

118TH CONGRESS
1ST SESSION

H. R. 721

To amend the Labor-Management Reporting and Disclosure Act of 1959
to provide whistleblower protection for union employees.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2023

Mr. GOOD of Virginia (for himself, Mrs. MILLER of Illinois, and Mr. WEBER of Texas) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Labor-Management Reporting and Disclosure Act of 1959 to provide whistleblower protection for union employees.

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 “Union Integrity Act”.

5 **SEC. 2. WHISTLEBLOWER PROTECTION FOR UNION EM-**
6 **PLOYEES.**

7 The Labor-Management Reporting and Disclosure
8 Act of 1959 (29 U.S.C. 401 et seq.) is amended—

1 (1) by redesignating section 611 (29 U.S.C.
2 531) as section 612; and

3 (2) by inserting after section 610 (29 U.S.C.
4 530), the following new section:

5 “WHISTLEBLOWER PROTECTION FOR UNION EMPLOYEES

6 “SEC. 611. (a) IN GENERAL.—No labor organization
7 shall terminate or in any other way discriminate against,
8 or cause to be terminated or discriminated against, any
9 covered employee of the labor organization by reason of
10 the fact that such employee, whether at the initiative of
11 the employee or in the ordinary course of the duties of
12 the employee (or any person acting pursuant to a request
13 of the employee), has—

14 “(1) provided, caused to be provided, or is
15 about to provide or cause to be provided, informa-
16 tion to the labor organization, the Department of
17 Labor, or any other State, local, or Federal Govern-
18 ment authority or law enforcement agency relating
19 to any violation of, or any act or omission that the
20 employee reasonably believes to be a violation of, any
21 provision of this Act or any other provision of law
22 that is subject to the jurisdiction of the Department
23 of Labor, the National Labor Relations Board, or
24 the National Mediation Board, or any rule, order,
25 standard, or prohibition prescribed by the Depart-

1 ment of Labor, the National Labor Relations Board,
2 or the National Mediation Board;

3 “(2) testified or will testify in any proceeding
4 resulting from the administration or enforcement of
5 any provision of this Act or any other provision of
6 law that is subject to the jurisdiction of the Depart-
7 ment of Labor, National Labor Relations Board, or
8 National Mediation Board, or any rule, order, stand-
9 ard, or prohibition prescribed by the Department of
10 Labor, the National Labor Relations Board, or the
11 National Mediation Board;

12 “(3) filed, instituted, or caused to be filed or in-
13 stituted any proceeding under this Act; or

14 “(4) objected to, or refused to participate in,
15 any activity, policy, practice, or assigned task that
16 the employee (or other such person) reasonably be-
17 lieved to be in violation of any law, rule, order,
18 standard, or prohibition, subject to the jurisdiction
19 of, or enforceable by, the Department of Labor, the
20 National Labor Relations Board, or the National
21 Mediation Board.

22 “(b) DEFINITION OF COVERED EMPLOYEE.—For the
23 purposes of this section, the term ‘covered employee’
24 means any employee of a labor organization who receives

1 financial compensation for his or her services to the labor
2 organization, including officers of the labor organization.

3 “(c) PROCEDURES AND TIMETABLES.—

4 “(1) COMPLAINT.—

5 “(A) IN GENERAL.—A person who believes
6 that he or she has been discharged or otherwise
7 discriminated against by any person in violation
8 of subsection (a) may file (or have any person
9 file on his or her behalf) a complaint with the
10 Secretary of Labor alleging such discharge or
11 discrimination and identifying the person re-
12 sponsible for such act. Such a complaint must
13 be filed not later than either—

14 “(i) 180 days after the date on which
15 such alleged violation occurs; or

16 “(ii) 180 days after the conclusion of
17 any internal appeals, review, or other judi-
18 cial or investigative process conducted by
19 the labor organization employing such per-
20 son.

21 “(B) ACTIONS OF SECRETARY OF
22 LABOR.—Upon receipt of such a complaint, the
23 Secretary of Labor shall notify, in writing, the
24 person named in the complaint who is alleged
25 to have committed the violation, of—

1 “(i) the filing of the complaint;

2 “(ii) the allegations contained in the
3 complaint;

4 “(iii) the substance of evidence sup-
5 porting the complaint; and

6 “(iv) opportunities that will be af-
7 farded to such person under paragraph
8 (2).

9 “(2) INVESTIGATION BY SECRETARY OF
10 LABOR.—

11 “(A) IN GENERAL.—Not later than 60
12 days after the date of receipt of a complaint
13 filed under paragraph (1), and after affording
14 the complainant and the person named in the
15 complaint who is alleged to have committed the
16 violation that is the basis for the complaint an
17 opportunity to submit to the Secretary of Labor
18 a written response to the complaint and an op-
19 portunity to meet with a representative of the
20 Secretary of Labor to present statements from
21 witnesses, the Secretary of Labor shall—

22 “(i) initiate an investigation and de-
23 termine whether there is reasonable cause
24 to believe that the complaint has merit;
25 and

1 “(ii) notify the complainant and the
2 person alleged to have committed the viola-
3 tion of subsection (a), in writing, of such
4 determination.

5 “(B) NOTICE OF RELIEF AVAILABLE.—If
6 the Secretary of Labor concludes that there is
7 reasonable cause to believe that a violation of
8 subsection (a) has occurred, the Secretary of
9 Labor shall, together with the notice under sub-
10 paragraph (A)(ii), issue a preliminary order
11 providing the relief prescribed by paragraph
12 (4)(B).

13 “(C) REQUEST FOR HEARING.—Not later
14 than 30 days after the date of receipt of notifi-
15 cation of a determination of the Secretary of
16 Labor under this paragraph, either the person
17 alleged to have committed the violation or the
18 complainant may file objections to the findings
19 or preliminary order, or both, and request a
20 hearing on the record. The filing of such objec-
21 tions shall not operate to stay any reinstatement
22 remedy contained in the preliminary
23 order. Any such hearing shall be conducted ex-
24 pediently, and if a hearing is not requested in
25 such 30-day period, the preliminary order shall

1 be deemed a final order that is not subject to
2 judicial review.

3 “(3) GROUNDS FOR DETERMINATION OF COM-
4 PLAINTS.—

5 “(A) IN GENERAL.—The Secretary of
6 Labor shall dismiss a complaint filed under this
7 subsection, and shall not conduct an investiga-
8 tion otherwise required under paragraph (2),
9 unless the complainant makes a prima facie
10 showing that any behavior described in para-
11 graphs (1) through (4) of subsection (a) was a
12 contributing factor in the unfavorable personnel
13 action alleged in the complaint.

14 “(B) REBUTTAL EVIDENCE.—Notwith-
15 standing a finding by the Secretary of Labor
16 that the complainant has made the showing re-
17 quired under subparagraph (A), no investiga-
18 tion otherwise required under paragraph (2)
19 shall be conducted, if the labor organization
20 demonstrates, by clear and convincing evidence,
21 that the labor organization would have taken
22 the same unfavorable personnel action in the
23 absence of that behavior.

24 “(C) EVIDENTIARY STANDARDS.—The
25 Secretary of Labor may determine that a viola-

1 tion of subsection (a) has occurred only if the
2 complainant demonstrates that any behavior de-
3 scribed in paragraphs (1) through (4) of sub-
4 section (a) was a contributing factor in the un-
5 favorable personnel action alleged in the com-
6 plaint. Relief may not be ordered under sub-
7 paragraph (A) if the labor organization dem-
8 onstrates by clear and convincing evidence that
9 the labor organization would have taken the
10 same unfavorable personnel action in the ab-
11 sence of that behavior.

12 “(4) ISSUANCE OF FINAL ORDERS; REVIEW
13 PROCEDURES.—

14 “(A) TIMING.—Not later than 120 days
15 after the date of conclusion of any hearing
16 under paragraph (2), the Secretary of Labor
17 shall issue a final order providing the relief pre-
18 scribed by this paragraph or denying the com-
19 plaint. At any time before issuance of a final
20 order, a proceeding under this subsection may
21 be terminated on the basis of a settlement
22 agreement entered into by the Secretary of
23 Labor, the complainant, and the person alleged
24 to have committed the violation.

25 “(B) PENALTIES.—

1 “(i) ORDER OF SECRETARY OF
2 LABOR.—If, in response to a complaint
3 filed under paragraph (1), the Secretary of
4 Labor determines that a violation of sub-
5 section (a) has occurred, the Secretary of
6 Labor shall order the person who com-
7 mitted such violation—

8 “(I) to take affirmative action to
9 abate the violation;

10 “(II) to reinstate the complain-
11 ant to his or her former position, to-
12 gether with compensation (including
13 back pay) and restore the terms, con-
14 ditions, and privileges associated with
15 his or her employment; and

16 “(III) to provide compensatory
17 damages to the complainant.

18 “(ii) PENALTY.—If an order is issued
19 under clause (i), the Secretary of Labor, at
20 the request of the complainant, shall assess
21 against the person against whom the order
22 is issued, a sum equal to the aggregate
23 amount of all costs and expenses (includ-
24 ing attorney fees and expert witness fees)
25 reasonably incurred, as determined by the

1 Secretary of Labor, by the complainant
2 for, or in connection with, the bringing of
3 the complaint upon which the order was
4 issued.

5 “(C) PENALTY FOR FRIVOLOUS CLAIMS.—
6 If the Secretary of Labor finds that a complaint
7 under paragraph (1) is frivolous or has been
8 brought in bad faith, the Secretary of Labor
9 may award to the prevailing labor organization
10 a reasonable attorney fee, not exceeding \$1,000,
11 to be paid by the complainant.

12 “(D) DE NOVO REVIEW.—

13 “(i) FAILURE OF THE SECRETARY TO
14 ACT.—If the Secretary of Labor has not
15 issued a final order within 210 days after
16 the date of filing of a complaint under this
17 subsection, or within 90 days after the
18 date of receipt of a written determination,
19 the complainant may bring an action at
20 law or equity for de novo review in the ap-
21 propriate district court of the United
22 States having jurisdiction, which shall have
23 jurisdiction over such an action without re-
24 gard to the amount in controversy, and
25 which action shall, at the request of either

1 party to such action, be tried by the court
2 with a jury.

3 “(ii) PROCEDURES.—A proceeding
4 under clause (i) shall be governed by the
5 same legal burdens of proof specified in
6 paragraph (3). The court shall have juris-
7 diction to grant all relief necessary to
8 make the employee whole, including injunc-
9 tive relief and compensatory damages, in-
10 cluding—

11 “(I) reinstatement with the same
12 seniority status that the employee
13 would have had, but for the discharge
14 or discrimination;

15 “(II) the amount of back pay,
16 with interest; and

17 “(III) compensation for any spe-
18 cial damages sustained as a result of
19 the discharge or discrimination, in-
20 cluding litigation costs, expert witness
21 fees, and reasonable attorney fees.

22 “(E) OTHER APPEALS.—Unless the com-
23 plainant brings an action under subparagraph
24 (D), any person adversely affected or aggrieved
25 by a final order issued under subparagraph (A)

1 may file a petition for review of the order in the
2 United States Court of Appeals for the circuit
3 in which the violation with respect to which the
4 order was issued, allegedly occurred or the cir-
5 cuit in which the complainant resided on the
6 date of such violation, not later than 60 days
7 after the date of the issuance of the final order
8 of the Secretary of Labor under subparagraph
9 (A). Review shall conform to chapter 7 of title
10 5, United States Code. The commencement of
11 proceedings under this subparagraph shall not,
12 unless ordered by the court, operate as a stay
13 of the order. An order of the Secretary of
14 Labor with respect to which review could have
15 been obtained under this subparagraph shall
16 not be subject to judicial review in any criminal
17 or other civil proceeding.

18 “(5) FAILURE TO COMPLY WITH ORDER.—

19 “(A) ACTIONS BY THE SECRETARY.—If
20 any person has failed to comply with a final
21 order issued under paragraph (4), the Secretary
22 of Labor may file a civil action in the United
23 States district court for the district in which
24 the violation was found to have occurred, or in
25 the United States district court for the District

1 of Columbia, to enforce such order. In actions
2 brought under this paragraph, the district
3 courts shall have jurisdiction to grant all appro-
4 priate relief including injunctive relief and com-
5 pensatory damages.

6 “(B) CIVIL ACTIONS TO COMPEL COMPLI-
7 ANCE.—A person on whose behalf an order was
8 issued under paragraph (4) may commence a
9 civil action against the person to whom such
10 order was issued to require compliance with
11 such order. The appropriate United States dis-
12 trict court shall have jurisdiction, without re-
13 gard to the amount in controversy or the citi-
14 zenship of the parties, to enforce such order.

15 “(C) AWARD OF COSTS AUTHORIZED.—
16 The court, in issuing any final order under this
17 paragraph, may award costs of litigation (in-
18 cluding reasonable attorney and expert witness
19 fees) to any party, whenever the court deter-
20 mines such award is appropriate.

21 “(D) MANDAMUS PROCEEDINGS.—Any
22 nondiscretionary duty imposed by this section
23 shall be enforceable in a mandamus proceeding
24 brought under section 1361 of title 28, United
25 States Code.

1 “(d) LIMITATION OF PREEMPTION.—Nothing in this
2 Act shall be construed—

3 “(1) to limit the ability of members of a labor
4 organization to remove their elected or appointed of-
5 ficials through a democratic election conducted
6 among such members; or

7 “(2) to preempt a State or local government
8 from providing additional protections to employees
9 of labor organizations who allege violations of sub-
10 section (a), provided that such protections do not
11 limit the ability of members of a labor organization
12 to remove their elected or appointed officials through
13 a democratic ballot.

14 “(e) UNENFORCEABILITY OF CERTAIN AGREE-
15 MENTS.—

16 “(1) NO WAIVER OF RIGHTS AND REMEDIES.—
17 Notwithstanding any other provision of law, the
18 rights and remedies provided for in this section may
19 not be waived by any agreement, policy, form, or
20 condition of employment, including by any
21 predispute arbitration agreement.

22 “(2) NO PREDISPUTE ARBITRATION AGREE-
23 MENTS.—Notwithstanding any other provision of
24 law, no predispute arbitration agreement shall be

- 1 valid or enforceable to the extent that it requires ar-
- 2 bitration of a dispute arising under this section.”.

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