

108TH CONGRESS
2D SESSION

S. 2637

To amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

IN THE SENATE OF THE UNITED STATES

JULY 9, 2004

Mr. GRAHAM of South Carolina introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

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 “Secret Ballot Protec-
5 tion Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the right of employees under the National
9 Labor Relations Act to choose whether to be rep-

1 resented by a labor organization by way of secret
 2 ballot election conducted by the National Labor Re-
 3 lations Board is among the most important protec-
 4 tions afforded under Federal labor law;

5 (2) the right of employees to choose by secret
 6 ballot is the only method that ensures a choice free
 7 of coercion, intimidation, irregularity, or illegality;
 8 and

9 (3) the recognition of a labor organization by
 10 using a private agreement, rather than a secret bal-
 11 lot election overseen by the National Labor Relations
 12 Board, threatens the freedom of employees to choose
 13 whether to be represented by a labor organization,
 14 and severely limits the ability of the National Labor
 15 Relations Board to ensure the protection of workers.

16 **SEC. 3. NATIONAL LABOR RELATIONS ACT.**

17 (a) RECOGNITION OF REPRESENTATIVE.—

18 (1) IN GENERAL.—Section 8(a)(2) of the Na-
 19 tional Labor Relations Act (29 U.S.C. 158(a)(2)) is
 20 amended by inserting before the colon the following:
 21 “or to recognize or bargain collectively with a labor
 22 organization that has not been selected by a major-
 23 ity of such employees in a secret ballot election con-
 24 ducted by the National Labor Relations Board in ac-
 25 cordance with section 9”.

1 (2) APPLICATION.—The amendment made by
 2 subsection (a) shall not apply to collective bar-
 3 gaining relationships in which a labor organization
 4 with majority support was lawfully recognized before
 5 the date of the enactment of this Act.

6 (b) ELECTION REQUIRED.—

7 (1) IN GENERAL.—Section 8(b) of the National
 8 Labor Relations Act (29 U.S.C. 158(b)) is amend-
 9 ed—

10 (A) by striking “and” at the end of para-
 11 graph (6);

12 (B) by striking the period at the end of
 13 paragraph (7) and inserting “; and”; and

14 (C) by inserting after paragraph (7) the
 15 following:

16 “(8) to cause or attempt to cause an employer
 17 to recognize or bargain collectively with a represent-
 18 ative of a labor organization that has not been se-
 19 lected by a majority of such employees in a secret
 20 ballot election conducted by the National Labor Re-
 21 lations Board in accordance with section 9.”.

22 (2) APPLICATION.—The amendment made by
 23 paragraph (1) shall not apply to collective bar-
 24 gaining relationships that were recognized before the
 25 date of the enactment of this Act.

1 (c) SECRET BALLOT ELECTION.—Section 9(a) of the
 2 National Labor Relations Act (29 U.S.C. 159(a)), is
 3 amended—

4 (1) by inserting “(1)” after “(a)”;

5 (2) by inserting after “designated or selected”
 6 the following: “by a secret ballot election conducted
 7 by the National Labor Relations Board in accord-
 8 ance with this section”; and

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

10 “(2) The secret ballot election requirement of para-
 11 graph (1) shall not apply to collective bargaining relation-
 12 ships that were recognized before the date of the enact-
 13 ment of this Act.”.

14 **SEC. 4. REGULATIONS.**

15 Not later than 6 months after the date of the enact-
 16 ment of this Act the National Labor Relations Board shall
 17 review and revise all regulations promulgated before such
 18 date to implement the amendments made in this Act to
 19 the National Labor Relations Act.

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