To provide protections for workers with respect to their right to select or refrain from selecting representation by a labor organization.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2015

Mr. Tom Price of Georgia (for himself, Mr. Bilirakis, Mr. Brooks of Alabama, Mr. Carter of Georgia, Mr. Carter of Texas, Mr. DesJarlais, Mr. Duncan of South Carolina, Mr. Fincher, Mr. Gosar, Mr. Hardy, Mrs. Hartzler, Mr. Hensarling, Mr. Hudson, Mr. Huelskamp, Mr. King of Iowa, Mr. LaMalfa, Mrs. Love, Mr. McClintock, Mr. Messer, Mr. Miller of Florida, Mr. Mulvaney, Mr. Nugent, Mr. Pompeo, Mr. Rooney of Florida, Mr. Rouzer, Mr. Schweikert, Mr. Stewart, Mr. Westmoreland, Mr. Wilson of South Carolina, Mr. Yoho, and Mr. Woodall) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide protections for workers with respect to their right to select or refrain from selecting representation by a labor organization.

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 “Employee Rights Act”.
SEC. 2. AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT.

(a) UNFAIR LABOR PRACTICES.—Section 8(b)(1) of the National Labor Relations Act (29 U.S.C. 158(b)(1)) is amended by inserting “interfere with” before “restrain”.

(b) REPRESENTATIVES AND ELECTIONS.—Section 9 of the National Labor Relations Act (29 U.S.C. 159) is amended—

(1) in subsection (a)—

(A) by striking “designated or selected for the purposes of collective bargaining” and inserting “for the purposes of collective bargaining selected by secret ballot in an election conducted by the Board,”; and

(B) by inserting before the period the following: “: Provided further, That, for purposes of determining the majority of the employees in a secret ballot election in a unit, the term ‘majority’ shall mean the majority of all the employees in the unit, and not the majority of employees voting in the election”; and

(2) in subsection (e), by adding at the end the following:

“(3) Whenever any certified or voluntarily recognized bargaining unit existing on or after the date of enactment
of the Employee Rights Act experiences turnover, expansion, or alteration by merger of unit represented employees exceeding 50 percent of the bargaining unit on such date and (A) the unit represented employees are covered by a negotiated and agreed-upon collective agreement in effect between a labor organization representative and an employer, the Board shall conduct a secret paper ballot election among the represented employees in the bargaining unit between the 120th day and 110th day prior to the collective agreement’s expiration or prior to the conclusion of three years, whichever occurs earlier, or (B) there is no negotiated collective agreement then in effect between a labor organization and an employer, the Board shall conduct a secret paper ballot election among the represented employees in the bargaining unit within 30 days. Thereafter, a secret ballot election shall again be conducted under the same conditions and procedures whenever the recognized bargaining unit experiences turnover, expansion, or alteration by merger of unit represented employees exceeding 50 percent of the bargaining unit then in existence at the time of the preceding secret paper ballot election. The election shall be conducted without regard to the pendency of any unfair labor practice charge against the employer or the labor organization representative and the Board shall rule on any objections to the elec-
tion pursuant to its established timeframes for resolving such matters. If a majority of the votes cast in a valid election reject the continuing representation by the labor organization, the Board shall withdraw the labor organization’s certification, the labor organization shall cease representation of employees in the bargaining unit, and any obligations to or on behalf of the labor organization in a collectively bargained contract then in effect shall terminate.”.

(c) Fair Representation in Elections.—Section 9 of the National Labor Relations Act (29 U.S.C. 159) is amended—

(1) in subsection (b), by inserting “prior to an election” after “in each case”; and

(2) in subsection (c)—

(A) in the flush matter following paragraph (1)(B)—

(i) by inserting “of 14 days in advance” after “appropriate hearing upon due notice”;

(ii) by inserting “, and a review of post-hearing appeals,” after “the record of such hearing”; and

(iii) by adding at the end the following: “The employer shall provide the
Board a list consisting only of employee names and home addresses of all eligible voters within 7 days following the Board’s determination of the appropriate unit or following any agreement between the employer and the labor organization regarding the eligible voters. Any employee may elect to be excluded from such list by notifying the employer in writing.”; and

(B) by adding at the end the following:

“(6)(A) No election shall take place after the filing of any petition unless and until—

“(i) a hearing is conducted before a qualified hearing officer in accordance with due process on any and all material, factual issues regarding jurisdiction, statutory coverage, appropriate unit, unit inclusion or exclusion, or eligibility of individuals; and

“(ii) the issues are resolved by a Regional Director, subject to appeal and review, or by the Board.

“(B) No election results shall be final and no labor organization shall be certified as the bargaining representative of the employees in an appropriate unit unless and until the Board has ruled on—
“(i) each pre-election issue not resolved before
the election; and
“(ii) the Board conducts a hearing in accord-
ance with due process and resolves each issue per-
taining to the conduct or results of the election.”.

(d) Penalties.—Section 10 of the National Labor
Relations Act (29 U.S.C. 160) is amended by inserting
after the second sentence following the second proviso, the
following: “Any labor organization found to have inter-
fered with, restrained, or coerced employees in the exercise
of their rights under section 7 to form or join a labor orga-
nization or to refrain therefrom, including the filing of a
decertification petition, shall be liable for wages lost and
union dues or fees collected unlawfully, if any, and an ad-
ditional amount as liquidated damages. Any labor organi-
zation found to have interfered with, restrained, or coerced
an employee in connection with the filing of a decertifica-
tion petition shall be prohibited from filing objections to
an election held pursuant to such petition.”.

SEC. 3. AMENDMENTS TO THE LABOR-MANAGEMENT RE-
PORTING AND DISCLOSURE ACT OF 1959.

(a) Definition.—Section 3(k) of the Labor-Man-
agement Reporting and Disclosure Act of 1959 (29 U.S.C.
402(k)) is amended by striking “ballot, voting machine,
or otherwise, but” and inserting “paper ballot, voting ma-
chine, or electronic ballot cast in the privacy of a voting
booth and”.

(b) Rights of Members.—Section 101(a)(1) of the
Labor-Management Reporting and Disclosure Act of 1959
(29 U.S.C. 411(a)(1)) is amended by adding at the end
the following “Every employee in a bargaining unit repre-
sented by a labor organization, regardless of membership
status in the labor organization, shall have the same
right as members to vote by secret ballot regarding wheth-
er to ratify a collective bargaining agreement with, or to
engage in, a strike or refusal to work of any kind against
their employer.”.

(c) Right Not To Subsidize Union Non-
representation Activities.—Title I of the Labor-
Management Reporting and Disclosure Act of 1959 (29
U.S.C. 411 et seq.) is amended by adding at the end the
following:

“SEC. 106. RIGHT NOT TO SUBSIDIZE UNION NON-
REPRESENTATIONAL ACTIVITIES.

“No employee’s union dues, fees, or assessments or
other contributions shall be used or contributed to any
person, organization, or entity for any purpose not directly
related to the labor organization’s collective bargaining or
contract administration functions on behalf of the rep-
resented unit employee unless the employee member, or
nonmember required to make such payments as a condition of employment, authorizes such expenditure in writing, after a notice period of not less than 35 days. An initial authorization provided by an employee under the preceding sentence shall expire not later than 1 year after the date on which such authorization is signed by the employee. There shall be no automatic renewal of an authorization under this section.”.

(d) LIMITATIONS.—Section 101(a) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 411(a)) is amended by adding at the end the following:

“(6) LIMITATION.—No strike shall commence without the consent of a majority of all represented unit employees affected, determined by a secret ballot vote conducted by a neutral, private organization chosen by agreement between the employer and the labor organization involved. In any case in which the employer involved has made an offer for a collective bargaining agreement, the represented unit employees involved shall be provided the opportunity for a secret ballot vote on such offer prior to any vote relating to the commencement of a strike. The cost of any such election shall be borne by the labor organization.”.
(c) Reporting by Labor Organizations.—Section 201(e) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(c)) is amended—

(1) by inserting “and the independently verified annual audit report of the labor organization’s financial condition and operations” after “required to be contained in such report”;

(2) by inserting “and represented unit nonmembers” after “members”;

(3) by inserting “and represented unit nonmember” after “any member”;

(4) by striking “and” after “any books, records,”; and

(5) by inserting “and, independently verified annual audit report of the labor organization’s financial condition and operations” before “necessary to verify such report.”.


(1) by striking “It shall” and inserting “(a) It shall”; and

(2) by adding at the end the following:

“(b) It shall be unlawful for any person, through the use of force or violence, or threat of the use of force or
violence, to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any person for the purpose of obtaining from any person any right to represent employees or any compensation or other term or condition of employment. Any person who willfully violates this subsection shall be fined not more than $100,000 or imprisoned for not more than 10 years, or both.

“(c) The lawfulness of a labor organization’s objectives shall not remove or exempt from the definition of extortion conduct by the labor organization or its agents that otherwise constitutes extortion as defined by section 1951(b)(2) of title 18, United States Code, from the definition of extortion.”.