

116TH CONGRESS
2D SESSION

H. R. 2474

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2020

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To amend the National Labor Relations Act, the Labor Management Relations Act, 1947, and the Labor-Management Reporting and Disclosure Act of 1959, and for other purposes.

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. SHORT TITLE.**

2 This Act may be cited as the “Protecting the Right
3 to Organize Act of 2019”.

4 **SEC. 2. AMENDMENTS TO THE NATIONAL LABOR RELA-**
5 **TIONS ACT.**

6 (a) DEFINITIONS.—

7 (1) JOINT EMPLOYER.—Section 2(2) of the Na-
8 tional Labor Relations Act (29 U.S.C. 152(2)) is
9 amended by adding at the end the following: “Two
10 or more persons shall be employers with respect to
11 an employee if each such person codetermines or
12 shares control over the employee’s essential terms
13 and conditions of employment. In determining
14 whether such control exists, the Board or a court of
15 competent jurisdiction shall consider as relevant di-
16 rect control and indirect control over such terms and
17 conditions, reserved authority to control such terms
18 and conditions, and control over such terms and con-
19 ditions exercised by a person in fact: *Provided*, That
20 nothing herein precludes a finding that indirect or
21 reserved control standing alone can be sufficient
22 given specific facts and circumstances.”.

23 (2) EMPLOYEE.—Section 2(3) of the National
24 Labor Relations Act (29 U.S.C. 152(3)) is amended
25 by adding at the end the following: “An individual
26 performing any service shall be considered an em-

1 ployee (except as provided in the previous sentence)
2 and not an independent contractor, unless—

3 “(A) the individual is free from control and
4 direction in connection with the performance of
5 the service, both under the contract for the per-
6 formance of service and in fact;

7 “(B) the service is performed outside the
8 usual course of the business of the employer;
9 and

10 “(C) the individual is customarily engaged
11 in an independently established trade, occupa-
12 tion, profession, or business of the same nature
13 as that involved in the service performed.”.

14 (3) SUPERVISOR.—Section 2(11) of the Na-
15 tional Labor Relations Act (29 U.S.C. 152(11)) is
16 amended—

17 (A) by inserting “and for a majority of the
18 individual’s worktime” after “interest of the
19 employer”;

20 (B) by striking “assign,”; and

21 (C) by striking “or responsibly to direct
22 them,”.

23 (b) REPORTS.—Section 3(c) of the National Labor
24 Relations Act is amended—

1 (1) by striking “The Board” and inserting “(1)
2 The Board”; and

3 (2) by adding at the end the following:

4 “(2) Effective January 1, 2021, section 3003 of the
5 Federal Reports Elimination and Sunset Act of 1995
6 (Public Law 166–44; 31 U.S.C. 1113 note) shall not apply
7 with respect to reports required under this subsection.

8 “(3) Each report issued under this subsection shall
9 include no less detail than reports issued by the Board
10 prior to the termination of such reports under section
11 3003 of the Federal Reports Elimination and Sunset Act
12 of 1995 (Public Law 166–44; 31 U.S.C. 1113 note).”.

13 (c) APPOINTMENT.—Section 4(a) of the National
14 Labor Relations Act (29 U.S.C. 154(a)) is amended by
15 striking “, or for economic analysis”.

16 (d) UNFAIR LABOR PRACTICES.—Section 8 of the
17 National Labor Relations Act (29 U.S.C. 158) is amend-
18 ed—

19 (1) in subsection (a)—

20 (A) in paragraph (5), by striking the pe-
21 riod and inserting “;”; and

22 (B) by adding at the end the following:

23 “(6) to promise, threaten, or take any action—

24 “(A) to permanently replace an employee
25 who participates in a strike as defined by sec-

1 tion 501(2) of the Labor Management Rela-
2 tions Act, 1947 (29 U.S.C. 142(2));

3 “(B) to discriminate against an employee
4 who is working or has unconditionally offered to
5 return to work for the employer because the
6 employee supported or participated in such a
7 strike; or

8 “(C) to lockout, suspend, or otherwise
9 withhold employment from employees in order to
10 influence the position of such employees or the
11 representative of such employees in collective
12 bargaining prior to a strike; and

13 “(7) to communicate or misrepresent to an em-
14 ployee under section 2(3) that such employee is ex-
15 cluded from the definition of employee under section
16 2(3).”;

17 (2) in subsection (b)—

18 (A) by striking paragraphs (4) and (7);

19 (B) by redesignating paragraphs (5) and
20 (6) as paragraphs (4) and (5), respectively;

21 (C) in paragraph (4), as so redesignated,
22 by striking “affected;” and inserting “affected;
23 and”; and

24 (D) in paragraph (5), as so redesignated,
25 by striking “; and” and inserting a period;

1 (3) in subsection (c), by striking the period at
2 the end and inserting the following: “: *Provided*,
3 That it shall be an unfair labor practice under sub-
4 section (a)(1) for any employer to require or coerce
5 an employee to attend or participate in such employ-
6 er’s campaign activities unrelated to the employee’s
7 job duties, including activities that are subject to the
8 requirements under section 203(b) of the Labor-
9 Management Reporting and Disclosure Act of 1959
10 (29 U.S.C. 433(b)).”;

11 (4) in subsection (d)—

12 (A) by redesignating paragraphs (1)
13 through (4) as subparagraphs (A) through (D),
14 respectively;

15 (B) by striking “For the purposes of this
16 section” and inserting “(1) For purposes of this
17 section”;

18 (C) by inserting “and to maintain current
19 wages, hours, and working conditions pending
20 an agreement” after “arising thereunder”;

21 (D) by inserting “: *Provided*, That an em-
22 ployer’s duty to collectively bargain shall con-
23 tinue absent decertification of the labor organi-
24 zation following an election conducted pursuant
25 to section 9” after “making of a concession.”;

1 (E) by inserting “*further*” before “, That
2 where there is in effect”;

3 (F) by striking “The duties imposed” and
4 inserting “(2) The duties imposed”;

5 (G) by striking “by paragraphs (2), (3),
6 and (4)” and inserting “by subparagraphs (B),
7 (C), and (D) of paragraph (1)”;

8 (H) by striking “section 8(d)(1)” and in-
9 serting “paragraph (1)(A)”;

10 (I) by striking “section 8(d)(3)” and in-
11 serting “paragraph (1)(C)” in each place it ap-
12 pears;

13 (J) by striking “section 8(d)(4)” and in-
14 serting “paragraph (1)(D)”;

15 (K) by adding at the end the following:

16 “(3) Whenever collective bargaining is for the pur-
17 pose of establishing an initial collective bargaining agree-
18 ment following certification or recognition of a labor orga-
19 nization, the following shall apply:

20 “(A) Not later than 10 days after receiving a
21 written request for collective bargaining from an in-
22 dividual or labor organization that has been newly
23 recognized or certified as a representative as defined
24 in section 9(a), or within such further period as the
25 parties agree upon, the parties shall meet and com-

1 mence to bargain collectively and shall make every
2 reasonable effort to conclude and sign a collective
3 bargaining agreement.

4 “(B) If after the expiration of the 90-day pe-
5 riod beginning on the date on which bargaining is
6 commenced, or such additional period as the parties
7 may agree upon, the parties have failed to reach an
8 agreement, either party may notify the Federal Me-
9 diation and Conciliation Service of the existence of
10 a dispute and request mediation. Whenever such a
11 request is received, it shall be the duty of the Service
12 promptly to put itself in communication with the
13 parties and to use its best efforts, by mediation and
14 conciliation, to bring them to agreement.

15 “(C) If after the expiration of the 30-day period
16 beginning on the date on which the request for me-
17 diation is made under subparagraph (B), or such ad-
18 ditional period as the parties may agree upon, the
19 Service is not able to bring the parties to agreement
20 by conciliation, the Service shall refer the dispute to
21 a tripartite arbitration panel established in accord-
22 ance with such regulations as may be prescribed by
23 the Service, with one member selected by the labor
24 organization, one member selected by the employer,
25 and one neutral member mutually agreed to by the

1 parties. The labor organization and employer must
2 each select the members of the tripartite arbitration
3 panel within 14 days of the Service’s referral; if the
4 labor organization or employer fail to do so, the
5 Service shall designate any members not selected by
6 the labor organization or the employer. A majority
7 of the tripartite arbitration panel shall render a deci-
8 sion settling the dispute and such decision shall be
9 binding upon the parties for a period of 2 years, un-
10 less amended during such period by written consent
11 of the parties. Such decision shall be based on—

12 “(i) the employer’s financial status and
13 prospects;

14 “(ii) the size and type of the employer’s
15 operations and business;

16 “(iii) the employees’ cost of living;

17 “(iv) the employees’ ability to sustain
18 themselves, their families, and their dependents
19 on the wages and benefits they earn from the
20 employer; and

21 “(v) the wages and benefits other employ-
22 ers in the same business provide their employ-
23 ees.”;

24 (5) by amending subsection (e) to read as fol-
25 lows:

1 “(e) Notwithstanding chapter 1 of title 9, United
2 States Code (commonly known as the ‘Federal Arbitration
3 Act’), or any other provision of law, it shall be an unfair
4 labor practice under subsection (a)(1) for any employer—

5 “(1) to enter into or attempt to enforce any
6 agreement, express or implied, whereby prior to a
7 dispute to which the agreement applies, an employee
8 undertakes or promises not to pursue, bring, join,
9 litigate, or support any kind of joint, class, or collec-
10 tive claim arising from or relating to the employ-
11 ment of such employee in any forum that, but for
12 such agreement, is of competent jurisdiction;

13 “(2) to coerce an employee into undertaking or
14 promising not to pursue, bring, join, litigate, or sup-
15 port any kind of joint, class, or collective claim aris-
16 ing from or relating to the employment of such em-
17 ployee; or

18 “(3) to retaliate or threaten to retaliate against
19 an employee for refusing to undertake or promise
20 not to pursue, bring, join, litigate, or support any
21 kind of joint, class, or collective claim arising from
22 or relating to the employment of such employee:
23 *Provided*, That any agreement that violates this sub-
24 section or results from a violation of this subsection
25 shall be to such extent unenforceable and void: *Pro-*

1 *vided further*, That this subsection shall not apply to
2 any agreement embodied in or expressly permitted
3 by a contract between an employer and a labor orga-
4 nization.”;

5 (6) in subsection (g), by striking “clause (B) of
6 the last sentence of section 8(d) of this Act” and in-
7 serting “subsection (d)(2)(B)”;

8 (7) by adding at the end the following:

9 “(h)(1) The Board shall promulgate regulations re-
10 quiring each employer to post and maintain, in con-
11 spicuous places where notices to employees and applicants
12 for employment are customarily posted both physically and
13 electronically, a notice setting forth the rights and protec-
14 tions afforded employees under this Act. The Board shall
15 make available to the public the form and text of such
16 notice. The Board shall promulgate regulations requiring
17 employers to notify each new employee of the information
18 contained in the notice described in the preceding two sen-
19 tences.

20 “(2) Whenever the Board directs an election under
21 section 9(c) or approves an election agreement, the em-
22 ployer of employees in the bargaining unit shall, not later
23 than 2 business days after the Board directs such election
24 or approves such election agreement, provide a voter list
25 to a labor organization that has petitioned to represent

1 such employees. Such voter list shall include the names
2 of all employees in the bargaining unit and such employ-
3 ees' home addresses, work locations, shifts, job classifica-
4 tions, and, if available to the employer, personal landline
5 and mobile telephone numbers, and work and personal
6 email addresses; the voter list must be provided in a
7 searchable electronic format generally approved by the
8 Board unless the employer certifies that the employer does
9 not possess the capacity to produce the list in the required
10 form. Not later than 9 months after the date of enactment
11 of the Protecting the Right to Organize Act of 2019, the
12 Board shall promulgate regulations implementing the re-
13 quirements of this paragraph.

14 “(i) The rights of an employee under section 7 in-
15 clude the right to use electronic communication devices
16 and systems (including computers, laptops, tablets, inter-
17 net access, email, cellular telephones, or other company
18 equipment) of the employer of such employee to engage
19 in activities protected under section 7 if such employer has
20 given such employee access to such devices and systems
21 in the course of the work of such employee, absent a com-
22 pelling business rationale.”.

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

1 (1) in subsection (c)—

2 (A) by amending paragraph (1) to read as
3 follows:

4 “(1) Whenever a petition shall have been filed, in ac-
5 cordance with such regulations as may be prescribed by
6 the Board, by an employee or group of employees or any
7 individual or labor organization acting in their behalf al-
8 leging that a substantial number of employees (i) wish to
9 be represented for collective bargaining and that their em-
10 ployer declines to recognize their representative as the rep-
11 resentative defined in section 9(a), or (ii) assert that the
12 individual or labor organization, which has been certified
13 or is being recognized by their employer as the bargaining
14 representative, is no longer a representative as defined in
15 section 9(a), the Board shall investigate such petition and
16 if it has reasonable cause to believe that a question of rep-
17 resentation affecting commerce exists shall provide for an
18 appropriate hearing upon due notice. Such hearing may
19 be conducted by an officer or employee of the regional of-
20 fice, who shall not make any recommendations with re-
21 spect thereto. If the Board finds upon the record of such
22 hearing that such a question of representation exists, it
23 shall direct an election by secret ballot and shall certify
24 the results thereof. The Board shall find the labor organi-
25 zation’s proposed unit to be appropriate if the employees

1 in the proposed unit share a community of interest, and
2 if the employees outside the unit do not share an over-
3 whelming community of interest with employees inside. At
4 the request of the labor organization, the Board shall di-
5 rect that the election be conducted through certified mail,
6 electronically, at the work location, or at a location other
7 than one owned or controlled by the employer. No em-
8 ployer shall have standing as a party or to intervene in
9 any representation proceeding under this section.”;

10 (B) in paragraph (3), by striking “an eco-
11 nomic strike who are not entitled to reinstatement”
12 and inserting “a strike”;

13 (C) by redesignating paragraphs (4) and
14 (5) as paragraphs (6) and (7), respectively;

15 (D) by inserting after paragraph (3) the
16 following:

17 “(4) If the Board finds that, in an election under
18 paragraph (1), a majority of the valid votes cast in a unit
19 appropriate for purposes of collective bargaining have been
20 cast in favor of representation by the labor organization,
21 the Board shall certify the labor organization as the rep-
22 resentative of the employees in such unit and shall issue
23 an order requiring the employer of such employees to col-
24 lectively bargain with the labor organization in accordance
25 with section 8(d). This order shall be deemed an order

1 under section 10(c) of this Act, without need for a deter-
2 mination of an unfair labor practice.

3 “(5)(A) If the Board finds that, in an election under
4 paragraph (1), a majority of the valid votes cast in a unit
5 appropriate for purposes of collective bargaining have not
6 been cast in favor of representation by the labor organiza-
7 tion, the Board shall dismiss the petition, subject to sub-
8 paragraphs (B) and (C).

9 “(B) In any case in which a majority of the valid
10 votes cast in a unit appropriate for purposes of collective
11 bargaining have not been cast in favor of representation
12 by the labor organization and the Board determines that
13 the election should be set aside because the employer has
14 committed a violation of this Act or otherwise interfered
15 with a fair election, and the employer has not dem-
16 onstrated that the violation or other interference is un-
17 likely to have affected the outcome of the election, the
18 Board shall, without ordering a new election, certify the
19 labor organization as the representative of the employees
20 in such unit and issue an order requiring the employer
21 to bargain with the labor organization in accordance with
22 section 8(d) if, at any time during the period beginning
23 1 year preceding the date of the commencement of the
24 election and ending on the date upon which the Board
25 makes the determination of a violation or other inter-

1 ference, a majority of the employees in the bargaining unit
2 have signed authorizations designating the labor organiza-
3 tion as their collective bargaining representative.

4 “(C) In any case where the Board determines that
5 an election under this paragraph should be set aside, the
6 Board shall direct a new election with appropriate addi-
7 tional safeguards necessary to ensure a fair election proc-
8 ess, except in cases where the Board issues a bargaining
9 order under subparagraph (B).”; and

10 (E) by inserting after paragraph (7), as so
11 redesignated, the following:

12 “(8) Except under extraordinary circumstances—

13 “(A) a pre-election hearing under this sub-
14 section shall begin not later than 8 days after a no-
15 tice of such hearing is served on the labor organiza-
16 tion and shall continue from day to day until com-
17 pleted;

18 “(B) a regional director shall transmit the no-
19 tice of election at the same time as the direction of
20 election, and shall transmit such notice and such di-
21 rection electronically (including transmission by
22 email or facsimile) or by overnight mail if electronic
23 transmission is unavailable;

24 “(C) not later than 2 days after the service of
25 the notice of hearing, the employer shall—

1 “(i) post the Notice of Petition for Elec-
2 tion in conspicuous places, including all places
3 where notices to employees are customarily
4 posted;

5 “(ii) if the employer customarily commu-
6 nicates with employees electronically, distribute
7 such Notice electronically; and

8 “(iii) maintain such posting until the peti-
9 tion is dismissed or withdrawn or the Notice of
10 Petition for Election is replaced by the Notice
11 of Election;

12 “(D) regional directors shall schedule elections
13 for the earliest date practicable, but not later than
14 the 20th business day after the direction of election;
15 and

16 “(E) a post-election hearing under this sub-
17 section shall begin not later than 14 days after the
18 filing of objections, if any.”;

19 (2) in subsection (d), by striking “(e) or” and
20 inserting “(d) or”; and

21 (3) by adding at the end the following new sub-
22 section:

23 “(f) The Board shall dismiss any petition for an elec-
24 tion with respect to a bargaining unit or any subdivision
25 if, during the preceding 12-month period, the employer

1 has recognized a labor organization without an election
2 and in accordance with this Act.”.

3 (f) PREVENTION OF UNFAIR LABOR PRACTICES.—

4 Section 10(c) of the National Labor Relations Act (29
5 U.S.C. 160(c)) is amended by striking “suffered by him”
6 and inserting “suffered by such employee: *Provided fur-*
7 *ther*, That if the Board finds that an employer has dis-
8 criminated against an employee in violation of paragraph
9 (3) or (4) of section 8(a) or has committed a violation
10 of section 8(a) that results in the discharge of an employee
11 or other serious economic harm to an employee, the Board
12 shall award the employee back pay without any reduction
13 (including any reduction based on the employee’s interim
14 earnings or failure to earn interim earnings), front pay
15 (when appropriate), consequential damages, and an addi-
16 tional amount as liquidated damages equal to two times
17 the amount of damages awarded: *Provided further*, no re-
18 lief under this subsection shall be denied on the basis that
19 the employee is, or was during the time of relevant em-
20 ployment or during the back pay period, an unauthorized
21 alien as defined in section 274A(h)(3) of the Immigration
22 and Nationality Act (8 U.S.C. 1324a(h)(3)) or any other
23 provision of Federal law relating to the unlawful employ-
24 ment of aliens”.

1 (g) ENFORCING COMPLIANCE WITH ORDERS OF THE
2 BOARD.—

3 (1) IN GENERAL.—Section 10 of the National
4 Labor Relations Act (29 U.S.C. 160) is further
5 amended—

6 (A) by striking subsection (e);

7 (B) by redesignating subsection (d) as sub-
8 section (e);

9 (C) by inserting after subsection (c) the
10 following:

11 “(d)(1) Each order of the Board shall take effect
12 upon issuance of such order, unless otherwise directed by
13 the Board, and shall remain in effect unless modified by
14 the Board or unless a court of competent jurisdiction
15 issues a superseding order.

16 “(2) Any person who fails or neglects to obey an
17 order of the Board shall forfeit and pay to the Board a
18 civil penalty of not more than \$10,000 for each violation,
19 which shall accrue to the United States and may be recov-
20 ered in a civil action brought by the Board to the district
21 court of the United States in which the unfair labor prac-
22 tice or other subject of the order occurred, or in which
23 such person or entity resides or transacts business. No ac-
24 tion by the Board under this paragraph may be made until
25 30 days following the issuance of an order. Each separate

1 violation of such an order shall be a separate offense, ex-
2 cept that, in the case of a violation in which a person fails
3 to obey or neglects to obey a final order of the Board,
4 each day such failure or neglect continues shall be deemed
5 a separate offense.

6 “(3) If, after having provided a person or entity with
7 notice and an opportunity to be heard regarding a civil
8 action under subparagraph (2) for the enforcement of an
9 order, the court determines that the order was regularly
10 made and duly served, and that the person or entity is
11 in disobedience of the same, the court shall enforce obedi-
12 ence to such order by an injunction or other proper proc-
13 ess, mandatory or otherwise, to—

14 “(A) restrain such person or entity or the offi-
15 cers, agents, or representatives of such person or en-
16 tity, from further disobedience to such order; or

17 “(B) enjoin such person or entity, officers,
18 agents, or representatives to obedience to the
19 same.”;

20 (D) in subsection (f)—

21 (i) by striking “proceed in the same
22 manner as in the case of an application by
23 the Board under subsection (e) of this sec-
24 tion,” and inserting “proceed as provided
25 under paragraph (2) of this subsection”;

1 (ii) by striking “Any” and inserting
2 the following: “

3 “(1) Within 30 days of the issuance of an
4 order, any”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(2) No objection that has not been urged before the
8 Board, its member, agent, or agency shall be considered
9 by a court, unless the failure or neglect to urge such objec-
10 tion shall be excused because of extraordinary cir-
11 cumstances. The findings of the Board with respect to
12 questions of fact if supported by substantial evidence on
13 the record considered as a whole shall be conclusive. If
14 either party shall apply to the court for leave to adduce
15 additional evidence and shall show to the satisfaction of
16 the court that such additional evidence is material and
17 that there were reasonable grounds for the failure to ad-
18 duce such evidence in the hearing before the Board, its
19 member, agent, or agency, the court may order such addi-
20 tional evidence to be taken before the Board, its member,
21 agent, or agency, and to be made a part of the record.
22 The Board may modify its findings as to the facts, or
23 make new findings, by reason of additional evidence so
24 taken and filed, and it shall file such modified or new find-
25 ings, which findings with respect to questions of fact if

1 supported by substantial evidence on the record considered
2 as a whole shall be conclusive, and shall file its rec-
3 ommendations, if any, for the modification or setting aside
4 of its original order. Upon the filing of the record with
5 it the jurisdiction of the court shall be exclusive and its
6 judgment and decree shall be final, except that the same
7 shall be subject to review by the appropriate United States
8 court of appeals if application was made to the district
9 court, and by the Supreme Court of the United States
10 upon writ of certiorari or certification as provided in sec-
11 tion 1254 of title 28, United States Code.”; and

12 (E) in subsection (g), by striking “sub-
13 section (e) or (f) of this section” and inserting
14 “subsection (d) or (f)”.

15 (2) CONFORMING AMENDMENT.—Section 18 of
16 the National Labor Relations Act (29 U.S.C. 168)
17 is amended by striking “ section 10(e) or (f)” and
18 inserting “subsection (d) or (f) of section 10”.

19 (h) INJUNCTIONS AGAINST UNFAIR LABOR PRAC-
20 TICES INVOLVING DISCHARGE OR OTHER SERIOUS ECO-
21 NOMIC HARM.—Section 10 of the National Labor Rela-
22 tions Act (29 U.S.C. 160) is amended—

23 (1) in subsection (j)—

24 (A) by striking “The Board” and inserting
25 “(1) The Board”; and

1 (B) by adding at the end the following:

2 “(2) Notwithstanding subsection (m), whenever it is
3 charged that an employer has engaged in an unfair labor
4 practice within the meaning of paragraph (1) or (3) of
5 section 8(a) that significantly interferes with, restrains, or
6 coerces employees in the exercise of the rights guaranteed
7 under section 7, or involves discharge or other serious eco-
8 nomic harm to an employee, the preliminary investigation
9 of such charge shall be made forthwith and given priority
10 over all other cases except cases of like character in the
11 office where it is filed or to which it is referred. If, after
12 such investigation, the officer or regional attorney to
13 whom the matter may be referred has reasonable cause
14 to believe such charge is true and that a complaint should
15 issue, such officer or attorney shall bring a petition for
16 appropriate temporary relief or restraining order as set
17 forth in paragraph (1). The district court shall grant the
18 relief requested unless the court concludes that there is
19 no reasonable likelihood that the Board will succeed on
20 the merits of the Board’s claim.”; and

21 (2) by repealing subsections (k) and (l).

22 (i) PENALTIES.—

23 (1) IN GENERAL.—Section 12 of the National
24 Labor Relations Act (29 U.S.C. 162) is amended—

1 (A) by striking “SEC. 12. Any person” and
2 inserting the following:

3 **“SEC. 12. PENALTIES.**

4 “(a) VIOLATIONS FOR INTERFERENCE WITH
5 BOARD.—Any person”; and

6 (B) by adding at the end the following:

7 “(b) VIOLATIONS FOR POSTING REQUIREMENTS AND
8 VOTER LIST.—If the Board, or any agent or agency des-
9 ignated by the Board for such purposes, determines that
10 an employer has violated section 8(h) or regulations issued
11 thereunder, the Board shall—

12 “(1) state the findings of fact supporting such
13 determination;

14 “(2) issue and cause to be served on such em-
15 ployer an order requiring that such employer comply
16 with section 8(h) or regulations issued thereunder;
17 and

18 “(3) impose a civil penalty in an amount deter-
19 mined appropriate by the Board, except that in no
20 case shall the amount of such penalty exceed \$500
21 for each such violation.

22 **“(c) CIVIL PENALTIES FOR VIOLATIONS.—**

23 “(1) IN GENERAL.—Any employer who commits
24 an unfair labor practice within the meaning of sec-
25 tion 8(a) shall, in addition to any remedy ordered by

1 the Board, be subject to a civil penalty in an amount
2 not to exceed \$50,000 for each violation, except
3 that, with respect to an unfair labor practice within
4 the meaning of paragraph (3) or (4) of section 8(a)
5 or a violation of section 8(a) that results in the dis-
6 charge of an employee or other serious economic
7 harm to an employee, the Board shall double the
8 amount of such penalty, to an amount not to exceed
9 \$100,000, in any case where the employer has with-
10 in the preceding 5 years committed another such
11 violation.

12 “(2) CONSIDERATIONS.—In determining the
13 amount of any civil penalty under this subsection,
14 the Board shall consider—

15 “(A) the gravity of the unfair labor prac-
16 tice;

17 “(B) the impact of the unfair labor prac-
18 tice on the charging party, on other persons
19 seeking to exercise rights guaranteed by this
20 Act, and on the public interest; and

21 “(C) the gross income of the employer.

22 “(3) DIRECTOR AND OFFICER LIABILITY.—If
23 the Board determines, based on the particular facts
24 and circumstances presented, that a director or offi-
25 cer’s personal liability is warranted, a civil penalty

1 for a violation described in this subsection may also
2 be assessed against any director or officer of the em-
3 ployer who directed or committed the violation, had
4 established a policy that led to such a violation, or
5 had actual or constructive knowledge of and the au-
6 thority to prevent the violation and failed to prevent
7 the violation.

8 “(d) RIGHT TO CIVIL ACTION.—

9 “(1) IN GENERAL.—Any person who is injured
10 by reason of a violation of paragraph (1) or (3) of
11 section 8(a) may, after 60 days following the filing
12 of a charge with the Board alleging an unfair labor
13 practice, bring a civil action in the appropriate dis-
14 trict court of the United States against the employer
15 within 90 days after the expiration of the 60-day pe-
16 riod or the date the Board notifies the person that
17 no complaint shall issue, whichever occurs earlier,
18 provided that the Board has not filed a petition
19 under section 10(j) of this Act prior to the expira-
20 tion of the 60-day period. No relief under this sub-
21 section shall be denied on the basis that the em-
22 ployee is, or was during the time of relevant employ-
23 ment or during the back pay period, an unauthor-
24 ized alien as defined in section 274A(h)(3) of the
25 Immigration and Nationality Act (8 U.S.C.

1 1324a(h)(3)) or any other provision of Federal law
2 relating to the unlawful employment of aliens.

3 “(2) AVAILABLE RELIEF.—Relief granted in an
4 action under paragraph (1) may include—

5 “(A) back pay without any reduction, in-
6 cluding any reduction based on the employee’s
7 interim earnings or failure to earn interim earn-
8 ings;

9 “(B) front pay (when appropriate);

10 “(C) consequential damages;

11 “(D) an additional amount as liquidated
12 damages equal to two times the cumulative
13 amount of damages awarded under subpara-
14 graphs (A) through (C);

15 “(E) in appropriate cases, punitive dam-
16 ages in accordance with paragraph (4); and

17 “(F) any other relief authorized by section
18 706(g) of the Civil Rights Act of 1964 (42
19 U.S.C. 2000e–5(g)) or by section 1977A(b) of
20 the Revised Statutes (42 U.S.C. 1981a(b)).

21 “(3) ATTORNEY’S FEES.—In any civil action
22 under this subsection, the court may allow the pre-
23 vailing party a reasonable attorney’s fee (including
24 expert fees) and other reasonable costs associated
25 with maintaining the action.

1 “(4) PUNITIVE DAMAGES.—In awarding puni-
2 tive damages under paragraph (2)(E), the court
3 shall consider—

4 “(A) the gravity of the unfair labor prac-
5 tice;

6 “(B) the impact of the unfair labor prac-
7 tice on the charging party, on other persons
8 seeking to exercise rights guaranteed by this
9 Act, and on the public interest; and

10 “(C) the gross income of the employer.”.

11 (2) CONFORMING AMENDMENTS.—Section
12 10(b) of the National Labor Relations Act (29
13 U.S.C. 160(b)) is amended—

14 (A) by striking “six months” and inserting
15 “180 days”; and

16 (B) by striking “the six-month period” and
17 inserting “the 180-day period”.

18 (j) LIMITATIONS.—Section 13 of the National Labor
19 Relations Act (29 U.S.C. 163) is amended by striking the
20 period at the end and inserting the following: “: *Provided*,
21 That the duration, scope, frequency, or intermittence of
22 any strike or strikes shall not render such strike or strikes
23 unprotected or prohibited.”.

24 (k) FAIR SHARE AGREEMENTS PERMITTED.—Sec-
25 tion 14(b) of the National Labor Relations Act (29 U.S.C.

1 164(b)) is amended by striking the period at the end and
2 inserting the following: “: *Provided*, That collective bar-
3 gaining agreements providing that all employees in a bar-
4 gaining unit shall contribute fees to a labor organization
5 for the cost of representation, collective bargaining, con-
6 tract enforcement, and related expenditures as a condition
7 of employment shall be valid and enforceable notwith-
8 standing any State or Territorial law.”.

9 **SEC. 3. CONFORMING AMENDMENTS TO THE LABOR MAN-**
10 **AGEMENT RELATIONS ACT, 1947.**

11 The Labor Management Relations Act, 1947 is
12 amended—

13 (1) in section 213(a) (29 U.S.C. 183(a)), by
14 striking “clause (A) of the last sentence of section
15 8(d) (which is required by clause (3) of such section
16 8(d)), or within 10 days after the notice under
17 clause (B)” and inserting “section 8(d)(2)(A) of the
18 National Labor Relations Act (which is required by
19 section 8(d)(1)(C) of such Act), or within 10 days
20 after the notice under section 8(d)(2)(B) of such
21 Act”; and

22 (2) by repealing section 303 (29 U.S.C. 187).

1 **SEC. 4. AMENDMENTS TO THE LABOR-MANAGEMENT RE-**
2 **PORTING AND DISCLOSURE ACT OF 1959.**

3 (a) IN GENERAL.—Section 203(c) of the Labor-Man-
4 agement Reporting and Disclosure Act of 1959 (29 U.S.C.
5 433(c)) is amended by striking the period at the end and
6 inserting the following “: *Provided*, That this subsection
7 shall not exempt from the requirements of this section any
8 arrangement or part of an arrangement in which a party
9 agrees, for an object described in subsection (b)(1), to plan
10 or conduct employee meetings; train supervisors or em-
11 ployer representatives to conduct meetings; coordinate or
12 direct activities of supervisors or employer representatives;
13 establish or facilitate employee committees; identify em-
14 ployees for disciplinary action, reward, or other targeting;
15 or draft or revise employer personnel policies, speeches,
16 presentations, or other written, recorded, or electronic
17 communications to be delivered or disseminated to employ-
18 ees.”.

19 (b) WHISTLEBLOWER PROTECTIONS.—The Labor-
20 Management Reporting and Disclosure Act of 1959 (29
21 U.S.C. 401 et seq.) is further amended—

22 (1) by redesignating section 611 (29 U.S.C.
23 531) as section 612; and

24 (2) by inserting after section 610 (29 U.S.C.
25 530), the following new section:

1 “WHISTLEBLOWER PROTECTIONS

2 “SEC. 611. (a) IN GENERAL.—No employer or labor
3 organization shall terminate or in any other way discrimi-
4 nate against, or cause to be terminated or discriminated
5 against, any applicant, covered employee, or former cov-
6 ered employee, of the employer or the labor organization
7 by reason of the fact that such applicant, covered em-
8 ployee, or former covered employee does, or the employer
9 or labor organization perceives the employee to do, any
10 of the following:

11 “(1) Provide, cause to be provided, or is about
12 to provide or cause to be provided, information to
13 the labor organization, the Department of Labor, or
14 any other State, local, or Federal Government au-
15 thority or law enforcement agency relating to any
16 violation of, or any act or omission that such em-
17 ployee reasonably believes to be a violation of, any
18 provision of this Act.

19 “(2) Testify or plan to testify or otherwise par-
20 ticipate in any proceeding resulting from the admin-
21 istration or enforcement of any provision of this Act.

22 “(3) File, institute, or cause to be filed or insti-
23 tuted, any proceeding under this Act.

24 “(4) Assist in any activity described in para-
25 graphs (1) through (3).

1 “(5) Object to, or refuse to participate in, any
2 activity, policy, practice, or assigned task that such
3 covered employee reasonably believes to be in viola-
4 tion of any provision of this Act.

5 “(b) DEFINITION OF COVERED EMPLOYEE.—For the
6 purposes of this section, the term ‘covered employee’
7 means any employee or agent of an employer or labor or-
8 ganization, including any person with management re-
9 sponsibilities on behalf of the employer or labor organiza-
10 tion.

11 “(c) PROCEDURES AND TIMETABLES.—

12 “(1) COMPLAINT.—

13 “(A) IN GENERAL.—An applicant, covered
14 employee, or former covered employee who be-
15 lieves that he or she has been terminated or in
16 any other way discriminated against by any
17 person in violation of subsection (a) may file (or
18 have any person file on his or her behalf) a
19 complaint with the Secretary of Labor alleging
20 such violation. Such a complaint must be filed
21 not later than either—

22 “(i) 180 days after the date on which
23 such alleged violation occurs; or

24 “(ii) 180 days after the date upon
25 which the employee knows or should rea-

1 sonably have known that such alleged vio-
2 lation in subsection (a) occurred.

3 “(B) ACTIONS OF SECRETARY OF
4 LABOR.—Upon receipt of such a complaint, the
5 Secretary of Labor shall notify, in writing, the
6 person named in the complaint who is alleged
7 to have committed the violation, of—

8 “(i) the filing of the complaint;

9 “(ii) the allegations contained in the
10 complaint;

11 “(iii) the substance of evidence sup-
12 porting the complaint; and

13 “(iv) opportunities that will be af-
14 farded to such person under paragraph
15 (2).

16 “(2) INVESTIGATION BY SECRETARY OF
17 LABOR.—

18 “(A) IN GENERAL.—Not later than 60
19 days after the date of receipt of a complaint
20 filed under paragraph (1), and after affording
21 the complainant and the person named in the
22 complaint who is alleged to have committed the
23 violation that is the basis for the complaint an
24 opportunity to submit to the Secretary of Labor
25 a written response to the complaint and an op-

1 portunity to meet with a representative of the
2 Secretary of Labor to present statements from
3 witnesses, the Secretary of Labor shall—

4 “(i) initiate an investigation and de-
5 termine whether there is reasonable cause
6 to believe that the complaint has merit;
7 and

8 “(ii) notify the complainant and the
9 person alleged to have committed the viola-
10 tion of subsection (a), in writing, of such
11 determination.

12 “(B) GROUNDS FOR DETERMINATION OF
13 COMPLAINTS.—The Secretary of Labor shall
14 dismiss a complaint filed under this subsection,
15 and shall not conduct an investigation otherwise
16 required under paragraph (2), unless the com-
17 plainant makes a prima facie showing that any
18 behavior described in paragraphs (1) through
19 (5) of subsection (a) was a contributing factor
20 in the unfavorable personnel action alleged in
21 the complaint.

22 “(3) BURDENS OF PROOF.—

23 “(A) CRITERIA FOR DETERMINATION.—In
24 making a determination or adjudicating a com-
25 plaint pursuant to this subsection, the Sec-

1 retary, an administrative law judge or a court
2 may determine that a violation of subsection (a)
3 has occurred only if the complainant dem-
4 onstrates that any conduct described in sub-
5 section (a) with respect to the complainant was
6 a contributing factor in the adverse action al-
7 leged in the complaint.

8 “(B) PROHIBITION.—Notwithstanding sub-
9 paragraph (A), a decision or order that is favor-
10 able to the complainant shall not be issued in
11 any administrative or judicial action pursuant
12 to this subsection if the respondent dem-
13 onstrates by clear and convincing evidence that
14 the respondent would have taken the same ad-
15 verse action in the absence of such conduct.

16 “(C) NOTICE OF RELIEF AVAILABLE.—If
17 the Secretary of Labor concludes that there is
18 reasonable cause to believe that a violation of
19 subsection (a) has occurred, the Secretary of
20 Labor shall, together with the notice under sub-
21 paragraph (A)(ii), issue a preliminary order
22 providing the relief prescribed by paragraph
23 (4)(B).

24 “(D) REQUEST FOR HEARING.—Not later
25 than 30 days after the date of receipt of notifi-

1 cation of a determination of the Secretary of
2 Labor under this paragraph, either the person
3 alleged to have committed the violation or the
4 complainant may file objections to the findings
5 or preliminary order, or both, and request a
6 hearing on the record. The filing of such objec-
7 tions shall not operate to stay any reinstatement
8 remedy contained in the preliminary
9 order. Any such hearing shall be conducted ex-
10 peditiously, and if a hearing is not requested in
11 such 30-day period, the preliminary order shall
12 be deemed a final order that is not subject to
13 judicial review.

14 “(E) PROCEDURES.—

15 “(i) IN GENERAL.—A hearing re-
16 quested under this paragraph shall be con-
17 ducted expeditiously and in accordance
18 with rules established by the Secretary for
19 hearings conducted by administrative law
20 judges.

21 “(ii) SUBPOENAS; PRODUCTION OF
22 EVIDENCE.—In conducting any such hear-
23 ing, the administrative law judge may issue
24 subpoenas. The respondent or complainant
25 may request the issuance of subpoenas

1 that require the deposition of, or the at-
2 tendance and testimony of, witnesses and
3 the production of any evidence (including
4 any books, papers, documents, or record-
5 ings) relating to the matter under consid-
6 eration.

7 “(4) ISSUANCE OF FINAL ORDERS; REVIEW
8 PROCEDURES.—

9 “(A) TIMING.—Not later than 120 days
10 after the date of conclusion of any hearing
11 under paragraph (2), the Secretary of Labor
12 shall issue a final order providing the relief pre-
13 scribed by this paragraph or denying the com-
14 plaint. At any time before issuance of a final
15 order, a proceeding under this subsection may
16 be terminated on the basis of a settlement
17 agreement entered into by the Secretary of
18 Labor, the complainant, and the person alleged
19 to have committed the violation.

20 “(B) AVAILABLE RELIEF.—

21 “(i) ORDER OF SECRETARY OF
22 LABOR.—If, in response to a complaint
23 filed under paragraph (1), the Secretary of
24 Labor determines that a violation of sub-
25 section (a) has occurred, the Secretary of

1 Labor shall order the person who com-
2 mitted such violation—

3 “(I) to take affirmative action to
4 abate the violation;

5 “(II) to reinstate the complain-
6 ant to his or her former position, to-
7 gether with compensation (including
8 back pay with interest) and restore
9 the terms, conditions, and privileges
10 associated with his or her employ-
11 ment;

12 “(III) to provide compensatory
13 damages to the complainant; and

14 “(IV) expungement of all warn-
15 ings, reprimands, or derogatory ref-
16 erences that have been placed in
17 paper or electronic records or data-
18 bases of any type relating to the ac-
19 tions by the complainant that gave
20 rise to the unfavorable personnel ac-
21 tion, and, at the complainant’s direc-
22 tion, transmission of a copy of the de-
23 cision on the complaint to any person
24 whom the complainant reasonably be-

1 lieves may have received such unfavor-
2 able information.

3 “(ii) COSTS AND EXPENSES.—If an
4 order is issued under clause (i), the Sec-
5 retary of Labor, at the request of the com-
6 plainant, shall assess against the person
7 against whom the order is issued, a sum
8 equal to the aggregate amount of all costs
9 and expenses (including attorney fees and
10 expert witness fees) reasonably incurred,
11 as determined by the Secretary of Labor,
12 by the complainant for, or in connection
13 with, the bringing of the complaint upon
14 which the order was issued.

15 “(C) FRIVOLOUS CLAIMS.—If the Sec-
16 retary of Labor finds that a complaint under
17 paragraph (1) is frivolous or has been brought
18 in bad faith, the Secretary of Labor may award
19 to the prevailing employer or labor organization
20 a reasonable attorney fee, not exceeding \$1,000,
21 to be paid by the complainant.

22 “(D) DE NOVO REVIEW.—

23 “(i) FAILURE OF THE SECRETARY TO
24 ACT.—If the Secretary of Labor has not
25 issued a final order within 270 days after

1 the date of filing of a complaint under this
2 subsection, or within 90 days after the
3 date of receipt of a written determination,
4 the complainant may bring an action at
5 law or equity for de novo review in the ap-
6 propriate district court of the United
7 States having jurisdiction, which shall have
8 jurisdiction over such an action without re-
9 gard to the amount in controversy, and
10 which action shall, at the request of either
11 party to such action, be tried by the court
12 with a jury.

13 “(ii) PROCEDURES.—A proceeding
14 under clause (i) shall be governed by the
15 same legal burdens of proof specified in
16 paragraph (3). The court shall have juris-
17 diction to grant all relief necessary to
18 make the employee whole, including injunc-
19 tive relief and compensatory damages, in-
20 cluding—

21 “(I) reinstatement with the same
22 seniority status that the employee
23 would have had, but for the discharge
24 or discrimination;

1 “(II) the amount of back pay,
2 with interest;

3 “(III) compensation for any spe-
4 cial damages sustained as a result of
5 the discharge or discrimination, in-
6 cluding litigation costs, expert witness
7 fees, and reasonable attorney fees;
8 and

9 “(IV) expungement of all warn-
10 ings, reprimands, or derogatory ref-
11 erences that have been placed in
12 paper or electronic records or data-
13 bases of any type relating to the ac-
14 tions by the complainant that gave
15 rise to the unfavorable personnel ac-
16 tion, and, at the complainant’s direc-
17 tion, transmission of a copy of the de-
18 cision on the complaint to any person
19 whom the complainant reasonably be-
20 lieves may have received such unfavor-
21 able information.

22 “(E) OTHER APPEALS.—Unless the com-
23 plainant brings an action under subparagraph
24 (D), any person adversely affected or aggrieved
25 by a final order issued under subparagraph (A)

1 may file a petition for review of the order in the
2 United States Court of Appeals for the circuit
3 in which the violation with respect to which the
4 order was issued, allegedly occurred or the cir-
5 cuit in which the complainant resided on the
6 date of such violation, not later than 60 days
7 after the date of the issuance of the final order
8 of the Secretary of Labor under subparagraph
9 (A). Review shall conform to chapter 7 of title
10 5, United States Code. The commencement of
11 proceedings under this subparagraph shall not,
12 unless ordered by the court, operate as a stay
13 of the order. An order of the Secretary of
14 Labor with respect to which review could have
15 been obtained under this subparagraph shall
16 not be subject to judicial review in any criminal
17 or other civil proceeding.

18 “(5) FAILURE TO COMPLY WITH ORDER.—

19 “(A) ACTIONS BY THE SECRETARY.—If
20 any person has failed to comply with a final
21 order issued under paragraph (4), the Secretary
22 of Labor may file a civil action in the United
23 States district court for the district in which
24 the violation was found to have occurred, or in
25 the United States district court for the District

1 of Columbia, to enforce such order. In actions
2 brought under this paragraph, the district
3 courts shall have jurisdiction to grant all appro-
4 priate relief including injunctive relief, compen-
5 satory and punitive damages.

6 “(B) CIVIL ACTIONS TO COMPEL COMPLI-
7 ANCE.—A person on whose behalf an order was
8 issued under paragraph (4) may commence a
9 civil action against the person to whom such
10 order was issued to require compliance with
11 such order. The appropriate United States dis-
12 trict court shall have jurisdiction, without re-
13 gard to the amount in controversy or the citi-
14 zenship of the parties, to enforce such order.

15 “(C) AWARD OF COSTS AUTHORIZED.—
16 The court, in issuing any final order under this
17 paragraph, may award costs of litigation (in-
18 cluding reasonable attorney and expert witness
19 fees) to any party, whenever the court deter-
20 mines such award is appropriate.

21 “(D) MANDAMUS PROCEEDINGS.—Any
22 nondiscretionary duty imposed by this section
23 shall be enforceable in a mandamus proceeding
24 brought under section 1361 of title 28, United
25 States Code.

1 “(d) UNENFORCEABILITY OF CERTAIN AGREE-
2 MENTS.—Notwithstanding any other provision of law, the
3 rights and remedies provided for in this section may not
4 be waived by any agreement, policy, form, or condition of
5 employment, including by any predispute arbitration
6 agreement.

7 “(e) SAVINGS.—Nothing in this subsection shall be
8 construed to diminish the rights, privileges, or remedies
9 of any employee who exercises rights under any Federal
10 or State law or common law, or under any collective bar-
11 gaining agreement.”.

12 **SEC. 5. RULE OF CONSTRUCTION.**

13 The amendments made under this Act shall not be
14 construed to amend section 274A of the Immigration and
15 Nationality Act (8 U.S.C. 1324a).

16 **SEC. 6. GAO REPORT ON SECTORAL BARGAINING.**

17 (a) IN GENERAL.—Not later than 2 years after the
18 date of enactment of this Act, the Comptroller General,
19 in consultation with the persons described in subsection
20 (b), shall prepare and submit to the Committee on Edu-
21 cation and Labor of the House of Representatives and the
22 Committee on Health, Education, Labor, and Pensions of
23 the Senate a report, that—

24 (1) identifies and analyzes the laws, policies,
25 and procedures in countries outside the United

1 States governing collective bargaining at the level of
2 an industry sector, including the laws, policies, and
3 procedures involved in—

4 (A) the administrative system facilitating
5 such bargaining;

6 (B) how collective bargaining agreements
7 are rendered binding on all firms in an industry
8 sector;

9 (C) defining an industry sector;

10 (D) the relationship between collective bar-
11 gaining at the level of an individual employer or
12 group of employers and at the level of an indus-
13 try sector;

14 (E) the designation of representatives for
15 collective bargaining at the level of an industry
16 sector;

17 (F) the scope of collective bargaining and
18 impasses at the level of an industry sector; and

19 (G) the provision or administration of ben-
20 efits by labor organizations (such as unemploy-
21 ment insurance), or union security at the firm
22 level or the level of an industry sector, to cover
23 the costs of collective bargaining at the level of
24 an industry sector;

1 (2) conducts a comparative analysis of the laws,
2 policies, and procedures specified in paragraph (1)
3 that have been enacted in countries outside the
4 United States;

5 (3) to the extent practicable, identifies the ef-
6 fects of such laws, policies, and procedures on—

7 (A) the wages and compensation of em-
8 ployees;

9 (B) the number of employees,
10 disaggregated by full-time and part-time em-
11 ployees;

12 (C) prices, sales, and revenues;

13 (D) employee turnover and retention;

14 (E) hiring and training costs;

15 (F) productivity and absenteeism; and

16 (G) the development of emerging indus-
17 tries, including those that engage their
18 workforces through technology; and

19 (4) describes the methodology used to generate
20 the information in the report.

21 (b) EXPERT CONSULTATION.—The persons described
22 in this subsection are—

23 (1) workers and the labor organizations rep-
24 resenting such workers;

25 (2) representatives of businesses;

- 1 (3) the National Labor Relations Board;
- 2 (4) the International Labor Organization; and
- 3 (5) the International Labor Affairs Bureau of
- 4 the Department of Labor.

5 (c) CONGRESSIONAL ASSESSMENT AND REC-
6 OMMENDATIONS.—Not later than 60 days after the date
7 on which the report is submitted under subsection (a), the
8 Committee on Education and Labor of the House of Rep-
9 resentatives and the Committee on Health, Education,
10 Labor, and Pensions of the Senate shall—

- 11 (1) assess the findings of such report; and
- 12 (2) make recommendations with respect to ac-
13 tions of Congress to address the findings of such re-
14 port.

15 **SEC. 7. RULE OF CONSTRUCTION.**

16 The amendments made under this Act shall not be
17 construed to affect the definitions of “employer” or “em-
18 ployee” under the laws of any State that govern the wages,
19 work hours, workers’ compensation, or unemployment in-
20 surance of employees.

21 **SEC. 8. RULE OF CONSTRUCTION.**

22 The amendments made under this Act shall not be
23 construed to affect the privacy of employees with respect
24 to voter lists provided to labor organizations by employers
25 pursuant to elections directed by the Board.

