the ultimate backstop here is that this government is making the final decision, and that is both a good and a bad that some might fear that they'll make decisions that they'll disregard what the worker's input is or what the employer's input is. So I think that's the other kind of fear is that the standards might not actually be the most useful or relevant for this industry. And that's in part that this idea that the government is still ultimately setting the standards that the input from the key stakeholders might not be fully baked into their decisions.

Gene Marks:
Got it. Some of the criticisms of this, people think that this committee they're allowed, I think like you had mentioned earlier to increase one of the things they can do besides safety is they can increase minimum wages up to, I think like 22 bucks an hour, somewhere 22 and change. So, They have the authority to do that. And right now, I think that the maximum hourly mandated hourly wage in parts of California's $15 an hour. So, a lot of employers I'm sure are freaking out that this committee is immediately going to turn around and raise the wage to $22 an hour, which could happen. And then of course, then the response is say, "well, if that happens to us, we're just going to turn around and pass those costs down to consumers, to our customers." And therefore, it's going to impact all, has inflationary impact and impacts on consumer pricing. What are your thoughts on that? Do you think that will happen? Do you think that point of view makes sense?

David Madland:
So, I think trying to get at what's the likely impact of this legislation, and I think the most likely is going to raise standards in a lot of ways, the wages will increase. They could raise the 22, we don't know. The safety standards will probably improve. And then what's the impact of that? So the workers, I think that's a pretty obvious story, is that not only their standards raised and hopefully we'll get into this a little bit later. But I also think that the standards are more likely to be complied with in this case than some other kinds of laws that have gone into effect. But also then from the employer's perspective, what's going to happen? Well, most likely, yes, this will lead to higher labor costs for them. Now, that is not necessarily a one to one correlation because you're also most likely going to reduce turnover with this. Turnover in fast food is about a 100% a year.

David Madland:
So you have better labor standards and you're going to have a little bit lower turnover. Therefore, some of your costs are going to go down, but obviously some of your labor costs are going to go up as well. So the best we can estimate are based on other studies of things like when the minimum wage was increased. And that'll probably increase labor costs a little bit. Now, some of that might go into higher prices, some of that might go into reduced profits. Some of that will be efficiency that actually you get a more productive workforce or you change how you do your business, that you might move your counter service around a little bit or improve the productivity of the shop.

David Madland:
And this is where I think the advantages of this system is that the franchisees under a current system, they have very little ability to have a discussion with their brand owners because right now, they're locked into paying certain… They have to be open certain hours. They have to pay the prices for meals have to be a set thing. They have very little flexibility. And so if they face increased labor costs, they really get squeezed. Here, they can at least have some negotiation and discussion with them. Actually, we need to set things up like this in order for us to still be profitable.

Gene Marks:
That's great. Do you think you had mentioned one of the ways, I mean, you were saying that prices certainly they could pass down price increases to consumers. It could take a piece out of their profits, or if they're facing higher labor costs, you do something to improve their efficiencies and their productivity. Many fast food companies, well, many businesses across the country are investing in technologies, robotics, self-service to really offset some of the lack of labor that they're experiencing right now. David, so just as somebody who writes and covers this stuff, do you think something like this will encourage even more fast food businesses to lower their workforce, get rid of labor and replace them with more self-service kiosks or robotic hamburger flipping machines in the back kitchen? Do you think that's more of an incentive for them to do that? And if that's the case, does it potentially have the opposite effect of what it's trying to achieve?

David Madland:
Yeah. I think the incentives for employers are already to reduce labor costs and shift towards greater technology utilization. That's been the driving force for advancement in the standard of living for hundreds of years. This is why and how we can have all the advances we have, is that we've just become more productive as a society. So yes, but anything that additionally increases labor costs provides an additional incentive to use more technology, become more productive. But I don't think this is a fundamental shift and you hear some people claiming this is going to be a fundamental change. I view this as a very much of an incremental shift in that you're slightly higher labor costs there. So you have a slightly higher incentive to find labor reduction elsewhere.

David Madland:
So I would imagine this is just very much akin to the kind of changes we've seen from other related policies when we've had a higher minimum. When people we went to 15 in some city or New York was the first and fast food actually went in, I think 2015. And you heard similar cries, we're going to automate everything. And no, that didn't really happen. Certainly, there's more automation today than there was then. And so, I would estimate and guess that this is a pretty similar trajectory.

Gene Marks:
Yeah. I could agree with you more, whenever some stuff like this, legislation is announced or whatever, there's this knee jerk reaction. A lot of people yelling and screaming that it's going to have this widespread, huge impact. Businesses are going to be firing their employees left and, or replacing them with robots and whatever. And to some extent that will happen, but it's never as crazy an effect as people expect to have. These things have an impact, but it's not as significant as they imagined.

David Madland:
And if I can just add one more thing.

Gene Marks:
Sure.

David Madland:
The thing we would expect to have the biggest impact on automation was COVID, there was workers and it certainly encouraged some automation, but it wasn't this radical shift. And COVID was just so transformative in a way. And even if that didn't change the entire structure of the industry, I'm very skeptical of any claim that says it's going to be a big, radical shift.

Gene Marks:
That is a perfect example. I still go to the same restaurants here. I live in Philadelphia and I still go to the same restaurants. And it's pretty much the same operations as it was before. A little bit more, maybe there's a QR code that I can bring up my menu that way. Or maybe now the person's coming to our table with a handheld. Finally, like they do all in Europe. They're finally bringing handheld devices to pay, fine, but it hasn't been this monumental. I'm not walking into a fully automated restaurant with robots serving me my food. So I think you're exactly right, it's just not never as much as people say it is.

Gene Marks:
This CEO of McDonald's was on CNBC like a week or two ago and was saying that this fast food bill is unfairly targeting big businesses, the big chains. And then I have other people that cover the industry and they say, "oh no, it's really going to impact small businesses because a lot of the franchise are independently run and they have one or two locations or whatever." What are your thoughts of that? Do you think this is unfair in any way to big business or to small business or not unfair?

David Madland:
No. I mean, I think if you believe I do that, the working conditions in fast food were not very good, low wages, low benefits, incredibly high turnover, meaning that there was just churn that most people didn't want these kind of jobs. In fact, it's like the symbol for poor working conditions is a Mc job. So if you believe that and you think that you want to improve that the current conditions was not acceptable. Then I think most of the complaints that you hear are really like is this, especially from the McDonald's, they'll throw out the big companies will say, this is the worst thing. And then they'll put out whatever argument, whether it's the big guys are going to do bad or the small guys to just oppose any change.

David Madland:
I don't think it's going to be, I think it's targeting an industry that needs to reform and improve. And it's targeting an industry where at the same time, those working conditions have been poor. The profit margins for the large corporations have been quite high. The profit margins for the franchisees are not that good, they're relatively low. And so that makes improving working conditions through other kinds of policies, quite difficult because the employer of record, the franchisee has relatively little ability to raise wages. And this system gives them a little bit of a voice to say, here's what we need to actually be able to raise wages.

Gene Marks:
That's great. You know, mentioned about the impact on other industries and how fast food industries need some reform. Do you think that this legislation and we're just talking about California right now, will have any kind of a spillover effect into other industries? Meaning that if I'm in the retail business and I'm used to paying 15 bucks an hour, and now these hourly workers at fast food chains can make 22 bucks an hour, that's going to push my wages up as well. What are your thoughts on that?

David Madland:
Yes, I do think there'll be several kinds of spillover. So there's the spillover that you talk about, that the kinds of workers who might be in one low wage industry or another low wage industry, that the wages will not just increase in fast food, but some comparable workers will probably also see higher compensation. But

also, I think the policy model that's developed here could spread as well and to other low age industries and not just in California. And that's among the reasons I think that the opposition is making such sort of strange and overstated claims is that, they see this not just as a change potentially to fast food. But it could potentially impact a lot of other low wage industries because many low wage industries have similarly what we call fissured structures, where the big brand has lots of power, but doesn't necessarily have an employment relationship with lots of the lower wage workers.

Gene Marks:
That's a great answer. You mentioned about that spillover effect and it could have policy repercussions in other industries and elsewhere in the country. I mean, California's legislated this now, are you aware of any other states that are further along in a similar type of legislation? And so, our listeners are listening to this saying, is that going to this kind of thing affect me in my state?

David Madland:
Yeah. Oh, since, as I mentioned, New York's state in 2015, used a similar kind of policy to raise wages for fast food workers to $15 an hour. Now it didn't cover, this board that they used was not as big or robust and as what's in California. But since that 2015 bill, a handful of other cities and states have passed this related kind of legislation. So Seattle has, for example, a domestic worker standards board. Detroit recently passed one and then Nevada has a Nursing Home Board. So there's a handful of cities and states that have done something related, but with California, is bigger and more important. And the board is more powerful and handles more issues and a bigger industry than others. So we can see what's likely to happen from some of these other recent cities and states, but also note that California's fast food bill is really bigger and different too.

Gene Marks:
Are you aware of this outside of the US, any similar types of things being done successfully or unsuccessfully?

David Madland:
Yes. And so, it depends how wide you passed your glance. So at some level, this is trying to model what sort of sectoral bargaining looks like in some countries. And that's where instead of unions negotiating with just the individual workplace, they negotiate standards for a broad industry. And that is Denmark is kind of the classic example, and their fast food workers for actually many years have already earned $22 an hour and have good benefits. They get their schedules weeks in advance, all of the kinds of things that we associate with good jobs they have in fast food. They also still have profitable employers and all of those kinds of things as well. So that's one model, but that doesn't really have the direct government involvement like the California model.

David Madland:
And that you have to look a little bit towards what Britain used to have and what Australia used to have. Both got rid of them for political reasons, sort of conservatives took power and got rid of these kind of boards. But they used to have this tripartite wage setting that really, in my view, the study of indicated it tended to work. That not only did you have better working conditions for the workers, but also employers were still making profits and the economy was growing and all of the things you might hope for.

Gene Marks:
It's funny. I mean, listen, I'm a business owner myself with 10 employees and we have hundreds of our clients in also similar situation. So honestly, I'm always sort of like a pro business sort of point of view, David. But to me, something like this makes sense to me, it is not rather than having to lobby. You mentioned this earlier, having to lobby your governments officials, you have hopefully an independent board that includes people from government, but also employers and employees as well, that can just make better

decisions for an industry on the whole. People don't like change, I get that. But coming from an academic background yourself and studying this, do you agree, do you think this is a good model for better practices between government employees and employers going forward? Just your own personal take?

David Madland:
Yes, I absolutely do. I'm a big fan and there's a couple reasons I'm such a big fan, especially you mentioned sort of small business, that's sort of your perspective. In a lot of other countries that have similar kinds of programs, in fact, some of the biggest proponents for these kinds of systems are actually small businesses because they feel that one, it gives them an actual voice in the standard setting. Otherwise, they're just reactive to what other bigger players have set, but also it creates a level playing field for them to compete on. Then they're competing based on their productivity and they're sort of efficiency and systems, and they're not handling all these other... Here's what the labor call, I don't have to have these negotiations with my employees. That's just what I pay, this is just the standards. And so they like that, but that leads to some of these bigger macro effects, which is why I'm also a particular fan, is this idea of having a more standard wage setting policy really does tend to lead towards higher productivity across the economy. And that's for a couple of reasons.

David Madland:
One is just sort of more efficient allocation of capital. But also, you tend to have better labor relations because you're not necessarily having these fights at a workplace about what the compensation is. Here's what the compensation is, and then your team is like, "okay, these are the broader conditions. How do we most effectively move forward with this?" It also creates incentives for training workers more because you're not as an employer, you're less worried about your employee getting poached because the standards at the competitor are going to be similar, not just going to get picked off. So you're going to want to train and invest in your workforce. And hopefully you have a more easy path to keep them.

Gene Marks:
David Madland is a Senior Fellow and Senior Advisor for the American Worker Project at the Center for American Progress. David, how do people reach out to you if they want to find out more or how can they follow you?

David Madland:
Well, I'm on Twitter @DavidMadland. I have also, an email them on the web, Google me, my name there aren't too many with my name. So I'd be happy to respond to any comments.

Gene Marks:
Fair enough. David, thank you very much for joining, really helpful. We'll be following this legislation closely and I'm following you on Twitter, so I'll be keeping up on this. I think it's really important for a lot of businesses to be aware of. So again, thank you for your time.

David Madland:
No, thank you for having me.

Gene Marks:
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