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114TH CONGRESS
1ST SESSION

H. R. 3433

To amend the Labor Management Relations Act, 1947, to address slow-downs, strikes, and lock-outs occurring at ports in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2015

Mr. REICHERT (for himself, Mr. NEWHOUSE, Mr. COFFMAN, and Mrs. RADEWAGEN) introduced the following bill; which was referred to the Committee on Education and the Workforce

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A BILL

To amend the Labor Management Relations Act, 1947, to address slow-downs, strikes, and lock-outs occurring at ports in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Orderly and Responsible Transit of Shipments Act of 2015'' or the ''PORTS Act''.

SEC. 2. ADDRESSING PORT SLOW-DOWNS, STRIKES, AND LOCK-OUTS.

(a) NATIONAL EMERGENCIES.—Section 206 of the Labor Management Relations Act, 1947 (29 U.S.C. 176) is amended—

(1) in the first sentence—

(A) by striking ''Whenever in the opinion'' and inserting ''(a) Whenever in the opinion'';

(B) by striking ''a threatened or actual strike or lock-out'' and inserting ''a slow-down, or a threatened or an actual strike or lock-out,'';

(C) by striking ''he may appoint'' and inserting ''the President may appoint''; and

(D) by striking ''to him within such time as he shall prescribe'' and inserting ''to the President within such time as the President shall prescribe and in accordance with the third sentence of this paragraph'';

(2) in the third sentence, by striking ''The President'' and inserting ''Not later than 30 days after appointing the board of inquiry, the President''; and

(3) by adding at the end the following:

''(b)(1) Whenever in the opinion of any Governor of a State or territory of the United States, a slow-down,

or a threatened or an actual strike or lock-out, occurring at one or more ports in the United States, is affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil national or State health or safety, the Governor may request the President to appoint a board of inquiry under subsection (a).

''(2)(A) If the President does not appoint a board of inquiry within 10 days of receiving a request under paragraph (1), the Governor who made the request under such paragraph may appoint a board of inquiry to inquire into the issues involved in the dispute and prepare and submit, to the Governor and the President, a written report as described in subparagraph (B) within such time as the Governor shall prescribe and in accordance with the deadline under subparagraph (C).

''(B) The report described in this subparagraph shall include a statement of the facts with respect to the dispute, including a statement from each party to the dispute describing the position of such party, but shall not contain any recommendations.

"(C) Not later than 30 days after appointing a board of inquiry under subparagraph (A), the Governor shall—

"(i) file a copy of the report described in subparagraph (B) with the Service; and

"(ii) make the contents of such report available to the President and the public.

"(e) Any Governor of a State or territory of the United States (referred to in this subsection as the 'supplementing Governor') may submit to the President or Governor who appointed a board of inquiry under subsection (a) or (b) a supplement to the report under such subsection that includes data pertaining to the impact on the State or territory of the supplementing Governor of a slow-down, or threatened or actual strike or lock-out, at 1 or more ports. Upon receiving such supplement, the President or Governor shall file such supplement with the Service and make the contents of such supplement available to the public.

"(d) For each dispute, only one board of inquiry may be appointed under subsection (a) or (b)(2) during any 90-day period.".

(b) BOARDS OF INQUIRY.—Section 207(a) of the Labor Management Relations Act, 1947 (29 U.S.C. 177) is amended by striking "as the President shall determine," and inserting "as the President shall determine for a

board of inquiry appointed under section 206(a), or as the Governor shall determine for a board of inquiry appointed by such Governor under section 206(b)(2),''.

(c) INJUNCTIONS DURING NATIONAL EMERGENCIES.—Section 208 of the Labor Management Relations Act, 1947 (29 U.S.C. 178) is amended—

(1) in subsection (a)—

(A) in the matter preceding clause (i)—

(i) by inserting ''appointed under subsection (a) or (b)(2) of section 206'' after ''board of inquiry'';

(ii) by striking ''strike or lock-out or the continuing thereof'' and inserting ''slow-down, or threatened or actual strike or lock-out, or the continuing thereof''; and

(iii) by striking ''such threatened or actual strike or lock-out'' and inserting ''such slow-down, or threatened or actual strike or lock-out, or the continuing thereof''; and

(B) in clause (ii), by striking ''strike or lock-out or the continuing thereof'' and inserting ''slow-down, strike, or lock-out, or the continuing thereof'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following:

''(b)(1) If a slow-down, or a threatened or an actual strike or lock-out, is occurring at one or more ports and the President does not direct the Attorney General to make a petition under subsection (a) within 10 days of receiving a report from a board of inquiry appointed under subsection (a) or (b)(2) of section 206, any Governor of a State or territory of the United States in which such port or ports are located may direct the attorney general of such State or territory to petition the district court of the United States having jurisdiction in such State or territory to enjoin such slow-down, or threatened or actual strike or lock-out, or the continuing thereof, at the port or ports within such State or territory.

''(2) The district court described in paragraph (1) shall have jurisdiction to enjoin any slow-down, threatened or actual strike or lock-out, or continuing thereof, and to make such other orders as may be appropriate, if such court determines that such slow-down or threatened or actual strike or lock-out—

''(A) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, trans-

mission, or communication within the applicable State or territory, or engaged in the production of goods for commerce; and

"(B) if permitted to occur or to continue, will imperil national or State health and safety.".

(d) RECONVENING OF BOARDS OF INQUIRY; NLRB SECRET BALLOTS.—Section 209(b) of the Labor Management Relations Act, 1947 (29 U.S.C. 179(b)) is amended—

(1) in the first sentence, by striking "Upon the issuance of such order, the President" and inserting "(1) Upon the issuance of any such order, the President or the Governor, as the case may be,";

(2) in the second sentence, by striking "report to the President" and inserting "report to the President and any Governor who initiated an action under section 206(b) or 208(b)";

(3) in the third sentence, by striking "The President" and inserting "The President or the Governor, as the case may be,";

(4) in the fourth sentence—

(A) by striking "The National Labor Relations Board, within the succeeding fifteen days, shall take a secret ballot" and inserting the following:

"(2) Not later than 15 days after the board of inquiry submits a report under paragraph (1), the National Labor Relations Board, subject to paragraph (3), shall take a secret ballot";

(B) by striking "as stated by him" and inserting "as stated by the employer"; and

(C) by striking "Attorney General" and inserting "Attorney General or State attorney general, whichever sought the injunction,"; and

(5) by adding at the end the following:

"(3) For each dispute, the National Labor Relations Board shall take not more than 1 secret ballot in any 30-day period for the same employees.".

(e) DISCHARGE OF INJUNCTIONS.—Section 210 of the Labor Management Relations Act, 1947 (29 U.S.C. 180) is amended—

(1) in the first sentence, by striking "the Attorney General" and inserting "the Attorney General, or the State attorney general, whichever sought the injunction,"; and

(2) in the second sentence, by striking "the President" and inserting "the President, or any Governor who initiated an action under section 208(b),".

SEC. 3. GAO STUDY.

(a) STUDY.—The Comptroller General of the United States shall carry out a study of the West Coast ports slowdown to—

(1) study the economic impact of the slowdowns and congestion caused by the negotiations on the Nation as a whole as well as each port;

(2) review steps taken by the Federal Mediation and Conciliation Service (FMCS) to resolve the dispute;

(3) identify steps FMCS and the Administration could have taken sooner to facilitate an agreement; and

(4) determine what legislative changes could strengthen these tools and result in more timely intervention.

(b) REPORT.—Not later than the end of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General shall issue a report to Congress containing all findings and determinations made in carrying out the study required under subsection (a).

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