

Calendar No. 24

111TH CONGRESS
1ST SESSION

S. 478

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

FEBRUARY 25, 2009

Mr. DEMINT (for himself, Mr. ALEXANDER, Mr. BURR, Mr. CORNYN, Mr. ENZI, Mr. INHOFE, Mr. ROBERTS, Mr. WICKER, Mr. VITTER, Mr. COBURN, Mr. CORKER, Mr. McCONNELL, Mr. BUNNING, Mr. THUNE, Mr. MCCAIN, Mr. BARRASSO, Mr. BROWNBACK, Mr. KYL, and Mr. SHELBY) introduced the following bill; which was read the first time

FEBRUARY 26, 2009

Read the second time and placed on the calendar

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 2009”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The right of employees under the National
4 Labor Relations Act (29 U.S.C. 151 et seq.) to
5 choose whether to be represented by a labor organi-
6 zation by way of secret ballot election conducted by
7 the National Labor Relations Board is among the
8 most important protections afforded under Federal
9 labor law.

10 (2) The right of employees to choose by secret
11 ballot is the only method that ensures a choice free
12 of coercion, intimidation, irregularity, or illegality.

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

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

21 (a) RECOGNITION OF REPRESENTATIVE.—

22 (1) IN GENERAL.—Section 8(a)(2) of the Na-
23 tional Labor Relations Act (29 U.S.C. 158(a)(2)) is
24 amended by inserting before the colon the following:
25 “or to recognize or bargain collectively with a labor
26 organization that has not been selected by a major-

1 ity of such employees in a secret ballot election con-
 2 ducted by the National Labor Relations Board in ac-
 3 cordance with section 9”.

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

9 (b) ELECTION REQUIRED.—

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

13 (A) in paragraph (6), by striking “and” at
 14 the end;

15 (B) in paragraph (7), by striking the pe-
 16 riod at the end and inserting “; and”; and

17 (C) by adding at the end the following:

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

24 (2) APPLICATION.—The amendment made by
 25 paragraph (1) shall not apply to collective bar-

1 gaining relationships that were recognized prior to
2 the date of enactment of this Act.

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

6 (1) by striking “Representatives” and inserting
7 “(1) Representatives”;

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

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

13 “(2) The secret ballot election requirement under
14 paragraph (1) shall not apply to collective bargaining rela-
15 tionships that were recognized before the date of the en-
16 actment of the Secret Ballot Protection Act of 2009.”.

17 **SEC. 4. REGULATIONS AND AUTHORITY.**

18 (a) REGULATIONS.—Not later than 6 months after
19 the date of the enactment of this Act, the National Labor
20 Relations Board shall review and revise all regulations
21 promulgated prior to such date of enactment to implement
22 the amendments made by this Act.

23 (b) AUTHORITY.—Nothing in this Act (or the amend-
24 ments made by this Act) shall be construed to limit or

- 1 otherwise diminish the remedial authority of the National
- 2 Labor Relations Board.

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