

111TH CONGRESS
2D SESSION

H. R. 6436

To amend the National Labor Relations Act to clarify the intent of Congress for Federal labor law preemption of State and local law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2010

Mr. CONYERS (for himself and Mr. FILNER) introduced the following bill;
which was referred to the Committee on Education and Labor

A BILL

To amend the National Labor Relations Act to clarify the intent of Congress for Federal labor law preemption of State and local law, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Public Funds
5 Protection Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Supreme Court ruling in Chamber of
9 Commerce v. Brown, No. 06–939 (June 19, 2008),

1 significantly impairs the broad sovereign power of
2 the States to decide how to spend State treasury
3 funds. The Brown decision undermines this sov-
4 ereign power by unduly restricting the types of legis-
5 lation a State or local government can pass that af-
6 fect employer-employee labor relations and involve
7 the receipt of State funds.

8 (2) The Court's decision misinterprets Congres-
9 sional intent in the National Labor Relations Act
10 (29 U.S.C. 151 et seq.), by characterizing State leg-
11 islation that limits the use of State or local govern-
12 ment funds to assist, deter, or promote union orga-
13 nizing as regulation that Congress intended to pro-
14 hibit by enacting the NLRA.

15 (3) Legislation directing State or local public
16 funds away from union organizing activity or expres-
17 sion is consistent, not inconsistent, with Congres-
18 sional intent and the express language of section
19 8(c) of the NLRA, which ensures that speech that
20 is neither coercive nor a promise of a benefit shall
21 not be deemed an unfair labor practice, or evidence
22 of an unfair labor practice.

23 (4) Congress by this provision intended no pre-
24 emption of State and local governments placing lim-

1 its on the use of State and local governmental funds
2 to assist, deter, or promote union organizing.

3 (5) Congress has forbidden recipients of Head
4 Start funds, Workforce Investment Act funds, and
5 National Community Service Act funds, from using
6 Federal funds to assist promote, or deter union or-
7 ganizing. As such, policies that protect the integrity
8 of public funds by directing State or local funds
9 away from labor-related activity are consistent, not
10 inconsistent, with the national labor policy.

11 (6) Legislation that limits the use of State or
12 local funds in connection with union organizing nei-
13 ther compels or forbids employer or employee advoca-
14 cy for or against union organizing.

15 (7) Restrictions on the use of State or local
16 government funds in connection with union orga-
17 nizing do not prevent employers from spending their
18 own, non-government procured funds, to assist, pro-
19 mote, or deter union advertising.

20 (8) A State or local government restriction on
21 the use of State funds in connection with union or-
22 ganizing does not regulate activity that the NLRA
23 protects or prohibits.

24 (9) Restrictions on the use of State or local
25 government funds in connection with union orga-

1 nizing is not the regulation of activity that Congress
 2 intended to be controlled by the free play of eco-
 3 nomic forces.

4 (10) Restrictions on the use of State or local
 5 government funds in connection with union orga-
 6 nizing allow State and local governments to main-
 7 tain their neutrality in union organizing campaigns
 8 and prevent the misappropriation of tax dollars.

9 **SEC. 3. CLARIFYING THE EXTENT OF STATE AND LOCAL**
 10 **LAW PREEMPTION UNDER THE NATIONAL**
 11 **LABOR RELATIONS ACT.**

12 Section 8(c) of the National Labor Relations Act, as
 13 amended (29 U.S.C. 158), is amended—

14 (1) by inserting “(1)” before “The”; and

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

16 “(2) Nothing in this Act shall be interpreted to
 17 preempt any provision of State or local law that
 18 places limitations on the use of public funds or prop-
 19 erty to assist, deter or promote union organizing.”.

20 **SEC. 4. RULE OF CONSTRUCTION.**

21 Nothing in this Act shall be construed as a Congres-
 22 sional endorsement or rejection of preemption rulings
 23 other than as explicitly provided for in this Act.

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