



COALITION FOR A
DEMOCRATIC WORKPLACE

Issue	Description	Section
Joint Employer	Allows the Board to find joint employer relationship on indirect and reserved authority alone.	Section 101(a)
Independent Contractor	Definition of employee uses “ABC” test that has caused confusion and litigation in CA.	Section 101(b)
Supervisor status	Requires an individual to spend a majority of time “supervising” to qualify as “supervisor.” Supervisors are not considered employees under the NLRA. Change ignores reality of “working” supervisor. Vague definition will invite litigation.	Section 101(c)
Report on conflicts	Requires NLRB annual reports include information on conflict recommendations by the Designated Agency Ethics Officer.	Section 102
Economic analysis	Allows the Board to perform economic analysis. NLRA currently bars the Board from performing such analysis.	Section 103
Striker replacement	Prevents employers from permanently replacing striking employees.	Section 104
Misclassification as an Unfair Labor Practice (ULP)	Makes it a ULP for an employer to misclassify an employee as an Independent Contractor. Essentially imposes strict liability.	Section 104



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Secondary Boycott	Removes provisions in the NLRA barring secondary activity, which were inserted into the NLRA in 1947 following major economic disruption caused by labor disputes.	Section 104
Captive audience meeting	Makes it a ULP for employer to require an employee to attend a meeting.	Section 104
Extension of contract terms	Requires employers to abide by contract terms throughout contract negotiations. Disincentivizes unions to negotiate in good faith.	Section 104
Duty to bargain until decertification	Extending duty to bargain unless and until the union is decertified by an election, forcing employers to bargain with a union it does not believe has majority support from employees.	Section 104



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Arbitration of first contract terms	Would allow union to force arbitration of first contract terms if parties do not come to an agreement within 90 days of bargaining followed by 30 days of mediation. Arbitrator will make determinations based on their assessment of employer's financial status ad prospects and the size and type of the employer's business. Arbitrators largely unqualified to make these determinations.	Section 104
No waivers of class action employment claims	Would make it a ULP.	Section 104
Notice posting	Requires poster.	Section 104 & Section 109
Voter lists	Requires employers provide to the union workers' names, home addresses, work locations, shifts, job classifications, landline/mobile numbers and work/home emails. Raises concerns related to privacy, intimidation, and harassment.	Section 104 & Section 109
Use of employer communication devices and systems for organizing <i>(Purple Communications)</i>	Employer needs to show compelling business rationale for not allowing employees to use company property for Section 7 purposes. Raises issues with respect to property rights.	Section 104



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Gerrymandering of bargaining unit (<i>Specialty Healthcare</i>)	Requires Board to accept union's proposed unit if employees share a community of interest, unless employees outside the proposed unit have an overwhelming community of interest with those inside the proposed unit. Allows unions to marginalize workers who don't support unionization.	Section 105
Union control over voting	The union can choose mail, electronic, workplace, or other location for vote. Union has no obligation to choose method that will result in greatest voter turnout.	Section 105
Employer excluded from representation proceedings	"No employer shall have standing as a party to intervene in any representation proceeding...."	Section 105
Overturing elections adverse to union	If union wins, Board must certify the union as the employees' representative. If union loses and employer committed a ULP, Board shall certify the union as the employees' representative regardless of the election, unless the employer shows the violation is unlikely to have affected the outcome. Board also may overturn the election if the union loses and order a new election for any reason.	Section 105



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Ambush election	Shortens election time frame, limiting workers' ability to gain information before casting vote.	Section 105
Limits circumstance for union decertification	Only allows for decertification petition during 30-day window every 3 years. Diminishes opportunities for union accountability.	Section 105
Increased damages	Expands damages to include consequential damages and 2x in liquidated damages.	Section 106
Increase penalties for violations of NLRB order	Board can seek penalties of \$10k/violation of Board order.	Section 107
Enhanced Injunctive Authority	The court "shall grant the relief requested unless the court concludes that there is no reasonable likelihood that the Board will succeed on the merits..."	Section 108
Increase penalties for ULPs	Civil penalties of up to \$50k per violation, \$100k for past offenders.	Section 109
Corporate officer liability	Provides avenue for individual liability.	Section 109
Right to sue in court for ULP	Up to and including punitive damages.	Section 109



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Intermittent strikes	Allows short intermittent strikes, during which employers can find it difficult to find replacement workers.	Section 110
Right to Work	Union can require dues despite RTW laws.	Section 111
Persuader	Employers forced to report legal advice they received regarding union organizing and collective bargaining. Attorneys would also be required to report. Violates attorney-client privilege.	Section 202