

109TH CONGRESS
1ST SESSION

H. R. 1247

To amend the National Labor Relations Act to ensure that certain prevailing parties receive attorneys' fees.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2005

Mr. SAM JOHNSON of Texas (for himself, Mr. NORWOOD, Mr. PENCE, and Mr. MARCHANT) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the National Labor Relations Act to ensure that certain prevailing parties receive attorneys' fees.

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 “Working Families Ac-
5 cess to Justice Act of 2005”.

6 **SEC. 2. AMENDMENT TO NATIONAL LABOR RELATIONS ACT.**

7 The National Labor Relations Act (29 U.S.C. 151
8 and following) is amended by adding at the end the fol-
9 lowing:

1 **“SEC. 20. AWARDS OF ATTORNEYS’ FEES AND COSTS.**

2 “(a) ADMINISTRATIVE PROCEEDINGS.—An employer
3 who, or a labor organization that—

4 “(1) is the prevailing party in an adversary ad-
5 judication conducted by the Board under this or any
6 other Act, and

7 “(2) had not more than 100 employees and a
8 net worth of not more than \$7,000,000 at the time
9 the adversary adjudication was initiated,

10 shall be awarded fees and other expenses as a prevailing
11 party under section 504 of title 5, United States Code,
12 in accordance with the provisions of that section, but with-
13 out regard to whether the position of the Board was sub-
14 stantially justified or special circumstances make an
15 award unjust. For purposes of this subsection, the term
16 ‘adversary adjudication’ has the meaning given that term
17 in section 504(b)(1)(C) of title 5, United States Code.

18 “(b) COURT PROCEEDINGS.—An employer who, or a
19 labor organization that—

20 “(1) is the prevailing party in a civil action, in-
21 cluding proceedings for judicial review of agency ac-
22 tion by the Board, brought by or against the Board,
23 and

24 “(2) had not more than 100 employees and a
25 net worth of not more than \$7,000,000 at the time
26 the civil action was filed,

1 shall be awarded fees and other expenses as a prevailing
2 party under section 2412(d) of title 28, United States
3 Code, in accordance with the provisions of that section,
4 but without regard to whether the position of the United
5 States was substantially justified or special circumstances
6 make an award unjust. Any appeal of a determination of
7 fees pursuant to subsection (a) or this subsection shall be
8 determined without regard to whether the position of the
9 United States was substantially justified or special cir-
10 cumstances make an award unjust.”.

11 **SEC. 3. APPLICABILITY.**

12 (a) AGENCY PROCEEDINGS.—Subsection (a) of sec-
13 tion 20 of the National Labor Relations Act, as added by
14 section 2 of this Act, applies to agency proceedings com-
15 menced on or after the date of the enactment of this Act.

16 (b) COURT PROCEEDINGS.—Subsection (b) of section
17 20 of the National Labor Relations Act, as added by sec-
18 tion 2 of this Act, applies to civil actions commenced on
19 or after the date of the enactment of this Act.

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