BUSINESS INSIDER

# Bernie Sanders wants to end at-will employment, and that's a truly bad idea that would increase unemployment

Ryan Bourne

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Friday's jobs report once again highlighted the strength of the US labor market. The unemployment rate hit a nearly 50-year low, with the total number of jobs added crushing expectations.

Yet despite another strong indication that the US jobs market is an economic success story, Democratic presidential candidates continue to demand risky and radical plans to overhaul the way Americans work.

Chief among them is Sen. Bernie Sanders. The Vermont senator wants to introduce a slew of changes ranging from a " jobs guarantee" to a hike of the federal minimum wage to $15 an hour.

But perhaps Sanders' most eyebrow-raising labor market plan is the call to outlaw the American norm of "at-will employment."

Despite US labor-market flexibility delivering much lower unemployment than more heavily regulated countries, Sanders thinks it's time to move toward more onerous employment laws. Getting rid of at-will employment would not only make it much more difficult for inexperienced, young, and risky hires to find work, but it would also reduce wages and living standards.

**Sanders' goal is laudable but the idea is misguided**

Doing away with at-will employment means eliminating the presumption that employers should be able to fire workers at any time or for any reason, just as workers are free to walk away from a job if they choose.

Federal protections against termination already exist for discrimination against protected classes. And many states have additional safeguards for workers, such as laws that prevent companies from firing workers if it would breach implied promises to the employee or is a way to punish the employee for complying with public policies.

Yet Sanders' plan goes much further. He wants a national "just cause" law, where the government would dictate what constitutes a fair layoff for personal or economic reasons, with the threat of court action and fines for employers found guilty of "unjust" dismissals.

His stated desire is laudable: improving job security for workers. But security isn't free.

Making it costlier or riskier to fire people also makes it riskier to hire them. Abolishing at-will employment entirely could make firms less likely to take on workers who are young and inexperienced, particularly when their performance is difficult to observe. The risk of such a law, then, is higher unemployment and weaker labor productivity.

**The risk of ending at-will employment**

Given that at-will employment is largely the default through the US and Sanders hasn't outlined the precise reasons he'll allow for layoffs, assessing the magnitude of his proposed just-cause law is impossible. But existing evidence from states with even more modest regulations than Sanders' proposal suggests that restrictions on a company's ability to lay off employees worsens employment prospects.

Many states have an "implied-contract exception" — usually meaning firms can't fire an employee if the company itself failed to deliver on something as set out in a company handbook. A paper analyzing the economic effect of this weaker exception found the regulation lowered a state's employment rate by anywhere between 0.8 and 1.6 percentage points overall, hurting "female, younger, and less-skilled workers," particularly in the short term.

A Rand Corp. study in the early 1990s found that states adopting the broadest "good faith" or public-policy compliance exceptions (again, weaker than what it appears Sanders envisages) saw employment levels fall by between 2% and 5%. Large businesses and those in retail, finance, and real estate were hardest hit.

The economist David Autor has likewise concluded that "wrongful-discharge protections reduce employment flows and firm entry rates." Put another way, these laws supposedly protecting workers end up reducing the number of people who get hired and fired and the number of companies that start up.

**A less flexible labor market could cause long-term problems**

Firms could compensate for the risk burden just-cause laws impose by reducing the wages offered to risky hires, negating the unemployment effect. But these results suggest wages aren't fully flexible.

What's more, Senator Sanders wants a $15 federal minimum wage and the rollout of collective bargaining nationwide, making US wages less flexible still. The combined effect of his plan to reshape the labor market would therefore be doubly damaging for the job prospects of low-skilled, inexperienced workers.

Looking across countries, the impact of less labor market flexibility is clear.

In part because of the flexibility of the US labor market, the unemployment rate has now fallen to an incredibly low 3.5%. By contrast, Sweden, Finland, and Denmark — which have variants of the just-cause laws Bernie Sanders proposes — have higher unemployment rates of 6.8%, 7.3%, and 4.8% respectively. Other European countries with much more broadly inflexible labor markets, such as France, Spain, and Italy, have much higher levels of unemployment still.

The experience of the past decade suggests that although flexible labor markets can be volatile in the short term — US unemployment jumped above European levels in 2009 — they near consistently deliver lower structural unemployment over time.

Sanders' agenda doesn't just risk unemployment, though. A just-cause law would likely weaken productivity and hence wages too. Silicon Valley's success has been credited with an ability to hire and fire workers quickly according to a company's needs. Making it difficult to hire and fire leads to workers in jobs to which they are not best suited, or else convinces employers to explore needlessly costly mechanization, reducing their efficiency.

Our labor-market outcomes are not perfect. Many workers want more hours, more security, or higher pay. But Sanders' idea to abolish at-will employment goes too far and will hurt the job prospects of inexperienced workers significantly.

*Ryan Bourne occupies the R. Evan Scharf Chair for the Public Understanding of Economics at the Cato Institute. He has written on a number of economic issues, including: fiscal policy, inequality, minimum wages, infrastructure spending, and rent control.*