
PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3094) TO
AMEND THE NATIONAL LABOR RELATIONS ACT WITH
RESPECT TO REPRESENTATION HEARINGS AND THE TIMING
OF ELECTIONS OF LABOR ORGANIZATIONS UNDER THAT
ACT.

November 17, 2011.—Referred to the House Calendar and ordered to be
printed.

MS. FOXX, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 470]

The Committee on Rules, having had under consideration House
Resolution____, by a nonrecord vote, report the same to the House with the
recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3094, the
Workforce Democracy and Fairness Act, under a structured rule. The
resolution provides one hour of general debate equally divided and
controlled by the chair and ranking minority member of the Committee on
Education and the Workforce. The resolution waives all points of order
against consideration of the bill. The resolution provides that the
amendment in the nature of a substitute recommended by the Committee on
Education and the Workforce now printed in the bill shall be considered as
original text for the purpose of amendment and shall be considered as read.
The resolution waives all points of order against the committee amendment
in the nature of a substitute. The resolution makes in order only those
amendments printed in this report. Each such amendment may be offered
only in the order printed in this report, may be offered only by a Member
designated in this report, shall be considered as read, shall be debatable for
the time specified in this report equally divided and controlled by the
proponent and an opponent, shall not be subject to amendment, and shall
not be subject to a demand for division of the question in the House or in the

Committee of the Whole. The resolution waives all points of order against the amendments printed in this report. Finally, the resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill, the Committee is not aware of any points of order. The waiver of all points of order is prophylactic in nature.

Although the resolution waives all points of order against the committee amendment in the nature of a substitute, the Committee is not aware of any points of order. The waiver of all points of order is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver of all points of order is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 159

Motion by Ms. Slaughter to report an open rule. Defeated: 4-7

Majority Members	Vote	Minority Members	Vote
Mr. Sessions.....	Nay	Ms. Slaughter.....	Yea
Ms. Foxx.....	Nay	Mr. McGovern.....	Yea
Mr. Bishop of Utah.....	Nay	Mr. Hastings of Florida.....	Yea
Mr. Woodall.....	Nay	Mr. Polis.....	Yea
Mr. Scott of South Carolina...	Nay		
Mr. Webster.....	Nay		
Mr. Dreier, Chairman.....	Nay		

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Bishop, Tim (NY): Would give the Board authority to impose sanctions on a party for presenting a frivolous or vexatious filing during pre-election proceedings. (10 minutes)
2. Boswell (IA): Would prevent employers that have paid any executive compensation bonuses in excess of 10,000 percent of the annual compensation of the average employee from engaging in open-ended litigation. Such parties are required to state their issues or positions at the outset of pre-election hearings, and prohibited from raising new, frivolous issues as a dilatory tactic. (10 minutes)
3. Walz (MN): Would prevent this Act from applying to businesses that have been cited for violating labor laws in the past year against employees who are veterans of the Armed Forces. (10 minutes)
4. Jackson Lee (TX): Would strike a section of the bill to ensure that employers would not be able to unnecessarily delay an election. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BISHOP OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

IR₂

**AMENDMENT TO H.R. 3094, AS REPORTED
OFFERED BY MR. BISHOP OF NEW YORK**

Page 8, line 2, strike “and”.

Page 9, line 19, strike the second period and insert
“; and” and after such line insert the following:

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

2 “(f)(1) Prior to presenting any objection, filing,
3 pleading, statement of position, paper, or appeal (in this
4 subsection referred to as ‘filing’) in any proceeding prior
5 to an election under this section, an attorney or other
6 party representative has a duty, to the best of his or her
7 knowledge, information, and belief, and formed after an
8 inquiry reasonable under the circumstances, to assure
9 that—

10 “(A) such a filing is not being presented for
11 any improper purpose, such as to harass, cause un-
12 necessary delay, or needlessly increase the cost of
13 litigation;

14 “(B) the claims, defenses, positions, and other
15 legal contentions in the filing are warranted by exist-
16 ing law or by a nonfrivolous argument for extending,

1 modifying, or reversing existing law or for estab-
2 lishing new law;

3 “(C) the factual contentions in the filing have
4 evidentiary support or, if specifically so identified,
5 will likely have evidentiary support after a reason-
6 able opportunity for further investigation or develop-
7 ment of the record; and

8 “(D) any denials of factual contentions in the
9 filing are warranted on the evidence or, if specifi-
10 cally so identified, are reasonably based on belief or
11 a lack of information.

12 “(2)(A) At any stage of a representation proceeding
13 prior to an election under this section, including pre-elec-
14 tion hearings, requests for Board reviews, or Board re-
15 views, the Board or its agents, upon their own motion or
16 that of a party to the proceeding, shall have discretion
17 to impose sanctions against a party for presenting a frivo-
18 lous or vexatious filing or raising a frivolous or vexatious
19 matter to the Board under this section, or upon a finding
20 that an attorney or other party representative breached
21 his or her duty under this subsection. Sanctions may in-
22 clude reasonable litigation costs, salaries, transcript and
23 record costs, travel and other reasonable costs and ex-
24 penses. If the Board determines that a party has raised
25 a frivolous or vexatious matter for purposes of delaying

1 an election, the Board shall immediately direct that an
2 election be conducted not less than 7 days after such de-
3 termination.

4 “(B) For purposes of this section, a frivolous or vexa-
5 tious filing is one that an attorney of ordinary competence
6 would recognize as so lacking in merit that there is no
7 substantial possibility that the Board would accept it as
8 valid. The Board shall be guided by Rule 11 of the Federal
9 Rules of Civil Procedure in determining whether an objec-
10 tion, filing, pleading, paper or appeal is frivolous.”.



2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BOSWELL OF IOWA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

3R

**AMENDMENT TO H.R. 3094, AS REPORTED
OFFERED BY MR. BOSWELL OF IOWA**

Page 8, line 2, strike “and”.

Page 8, line 20, insert “(except those designated parties described in subparagraph (C))” after “parties”.

Page 9, line 19, strike the second period and insert “; and” and after such line insert the following:

1 (3) by adding at the end of subsection (c)(1)
2 the following:
3 “(C) The designated parties referred to in
4 subparagraph (B) are employers that paid any
5 executive bonus compensation in excess of
6 10,000 percent of the total annual compensa-
7 tion of the average employee during the 1-year
8 period preceding the filing of a petition under
9 this subsection. Such parties may not engage in
10 the dilatory tactic of raising new issues or posi-
11 tions during a pre-election hearing that were
12 not raised prior to the commencement of the
13 hearing.”.



3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALZ OF MINNESOTA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

#4 revised

**AMENDMENT TO H.R. 3094, AS REPORTED
OFFERED BY MR. WALZ OF MINNESOTA**

Page 8, line 2, strike "and".

Page 8, line 20, insert "(except those designated parties described in subparagraph (C))" after "parties".

Page 9, line 19, strike the second period and insert "; and" and after such line insert the following:

1 (3) by adding at the end of subsection (c)(1)
2 the following:

3 "(C) The designated parties referred to in
4 subparagraph (B) are employers that have been
5 found liable for any labor law violation against
6 a veteran of the Armed Forces during the 1-
7 year period preceding the filing of a petition
8 under this subsection. Such parties may not en-
9 gage in the dilatory tactic of raising new issues
10 or positions during a pre-election hearing that
11 were not raised prior to the commencement of
12 the hearing."



4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

52

**AMENDMENT TO H.R. 3094, AS REPORTED
OFFERED BY Ms. JACKSON LEE OF TEXAS**

Page 8, beginning on line 4, strike “subparagraph (B)—” and all that follows through “(B) by inserting” on line 8, and insert “subparagraph (B), by inserting”.

Page 8, line 24, strike “last sentence—” and all that follows through page 9, line 9, and insert “last sentence, by inserting ‘or consideration of a request for review of a regional director’s decision and direction of election,’ after ‘record of such hearing’; and”.



House Calendar No. _____

112TH CONGRESS
1ST SESSION

H. RES. _____

Report No. 112-_____

Providing for consideration of the bill (H.R. 3094) to amend the National Labor Relations Act with respect to representation hearings and the timing of elections of labor organizations under that Act.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2011

Ms. FOXX, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

Providing for consideration of the bill (H.R. 3094) to amend the National Labor Relations Act with respect to representation hearings and the timing of elections of labor organizations under that Act.

1 *Resolved*, That at any time after the adoption of this
2 resolution the Speaker may, pursuant to clause 2(b) of
3 rule XVIII, declare the House resolved into the Committee
4 of the Whole House on the state of the Union for consider-
5 ation of the bill (H.R. 3094) to amend the National Labor
6 Relations Act with respect to representation hearings and

1 the timing of elections of labor organizations under that
2 Act. The first reading of the bill shall be dispensed with.
3 All points of order against consideration of the bill are
4 waived. General debate shall be confined to the bill and
5 shall not exceed one hour equally divided and controlled
6 by the chair and ranking minority member of the Com-
7 mittee on Education and the Workforce. After general de-
8 bate the bill shall be considered for amendment under the
9 five-minute rule. It shall be in order to consider as an
10 original bill for the purpose of amendment under the five-
11 minute rule the amendment in the nature of a substitute
12 recommended by the Committee on Education and the
13 Workforce now printed in the bill. The committee amend-
14 ment in the nature of a substitute shall be considered as
15 read. All points of order against the committee amend-
16 ment in the nature of a substitute are waived. No amend-
17 ment to the committee amendment in the nature of a sub-
18 stitute shall be in order except those printed in the report
19 of the Committee on Rules accompanying this resolution.
20 Each such amendment may be offered only in the order
21 printed in the report, may be offered only by a Member
22 designated in the report, shall be considered as read, shall
23 be debatable for the time specified in the report equally
24 divided and controlled by the proponent and an opponent,
25 shall not be subject to amendment, and shall not be sub-

1 ject to a demand for division of the question in the House
2 or in the Committee of the Whole. All points of order
3 against such amendments are waived. At the conclusion
4 of consideration of the bill for amendment the Committee
5 shall rise and report the bill to the House with such
6 amendments as may have been adopted. Any Member may
7 demand a separate vote in the House on any amendment
8 adopted in the Committee of the Whole to the bill or to
9 the committee amendment in the nature of a substitute.
10 The previous question shall be considered as ordered on
11 the bill and amendments thereto to final passage without
12 intervening motion except one motion to recommit with
13 or without instructions.