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S. 1874

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

IN THE SENATE OF THE UNITED STATES

JULY 28, 2015

Mr. HATCH (for himself, Mr. ALEXANDER, Mr. MCCONNELL, Mr. MCCAIN, Mr. ENZI, Mr. CRUZ, Mr. WICKER, Mr. ISAKSON, Mr. COATS, Mr. JOHNSON, Mr. GARDNER, Mr. ROBERTS, Mr. RISCH, Mr. LANKFORD, Mr. CORNYN, Mr. COCHRAN, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

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

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 ''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 election 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 accordance with due process and resolves each issue pertaining 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 interfered with, restrained, or coerced employees in the exercise of their rights under section 7 to form or join a labor organization 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 additional amount as liquidated damages. Any labor organization found to have interfered with, restrained, or coerced an employee in connection with the filing of a decertification petition shall be prohibited from filing objections to an election held pursuant to such petition.".

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

(a) DEFINITION.—Section 3(k) of the Labor-Management 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 machine, 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 represented 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 whether 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 NONREPRESENTATIONAL 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 NONREPRESENTATIONAL 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 represented unit employee unless the employee member, or nonmember required to make such payments as a condition of employment, authorizes such expenditure in writ-

ing, 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.''.

(e) REPORTING BY LABOR ORGANIZATIONS.—Section 201(c) 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.''.

(f) ACTS OF VIOLENCE.—Section 610 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 530) is amended—

(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 em-

ployees 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.".

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