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

Revised

1R2

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.".