

118TH CONGRESS
1ST SESSION

H. R. 3833

To amend the National Labor Relations Act to reform the National Labor Relations Board, the Office of the General Counsel, and the process for appellate review, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2023

Mr. WALBERG 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 reform the National Labor Relations Board, the Office of the General Counsel, and the process for appellate review, 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 “National Labor Rela-
5 tions Board Reform Act”.

1 **SEC. 2. NATIONAL LABOR RELATIONS BOARD.**

2 (a) COMPOSITION; TERMS.—Section 3(a) of the Na-
3 tional Labor Relations Act (29 U.S.C. 153(a)) is amend-
4 ed—

5 (1) in the first sentence—

6 (A) by striking “prior to its amendment by
7 the Labor Management Relations Act, 1947,”
8 and inserting “prior to its amendment by the
9 National Labor Relations Board Reform Act”;

10 (B) by striking “five instead of three mem-
11 bers” and inserting “6 instead of 5 members”;
12 and

13 (C) by striking “appointed by the Presi-
14 dent by and with the advice and consent of the
15 Senate” and inserting “appointed by the Presi-
16 dent, after consultation with the leader of the
17 Senate representing the party opposing the
18 party of the President, by and with the advice
19 and consent of the Senate”;

20 (2) by striking the second sentence and insert-
21 ing the following: “The sixth member added by the
22 first sentence of this section shall be appointed for
23 a term that expires on the day before the first date
24 on which a full term of another member of the
25 Board commences that is after the date of enact-
26 ment of the National Labor Relations Board Reform

1 Act. Of the 6 members, there shall be 3 members
2 representing each of the 2 major political parties
3 and, beginning on January 1, 2028, each of the 2
4 members of the Board whose terms expire on the
5 same date, as established under subsection (e), shall
6 represent a different major political party.”; and

7 (3) in the fourth sentence (including the
8 amendment made by paragraph (2))—

9 (A) by striking “Their successors, and the
10 successors of the other members,” and inserting
11 “The successor of such sixth member, and the
12 successors of the other members,”;

13 (B) by inserting “(except as otherwise pro-
14 vided during the transition period under sub-
15 section (e))” after “each”; and

16 (C) by striking “he” and inserting “the in-
17 dividual”.

18 (b) AUTHORITY.—Section 3(b) of the National Labor
19 Relations Act (29 U.S.C. 153(b)) is amended—

20 (1) in the first sentence—

21 (A) by striking “three or more” and insert-
22 ing “4 or more”; and

23 (B) by inserting before the period the fol-
24 lowing: “, with such group consisting of an

1 equal number of members representing each
2 major political party”; and

3 (2) in the third sentence—

4 (A) by striking “three members” and in-
5 serting “4 members”; and

6 (B) by striking “Board, except that” and
7 all that follows through “hereof.” and inserting
8 the following: “Board. Any determination of the
9 Board shall be approved by a majority of the
10 members present.”.

11 (c) TRANSITION TO IMPROVED STAGGERED
12 TERMS.—Section 3 of the National Labor Relations Act
13 (29 U.S.C. 153) is further amended by adding at the end
14 the following:

15 “(e) TRANSITION TO IMPROVED STAGGERED
16 TERMS.—Notwithstanding subsection (a) or any other
17 provision of this Act—

18 “(1) each term of a member of the Board ap-
19 pointed after the date of enactment of the National
20 Labor Relations Board Reform Act and before De-
21 cember 31, 2027, shall terminate on December 31,
22 2027, or the date on which the term otherwise ex-
23 pires, whichever is earlier, and new terms for all 6
24 members of the Board shall begin on January 1,
25 2028; and

1 “(2) of the 6 members of the Board who are
2 appointed for the terms beginning on January 1,
3 2028—

4 “(A) 2 of the members shall be appointed
5 for terms ending on December 31, 2029;

6 “(B) 2 of the members shall be appointed
7 for terms ending on December 31, 2031; and

8 “(C) 2 of the members shall be appointed
9 for terms ending on December 31, 2032.”.

10 **SEC. 3. GENERAL COUNSEL.**

11 The National Labor Relations Act (29 U.S.C. 151
12 et seq.), as amended by section 2, is further amended—

13 (1) in section 3 (29 U.S.C. 153)—

14 (A) in subsection (d)—

15 (i) in the second sentence, by striking
16 “trial examiners” and inserting “adminis-
17 trative law judges”; and

18 (ii) in the third sentence, by striking
19 “He shall” and inserting “Subject to sub-
20 section (f), the General Counsel shall”; and

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

22 “(f) REVIEW OF GENERAL COUNSEL COMPLAINTS.—

23 “(1) IN GENERAL.—Any person subject to a
24 complaint that is issued or authorized by the Gen-
25 eral Counsel under subsection (d) may obtain review

1 of the complaint in any district court of the United
2 States in the judicial district wherein the unfair
3 labor practice in question was alleged to have oc-
4 curred, wherein such person resides or transacts
5 business, or in the United States District Court for
6 the District of Columbia, by filing in such court, not
7 later than 30 days after such issuance or authoriza-
8 tion, a written petition for review of the complaint.
9 The court may prohibit any further proceedings re-
10 lating to such complaint if the court determines that
11 the General Counsel does not have substantial evi-
12 dence that such person has violated this Act.

13 “(2) DISCOVERY.—Any party to a complaint
14 under paragraph (1) may file a request to the Gen-
15 eral Counsel to obtain any advice memorandum pre-
16 pared by an attorney of the Division of Advice of the
17 Office of the General Counsel, any internal memo-
18 randum of the Office of the General Counsel, or any
19 other inter-agency or intra-agency memorandum or
20 letter described in section 552(b)(5) of title 5,
21 United States Code, related to the complaint. Not
22 later than 10 days after the filing of such request,
23 the General Counsel shall provide such party the re-
24 quested memorandum or letter.”; and

25 (2) in section 4(a) (29 U.S.C. 154(a))—

1 (A) in the second sentence by striking “ex-
2 aminers” and inserting “administrative law
3 judges”; and

4 (B) in the fourth sentence—

5 (i) by striking “trial examiner’s re-
6 port” and inserting “report of an adminis-
7 trative law judge”; and

8 (ii) by striking “trial examiner shall
9 advise” and inserting “administrative law
10 judge shall advise”.

11 **SEC. 4. FINAL ORDERS; DISCHARGE.**

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

14 (1) in subsection (c)—

15 (A) by striking “before an examiner or ex-
16 aminers thereof” and inserting “before an ad-
17 ministrative law judge or administrative law
18 judges thereof”; and

19 (B) by striking “such examiner or exam-
20 iners” and inserting “such judge or judges”;
21 and

22 (2) in subsection (d)—

23 (A) by inserting “or the Board has issued
24 a final order” after “have been filed in a
25 court”;

1 (B) by striking “at any time upon reason-
2 able notice” and inserting “, not later than 1
3 year after the submission of a report of an ad-
4 ministrative law judge, or a decision of a re-
5 gional director, pertaining to such case or
6 order, upon reasonable notice,”; and

7 (C) by adding at the end the following:
8 “The Board shall issue a final order reviewing
9 an appeal of a report of an administrative law
10 judge or decision of a regional director filed
11 within 1 year after such report or decision. If
12 the Board does not issue a final order within 1
13 year after the report of an administrative law
14 judge or decision of a regional director, any
15 party to the case may move to discharge the
16 case. Upon such motion, the report of the ad-
17 ministrative law judge or decision of the re-
18 gional director shall be deemed to be a final
19 agency action and the Board may not take fur-
20 ther action on the matter under subchapter II
21 of chapter 5 of title 5, United States Code. Any
22 party to the case may obtain review of the order
23 of the Board in any court of appeals of the
24 United States in the circuit wherein the unfair
25 labor practice in question was alleged to have

1 occurred, wherein such person resides or trans-
2 acts business, or in the United States Court of
3 Appeals for the District of Columbia, by filing
4 in such court, not later than 60 days after the
5 issuance of the order, a written petition for the
6 court to modify or set aside the order. The
7 court shall review the order de novo.”.

○