

Calendar No. 162

103D CONGRESS
1ST SESSION

S. 55

[Report No. 103-110]

A BILL

To amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

JULY 27 (legislative day, JUNE 30), 1993

Reported without amendment

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IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. HATFIELD, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. HARKIN, Mr. WELLSTONE, Mr. WOFFORD, Mr. AKAKA, Mr. BIDEN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. DASCHLE, Mr. FEINGOLD, Mr. KERRY, Mr. KERREY, Mr. GLENN, Mr. INOUE, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SARBANES, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. MITCHELL, Mr. SASSER, Mr. BAUCUS, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Ms. MURRAY, Mr. EXON, Mr. BYRD, Mr. JOHNSTON, Mr. CONRAD, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

JULY 27 (legislative day, JUNE 30), 1993

Reported by Mr. KENNEDY, without amendment

A BILL

To amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. PREVENTION OF DISCRIMINATION DURING**
2 **AND AT THE CONCLUSION OF LABOR DIS-**
3 **PUTES.**

4 Section 8(a) of the National Labor Relations Act (29
5 U.S.C. 158(a)) is amended—

6 (1) by striking the period at the end of para-
7 graph (5) and inserting “; or”; and

8 (2) by adding at the end thereof the following
9 new paragraph:

10 “(6) to promise, to threaten, or take other ac-
11 tion—

12 “(i) to hire a permanent replacement for
13 an employee who—

14 “(A) at the commencement of a labor
15 dispute was an employee of the employer
16 in a bargaining unit in which a labor orga-
17 nization was the certified or recognized ex-
18 clusive representative or, on the basis of
19 written authorizations by a majority of the
20 unit employees, was seeking to be so cer-
21 tified or recognized; and

22 “(B) in connection with that dispute
23 has engaged in concerted activities for the
24 purpose of collective bargaining or other
25 mutual aid or protection through that
26 labor organization; or

1 “(ii) to withhold or deny any other employ-
 2 ment right or privilege to an employee, who
 3 meets the criteria of subparagraph (A) and (B)
 4 of clause (i) and who is working for or has un-
 5 conditionally offered to return to work for the
 6 employer, out of a preference for any other in-
 7 dividual that is based on the fact that the indi-
 8 vidual is performing, has performed or has indi-
 9 cated a willingness to perform bargaining unit
 10 work for the employer during the labor dis-
 11 pute.”.

12 **SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT**
 13 **THE CONCLUSION OF RAILWAY LABOR DIS-**
 14 **PUTES.**

15 Paragraph Fourth of section 2 of the Railway Labor
 16 Act (45 U.S.C. 152) is amended—

- 17 (1) by inserting “(a)” after “Fourth.”; and
 18 (2) by adding at the end thereof the following:

19 “(b) No carrier, or officer or agent of the carrier,
 20 shall promise, threaten or take other action—

21 “(1) to hire a permanent replacement for an
 22 employee who—

23 “(A) at the commencement of a dispute
 24 was an employee of the carrier in a craft or
 25 class in which a labor organization was the des-

1 ignated or authorized representative or, on the
2 basis of written authorizations by a majority of
3 the craft or class, was seeking to be so des-
4 ignated or authorized; and

5 “(B) in connection with that dispute has
6 exercised the right to join, to organize, to assist
7 in organizing, or to bargain collectively through
8 that labor organization; or

9 “(2) to withhold or deny any other employment
10 right or privilege to an employee, who meets the cri-
11 teria of subparagraphs (A) and (B) of paragraph (1)
12 and who is working for or has unconditionally of-
13 fered to return to work for the carrier, out of a pref-
14 erence for any other individual that is based on the
15 fact that the individual is employed, was employed,
16 or indicated a willingness to be employed during the
17 dispute.”.