

107TH CONGRESS
2D SESSION

H. R. 3632

To ensure that labor dues and fees are used only for collective bargaining purposes and exclusive representation.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2002

Mr. TANCREDO introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To ensure that labor dues and fees are used only for collective bargaining purposes and exclusive representation.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Worker’s Freedom of
5 Choice Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Because of the statutory requirements that
9 certain workers must pay dues or fees to certain
10 labor organizations subject to the National Labor

1 Relations Act, workers who pay dues or fees to labor
2 organizations should not, as a matter of law, be re-
3 quired to support activities of labor organizations
4 that do not relate directly to the express purposes of
5 the National Labor Relations Act, to-wit, those pur-
6 poses expressed in the policies found in section 1 of
7 such Act, (29 U.S.C. 151). In enacting the National
8 Labor Relations Act, Congress expressly recognized
9 that a purpose of the Act was to protect the freedom
10 of association or actual liberty of contract of employ-
11 ees. To strengthen the ability of labor organizations
12 to represent all employees with regard to the express
13 purposes of the National Labor Relations Act, it is
14 statutorily provided that labor organizations regu-
15 lated by such Act may require employees to pay dues
16 or fees to a labor organization as a condition of their
17 employment.

18 (2) Some labor organizations use the general
19 treasury funds that consist of, or include, statutorily
20 required dues and fees paid by employees for pur-
21 poses other than the express purposes of the Na-
22 tional Labor Relations Act. Some labor organiza-
23 tions use such treasury funds to support political
24 candidates, tax-exempt organizations, issue advocacy
25 and lobbying in support of legislation or causes

1 which individual workers may not otherwise support
2 and are not directly related to the express statutory
3 purposes for which those funds are collected from
4 workers by legislative mandate. Such uses of funds
5 violate the rights and freedoms of association of em-
6 ployees for which the collective bargaining rights are
7 statutorily protected under the National Labor Rela-
8 tions Act.

9 (3) It is a fundamental tenet of this Nation
10 that all men and women have a right to make indi-
11 vidual choices about the political, social or charitable
12 causes they support. It is also a fundamental right
13 that an individual may not be forced or coerced by
14 organizations, as a condition of employment, to sup-
15 port causes of any type, especially those that may be
16 contrary to, or even inconsistent with, their indi-
17 vidual beliefs. Such forced or coerced support vio-
18 lates basic notions of First Amendment rights of
19 free speech and freedom of association.

20 **SEC. 3. FREEDOM TO CHOOSE.**

21 (a) IN GENERAL.—

22 (1) CORE PURPOSES.—Notwithstanding the ex-
23 ception in section 7 of the National Labor Relations
24 Act (29 U.S.C. 157), an employer or labor organiza-
25 tion subject to a valid labor agreement shall not re-

1 ceive, solicit, or accept from an employee payment of
2 any dues or fees not related to core purposes and ex-
3 clusive representation.

4 (2) DEFINITION.—For purposes of this sub-
5 section, the term “core purposes” includes collective
6 bargaining, contract administration, and grievance
7 adjustment.

8 (b) DISCREPANCY IN AMOUNT OF FEES COL-
9 LECTED.—

10 (1) LIABILITY.—If an employee disputes the
11 amount of fees collected by the labor organization,
12 such employee may bring a civil action against the
13 labor organization—

14 (A) for total damages, for each employee,
15 equal to—

16 (i) 10 times the amount of the dues or
17 fees accepted in violation of this section;

18 (ii) the interest on the amount de-
19 scribed in clause (i) calculated at the pre-
20 vailing rate;

21 (iii) an additional amount as liq-
22 uidated damages equal to the sum of the
23 amount described in clause (i) and the in-
24 terest described in clause (ii); and

1 (iv) not more than \$1,000 in punitive
2 damages;

3 (B) for such equitable relief as may be ap-
4 propriate; and

5 (C) revocation of tax exempt status.

6 (2) RIGHT OF ACTION.—An action to recover
7 the damages or equitable relief prescribed in para-
8 graph (1) may be maintained against any labor or-
9 ganization in any Federal court of competent juris-
10 diction by any one or more employees for and in be-
11 half of—

12 (A) the employees; or

13 (B) the employees and other employees
14 similarly situated.

15 (3) FEES AND COSTS.—The court in such ac-
16 tion shall, in addition to any judgment awarded to
17 the plaintiff, allow a reasonable attorney's fee, rea-
18 sonable expert witness fees, and other costs of the
19 action to be paid by the defendant.

20 (4) LIMITATION.—An action may be brought
21 under this subsection not later than 5 years after
22 the date the employee knew or should have known
23 that dues or fees were accepted or spent by a labor
24 organization in violation of this Act, except that

1 such period shall be extended to 3 years in the case
2 of a willful violation by a labor organization.

3 **SEC. 4. NOTICE.**

4 An employer whose employees are represented by a
5 collective bargaining representative shall be required to
6 post a notice, of such size and in such form as the Depart-
7 ment of Labor shall prescribe, in conspicuous places in
8 and about its plants and offices, including all places where
9 notices to employees are customarily posted, informing
10 employees that any labor organization accepting payment
11 of any dues or fees from an employee as a condition of
12 employment pursuant to an agreement authorized by Fed-
13 eral law is not permitted to withhold any portion of such
14 dues or fees used for activities not necessary to performing
15 the duties of the exclusive representative of the employees
16 in dealing with the employer on labor-management issues.

17 **SEC. 5. DISCLOSURE TO WORKERS.**

18 (a) **EXPENSES REPORTING.**—Section 201(b) of the
19 Labor-Management Reporting and Disclosure Act of 1959
20 is amended by adding at the end the following new sen-
21 tence: “Every labor organization shall be required to at-
22 tribute and report expenses verified by an independent
23 audit using generally accepted accounting principles and
24 standards in such detail as necessary to allow members
25 to determine whether such expenses were necessary to per-

1 forming the duties of the exclusive representative of the
2 employees in dealing with the employer on labor-manage-
3 ment issues.”

4 (b) DISCLOSURE.—Section 201(c) of the Labor-Man-
5 agement Reporting and Disclosure Act of 1959 is
6 amended—

7 (1) by inserting “and employees required to pay
8 any dues or fees to such organization” after “mem-
9 bers”; and

10 (2) inserting “or employee required to pay any
11 dues or fees to such organization” after “member”
12 each place it appears.

13 (c) WRITTEN REQUESTS.—Section 205(b) of the
14 Labor-Management Reporting and Disclosure Act of 1959
15 is amended by adding at the end the following new sen-
16 tence: “Upon written request, the Secretary shall make
17 available complete copies of any report or other document
18 filed pursuant to section 201.”.

19 **SEC. 6. RETALIATION AND COERCION PROHIBITED.**

20 It shall be unlawful for any labor organization to co-
21 erce, intimidate, threaten, interfere with, or retaliate
22 against any employee in the exercise of, or on account of
23 having exercised, any right granted or protected by this
24 Act.

1 **SEC. 7. REGULATIONS.**

2 The Secretary of Labor shall prescribe such regula-
3 tions as are necessary to carry out sections 3 and 4 of
4 this Act not later than 60 days after the date of enactment
5 of this Act and shall prescribe such regulations as are nec-
6 essary to carry out the amendments made by section 5
7 not later than 120 days after such date of enactment.

8 **SEC. 8. CONSTRUCTION.**

9 Nothing in this Act shall be construed to prohibit or
10 discourage an employee from making voluntary personal
11 contributions to charities, affiliates, events, or organiza-
12 tions endorsed or otherwise supported by a labor organiza-
13 tion.

14 **SEC. 9. EFFECTIVE DATE AND APPLICATION.**

15 This Act shall be effective immediately upon enact-
16 ment, except that sections 4 and 5 pertaining to worker
17 consent and notice shall take effect 90 days after enact-
18 ment and section 6 pertaining to disclosure shall take ef-
19 fect 150 days after enactment.

○