

## California Takes the FAST Union Track to Europe

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Twenty-first century American labor relations are starting to look like they belong in 20th-century Europe. Labor leaders, including Service Employees International Union President Mary Kay Henry, are endorsing sectoral bargaining, a type of collective bargaining that imposes standards across industries—rather than company by company—for workplace conditions, benefits and wages.

Ms. Henry calls sectoral bargaining the “standard practice” in European countries, advocating its use in the U.S. But as currently envisioned in California, this strategy constitutes a dangerous overreach of state interference across U.S. industries.

Sectoral bargaining is on display in California’s recently passed FAST Recovery Act, which the SEIU developed and [lobbied for](#). The act empowers a council of political appointees to set wages and working conditions for the quick-service restaurant industry. Regulations enacted by the council can supersede state laws and rules from state regulatory bodies, effectively imposing a collective bargaining agreement on the entire industry.

Collective bargaining in the U.S. historically has been confined to the company level. Established by the National Labor Relations Act, this system allows unions to call for a representation election after achieving a 30% demonstrated interest within a targeted store, plant or other unit. The union exclusively represents employees if the majority of those present vote in favor of joining in a secret ballot election.

In the face of declining membership, union leaders have long chafed at this system, finding it arduous and time-consuming. They advocate different schemes to speed the process, most notably the elimination of secret-ballot votes. This would put pressure on workers to vote in favor of unionization.

Sectoral bargaining is an escalation with even broader implications. As envisioned in California, unions and their allies would effectively control the regulatory levers for a targeted industry. Unions in California already use ambiguous laws to attack employers and justify the need for union interference. This new council would offer endless new opportunities to create legal liability and bad press for targeted companies.

Surprisingly, European countries often provide greater freedom to employees and employers alike in their bargaining schemes. A U.S. Chamber of Commerce [report](#) reviewed the sectoral bargaining systems of several European countries, including Denmark, France, Germany, Italy and the Netherlands. They share key features: Employees typically aren’t required to join the

union; the government is rarely involved in the bargaining; and sectoral agreements don't necessarily prevent workplace-level bargaining.

Consider the German model. Sector-wide agreements on wages and working conditions are negotiated on the national and regional level between labor unions and employer associations. Separate work councils can address items not covered in a sectoral agreement.

Unlike California, the state isn't typically involved in the deal. And the agreements aren't handcuffs. As the chamber notes, "Employers can avoid being bound by a sectoral agreement by refusing to join the employer association, and employees can avoid the agreement by refusing to join the union."

Many do. German employees and employers are voting with their feet and running away from sectoral bargaining. According to a recent report from the International Center for Law and Economics (which was supported by a German law firm affiliated with Mr. Lotito's employer), the percentage of employees covered by a sectoral agreement in western and eastern Germany has plummeted over the past quarter-century by 25 and 24 percentage points, respectively.

The ICLE authors detail some of the reasons for the contraction: Sectoral agreements are inflexible; they saddle companies with complex work rules; and they require "uniform compensation" regardless of an employee's work performance. This means that employees and employers are avoiding union-negotiated agreements in Germany for the same reasons they are avoiding these agreements in the U.S.

SEIU and its labor allies have no intention of providing U.S. employers with the opt-out freedoms that their German counterparts have. California's FAST Recovery Act provides the state labor commissioner with the power to investigate and cite companies that don't follow the fast-food council's dictates. That makes the SEIU's scheme look less like German-style sectoral bargaining and more like a Venezuelan-style government takeover of a disfavored industry.