

115TH CONGRESS
1ST SESSION

S. 2143

To amend the National Labor Relations Act to strengthen protections for employees wishing to advocate for improved wages, hours, or other terms or conditions of employment, to expand coverage under such Act, to provide a process for achieving initial collective bargaining agreements, and to provide for stronger remedies for interference with these rights, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2017

Mrs. MURRAY (for herself, Mr. BROWN, Mr. MURPHY, Mr. CASEY, Mr. BLUMENTHAL, Mr. UDALL, Mr. SANDERS, Mr. CARPER, Mr. REED, Mr. COONS, Mrs. GILLIBRAND, Mr. BOOKER, Mr. VAN HOLLEN, Ms. HARRIS, Mr. HEINRICH, Ms. HIRONO, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the National Labor Relations Act to strengthen protections for employees wishing to advocate for improved wages, hours, or other terms or conditions of employment, to expand coverage under such Act, to provide a process for achieving initial collective bargaining agreements, and to provide for stronger remedies for interference with these rights, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Workplace Action for
3 a Growing Economy Act” or the “WAGE Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The National Labor Relations Act (29
7 U.S.C. 151 et seq.) was enacted to encourage the
8 practice of collective bargaining and to protect the
9 exercise by workers of full freedom of association in
10 the workplace. Since its enactment in 1935, tens of
11 millions of workers have bargained with their em-
12 ployers over wages, benefits, and other terms and
13 conditions of employment and have raised the stand-
14 ard of living for all workers.

15 (2) Through acting collectively and bargaining
16 with their employers, workers who are covered by a
17 collective bargaining agreement earn 25.2 percent
18 more than workers who are not covered by a collec-
19 tive bargaining agreement. They are 40.8 percent
20 more likely to be offered health insurance through
21 work and nearly 5 times more likely to have em-
22 ployer-provided defined benefit pensions. The wage
23 differential is significant for women and people of
24 color. African-American workers covered by a collec-
25 tive bargaining agreement earn 25.1 percent more
26 than African-American workers who are not covered

1 by a collective bargaining agreement, and Latino
2 workers covered by a collective bargaining agreement
3 earn 45.7 percent more than their peers who are not
4 covered by a collective bargaining agreement.
5 Women covered by a collective bargaining agreement
6 earn 32.1 percent more than women who are not
7 covered by a collective bargaining agreement, and
8 the wage gap between men and women is much
9 smaller at workplaces covered by a collective bar-
10 gaining agreement. The wage gains achieved through
11 collective bargaining agreements benefit workers and
12 their communities.

13 (3) Labor organizations and collective bar-
14 gaining ensure that productivity gains are shared by
15 working people. The decline in the percentage of
16 workers covered by collective bargaining has contrib-
17 uted significantly to skyrocketing income inequality
18 and flat wages.

19 (4) As enacted in 1935, the National Labor Re-
20 lations Act protects the right of all workers to join
21 together with their coworkers to advocate for im-
22 provements in their pay, benefits, and working con-
23 ditions, regardless of whether they seek representa-
24 tion by a labor organization. Such Act protects the
25 right of workers to discuss issues like pay and bene-

1 fits without retaliation or interference by employers.
2 However, the awareness of workers regarding their
3 rights under such Act is lacking, and many employ-
4 ers maintain policies that restrict the ability of
5 workers to discuss workplace issues with each other,
6 directly contravening these rights. Research shows
7 that more than one-half of workers report that their
8 employers have policies that prohibit or discourage
9 workers from discussing pay with their coworkers.
10 These policies and practices impede workers from
11 exercising their rights under such Act and impair
12 their freedom of association at work.

13 (5) Retaliation by employers against workers
14 who exercise their rights under the National Labor
15 Relations Act persists at troubling levels. Employers
16 routinely fire workers for trying to form a labor or-
17 ganization at their workplace. In one out of 3 orga-
18 nizing campaigns, one or more workers are dis-
19 charged for supporting or joining a labor organiza-
20 tion. In fiscal year 2014, the National Labor Rela-
21 tions Board obtained reinstatement orders for 3,240
22 workers and obtained back pay awards totaling
23 \$43,800,000 for workers who faced illegal retaliation
24 for exercising their rights.

1 (6) The current remedies are inadequate to
2 deter employers from violating the National Labor
3 Relations Act. The remedies and penalties for viola-
4 tions of such Act are far weaker than for other labor
5 and employment laws, including the Civil Rights Act
6 of 1964 (42 U.S.C. 2000a et seq.). Unlike other
7 major labor and employment laws, there are no civil
8 penalties for violations of the National Labor Rela-
9 tions Act. Workers cannot go to court to pursue re-
10 lief on their own and must rely on the National
11 Labor Relations Board to prosecute their case.

12 (7) Unlike orders of other Federal agencies, the
13 orders of the National Labor Relations Board are
14 not enforced until the Board seeks enforcement from
15 the Court of Appeals. As far back as 1969, the Ad-
16 ministrative Conference of the United States recog-
17 nized that the absence of a self-enforcing agency
18 order imposes wasteful delays in the enforcement of
19 the National Labor Relations Act, and recommended
20 that the Board's orders be made self-enforcing like
21 those of other agencies. Congress did not act upon
22 this recommendation, and delays in the Board's en-
23 forcement remain a problem for such Act to be an
24 effective law.

1 (8) Many workers do not currently enjoy the
2 protections of the National Labor Relations Act be-
3 cause they are excluded from coverage under such
4 Act or interpretations of such Act.

5 (9) Too often, workers who choose to form
6 labor organizations are frustrated when their em-
7 ployers use delay and other tactics to avoid reaching
8 an initial collective bargaining agreement. Estimates
9 are that in as many as half of new organizing cam-
10 paigns, workers and their employers fail to reach an
11 initial collective bargaining agreement.

12 (10) In order to make the right to collective
13 bargaining and freedom of association in the work-
14 place a reality for workers, the National Labor Rela-
15 tions Act must be strengthened.

16 **SEC. 3. PURPOSES.**

17 The purposes of this Act are—

18 (1) to strengthen protections for employees en-
19 gaged in collective bargaining to improve their
20 wages, hours, and terms and conditions of employ-
21 ment;

22 (2) to expand coverage under the National
23 Labor Relations Act (29 U.S.C. 151 et seq.) to more
24 employees;

1 (3) to provide a process by which workers and
2 employers can successfully negotiate an initial collec-
3 tive bargaining agreement;

4 (4) to provide for stronger remedies for employ-
5 ees who face retaliation, discrimination, or other in-
6 terference with the legal right of the employees to
7 engage in collective bargaining;

8 (5) to provide for penalties against employers
9 who violate the rights of employees to engage in col-
10 lective bargaining, in order to act as a meaningful
11 deterrent against violating the law; and

12 (6) to streamline the enforcement procedures of
13 the National Labor Relations Board to provide for
14 more timely and effective enforcement of the law.

15 **SEC. 4. STRENGTHENING REMEDIES AND ENFORCEMENT**
16 **FOR EMPLOYEES EXERCISING THEIR RIGHTS**
17 **AT WORK.**

18 (a) **BACK PAY.**—Section 10(c) of the National Labor
19 Relations Act (29 U.S.C. 160(c)) is amended by striking
20 “*And provided further,*” and inserting “*Provided further,*
21 That if the Board finds that an employer has discrimi-
22 nated against an employee in violation of paragraph (3)
23 or (4) of section 8(a) or has committed a violation of sec-
24 tion 8(a) that results in the discharge of an employee or
25 other serious economic harm to an employee, the Board

1 shall award the employee back pay and an additional
 2 amount as liquidated damages equal to 2 times the
 3 amount of such back pay, without any reduction (includ-
 4 ing any reduction based on the employee’s interim earn-
 5 ings or failure to earn interim earnings): *Provided fur-*
 6 *ther,*”.

7 (b) CIVIL PENALTIES.—Section 12 of the National
 8 Labor Relations Act (29 U.S.C. 162) is amended—

9 (1) by striking “SEC. 12. Any person” and in-
 10 sserting the following:

11 **“SEC. 12. PENALTIES.**

12 “(a) VIOLATIONS FOR INTERFERENCE WITH
 13 BOARD.—Any person”; and

14 (2) by adding at the end the following:

15 “(b) VIOLATIONS OF POSTING REQUIREMENTS.—If
 16 the Board, or any agent or agency designated by the
 17 Board for such purposes, determines that an employer has
 18 knowingly violated section 8(h), the Board shall—

19 “(1) state the findings of fact supporting such
 20 determination;

21 “(2) issue and cause to be served on such em-
 22 ployer an order requiring that such employer post
 23 the notice described in such section and provide the
 24 information to new employees described in such sec-
 25 tion; and

1 “(3) impose a civil penalty in an amount deter-
2 mined appropriate by the Board, except that in no
3 case shall the amount of the such penalty exceed
4 \$500 for each such violation.

5 “(c) VIOLATIONS CAUSING SERIOUS ECONOMIC
6 HARM TO EMPLOYEES.—

7 “(1) IN GENERAL.—Any employer who commits
8 an unfair labor practice within the meaning of para-
9 graph (3) or (4) of section 8(a) or a violation of sec-
10 tion 8(a) that results in the discharge of an em-
11 ployee or other serious economic harm to an em-
12 ployee shall, in addition to any remedy ordered by
13 the Board, be subject to a civil penalty. Such penalty
14 shall be in an amount not to exceed \$50,000 for
15 each violation, except that the Board shall double
16 the amount of such penalty, to an amount not to ex-
17 ceed \$100,000, in any case where the employer has
18 within the preceding 5 years committed another
19 such violation.

20 “(2) CONSIDERATIONS.—In determining the
21 amount of any civil penalty under this subsection,
22 the Board shall consider—

23 “(A) the gravity of the unfair labor prac-
24 tice;

1 “(B) the impact of the unfair labor prac-
2 tice on the charging party, on other persons
3 seeking to exercise rights guaranteed by this
4 Act, and on the public interest; and

5 “(C) the size of the employer.

6 “(3) DIRECTOR AND OFFICER LIABILITY.—If
7 the Board determines, based on the particular facts
8 and circumstances presented, that a director or offi-
9 cer’s personal liability is warranted, a civil penalty
10 for a violation described in this subsection may also
11 be assessed against any director or officer of the em-
12 ployer who directed or committed the violation, or
13 had established a policy that led to such a violation,
14 or had knowledge of, and the authority to prevent,
15 the violation and failed to prevent such violation.

16 “(d) JOINT AND SEVERAL LIABILITY.—An employer
17 shall be jointly and severally liable under this Act for any
18 violations of this Act involving one or more employees sup-
19 plied by another employer to perform labor within the em-
20 ployer’s usual course of business.”.

21 (c) INJUNCTIONS AGAINST UNFAIR LABOR PRAC-
22 TICES INVOLVING DISCHARGE OR OTHER SERIOUS ECO-
23 NOMIC LOSS.—

1 (1) IN GENERAL.—Section 10(j) of the National
2 Labor Relations Act (29 U.S.C. 160(j)) is amend-
3 ed—

4 (A) by inserting “(1)” before “The Board
5 shall”; and

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

7 “(2) Notwithstanding subsections (l) and (m), when-
8 ever it is charged that an employer has engaged in an un-
9 fair labor practice within the meaning of section 8(a)(1)
10 or section 8(a)(3) that significantly interferes with, re-
11 strains, or coerces employees in the exercise of the rights
12 guaranteed under section 7 or involves discharge or other
13 serious economic harm to an employee, the preliminary in-
14 vestigation of such charge shall be made forthwith and
15 given priority over all other cases except cases of like char-
16 acter in the office where it is filed or to which it is re-
17 ferred. If, after such investigation, the officer or regional
18 attorney to whom the matter may be referred has reason-
19 able cause to believe such charge is true and that a com-
20 plaint should issue, he shall bring a petition for appro-
21 priate temporary relief or restraining order as set forth
22 in paragraph (1). The district court shall grant the relief
23 requested unless the court concludes that there is no rea-
24 sonable likelihood that the Board will succeed on the mer-
25 its of the Board’s claim.”.

1 (d) PRIVATE ENFORCEMENT.—Section 12 of the Na-
2 tional Labor Relations Act (29 U.S.C. 162), as amended
3 by subsection (b), is further amended by adding at the
4 end the following:

5 “(e) RIGHT TO CIVIL ACTION.—

6 “(1) IN GENERAL.—Any person who is injured
7 by reason of any violation of paragraph (1) or (3)
8 of section 8(a) may, in addition to or in lieu of filing
9 a charge alleging such unfair labor practice with the
10 Board in accordance with this Act, bring a civil ac-
11 tion in the appropriate district court of the United
12 States against the employer within 6 months of the
13 violation.

14 “(2) AVAILABLE RELIEF.—Relief granted in an
15 action under paragraph (1) may include any relief
16 authorized by section 706(g) of the Civil Rights Act
17 of 1964 (42 U.S.C. 2000e–5(g)) or by section
18 1977A(b) of the Revised Statutes (42 U.S.C.
19 1981a(b)).

20 “(3) ATTORNEY’S FEE.—In any action or pro-
21 ceeding under this subsection, the court may allow
22 the prevailing party a reasonable attorney’s fee (in-
23 cluding expert fees) as part of the costs.”.

24 (e) ENSURING FAIR REMEDIES FOR ALL WORK-
25 ERS.—Section 10(c) of the National Labor Relations Act

1 (29 U.S.C. 160(c)) is amended by striking “suffered by
2 him:” and inserting “suffered by such employee: *Provided*
3 *further*, That back pay shall not be denied on the basis
4 that the employee is, or was during the time of relevant
5 employment or during the back pay period, an unauthor-
6 ized alien as defined in section 274A(h)(3) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1324a(h)(3)) or any
8 other provision of Federal law relating to the unlawful em-
9 ployment of aliens:”.

10 (f) REMEDYING ELECTION INTERFERENCE.—Section
11 9(c) of the National Labor Relations Act (29 U.S.C.
12 159(c)) is amended—

13 (1) by redesignating paragraphs (4) and (5) as
14 paragraphs (6) and (7), respectively; and

15 (2) by inserting after paragraph (3) the fol-
16 lowing:

17 “(4) BARGAINING ORDER BASED ON MAJORITY
18 OF VOTES.—If the Board finds that, in an election
19 under paragraph (1), a majority of the valid votes
20 cast in a unit appropriate for purposes of collective
21 bargaining have been cast in favor of representation
22 by the labor organization, the Board shall issue an
23 order requiring the employer to collectively bargain
24 with the labor organization in accordance with sec-
25 tion 8(d). Such order shall be deemed an order

1 under section 10(c), without need for a determina-
2 tion of an unfair labor practice.

3 “(5) DISMISSAL; BARGAINING ORDERS IN
4 OTHER SITUATIONS.—

5 “(A) DISMISSAL.—If the Board finds that,
6 in an election under paragraph (1), a majority
7 of the valid votes cast in a unit appropriate for
8 purposes of collective bargaining have not been
9 cast in favor of representation by the labor or-
10 ganization, the Board shall dismiss the petition,
11 subject to subparagraphs (B) and (C).

12 “(B) SPECIAL RULES FOR EMPLOYER VIO-
13 LATIONS OR INTERFERENCE.—In any case
14 where a majority of the valid votes cast in a
15 unit appropriate for purposes of collective bar-
16 gaining have not been cast in favor of represen-
17 tation by the labor organization and the Board
18 determines that the election should be set aside
19 because the employer has committed a violation
20 of this Act or otherwise interfered with a fair
21 election, and the employer has not dem-
22 onstrated that the violation or other inter-
23 ference is unlikely to have affected the outcome
24 of the election, the Board shall, without order-
25 ing a new or rerun election, issue an order re-

1 quiring the employer to bargain with the labor
2 organization in accordance with section 8(d) if,
3 at any time during the period beginning 1 year
4 preceding the date of the commencement of the
5 election and ending on the date upon which the
6 Board makes the determination of a violation or
7 other interference under subparagraph (A), a
8 majority of the employees in the bargaining
9 unit have signed authorizations designating the
10 labor organization as their collective bargaining
11 representative.

12 “(C) OTHER ELECTION INTERFERENCE.—
13 In any case where the Board determines that
14 an election under this paragraph should be set
15 aside, the Board shall direct a rerun election
16 with appropriate additional safeguards nec-
17 essary to ensure a fair election process, except
18 in cases where the Board issues a bargaining
19 order under subparagraph (B).”.

20 **SEC. 5. MODERNIZATION.**

21 (a) PREVENTION OF UNFAIR LABOR PRACTICES.—
22 Section 8 of the National Labor Relations Act (29 U.S.C.
23 158) is amended by adding at the end the following:

24 “(h) POSTINGS OF NOTICE.—

1 “(1) IN GENERAL.—The Board shall promul-
2 gate regulations requiring each employer to post and
3 maintain, in conspicuous places where notices to em-
4 ployees and applicants for employment are custom-
5 arily posted both physically and electronically, a no-
6 tice setting forth the rights and protections afforded
7 employees under this Act. The Board shall provide
8 to employers the form and text of such notice.

9 “(2) NOTIFICATION OF NEW EMPLOYEES.—The
10 Board shall promulgate regulations requiring em-
11 ployers to notify each new employee of the informa-
12 tion contained in the notice described in paragraph
13 (1).”.

14 (b) ENFORCING COMPLIANCE WITH ORDERS OF THE
15 BOARD.—

16 (1) IN GENERAL.—Section 10 of the National
17 Labor Relations Act (29 U.S.C. 160) is amended—

18 (A) by striking subsection (e);

19 (B) by redesignating subsection (d) as sub-
20 section (e); and

21 (C) by inserting after subsection (c) the
22 following:

23 “(d) ENFORCING COMPLIANCE WITH ORDERS OF
24 THE BOARD.—

1 “(1) IN GENERAL.—Each order of the Board
2 shall take effect upon issuance of such order, unless
3 otherwise directed by the Board, and shall remain in
4 effect unless modified by the Board or unless a court
5 of competent jurisdiction issues a superseding order.

6 “(2) VIOLATIONS OF ORDERS BY THE BOARD.—
7 Any person who fails or neglects to obey an order
8 of the Board shall forfeit and pay to the Board a
9 civil penalty of not more than \$10,000 for each vio-
10 lation, which shall accrue to the Board and may be
11 recovered in a civil action brought by the Board in
12 the district court of the United States in which the
13 unfair labor practice or other subject of the order
14 occurred, or in which such person or entity resides
15 or transacts business. No such civil action may be
16 brought by the Board prior to 30 days after the
17 issuance of the order. Each separate violation of an
18 order shall be a separate offense, except that, in the
19 case of a violation in which a person fails to obey
20 or neglects to obey a final order of the Board, each
21 day such failure or neglect continues shall be
22 deemed a separate offense.

23 “(3) PROCEDURE.—If, after having provided a
24 person or entity with notice and an opportunity to
25 be heard regarding a request under paragraph (2)

1 for the enforcement of an order, the court deter-
2 mines that the order was regularly made and duly
3 served, and that the person or entity is in disobe-
4 dience of the same, the court shall enforce obedience
5 to such order by a writ of injunction or other proper
6 process, mandatory or otherwise, to—

7 “(A) restrain such person or entity or the
8 officers, agents, or representatives of such per-
9 son or entity, from further disobedience of such
10 order; or

11 “(B) enjoin upon such person or entity, of-
12 ficers, agents, or representatives obedience to
13 the same.”; and

14 (D) in subsection (f)—

15 (i) by striking “Any” and all that fol-
16 lows through “the relief sought” and in-
17 serting the following: “(1) Within 30 days
18 of the issuance of a final order of the
19 Board granting or denying in whole or in
20 part the relief sought, any person ag-
21 grieved by such order”;

22 (ii) by striking “proceed in the same
23 manner as in the case of an application by
24 the Board under subsection (e) of this sec-

1 tion” and inserting “proceed as provided
2 under paragraph (2)”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(2) No objection that has not been urged before the
6 Board, its member, agent, or agency, shall be considered
7 by the court, unless the failure or neglect to urge such
8 objection shall be excused because of extraordinary cir-
9 cumstances. The findings of the Board with respect to
10 questions of fact if supported by substantial evidence on
11 the record considered as a whole shall be conclusive. If
12 either party shall apply to the court for leave to adduce
13 additional evidence and shall show to the satisfaction of
14 the court that such additional evidence is material and
15 that there were reasonable grounds for the failure to ad-
16 duce such evidence in the hearing before the Board, its
17 member, agent, or agency, the court may order such addi-
18 tional evidence to be taken before the Board, its member,
19 agent, or agency, and to be made a part of the record.
20 The Board may modify its findings as to the facts, or
21 make new findings, by reason of additional evidence so
22 taken and filed, and it shall file such modified or new find-
23 ings, which findings with respect to questions of fact if
24 supported by substantial evidence on the record considered
25 as a whole shall be conclusive, and shall file its rec-

1 ommendations, if any, for the modification or setting aside
2 of its original order. Upon the filing of the record with
3 it the jurisdiction of the court shall be exclusive and its
4 judgment and decree shall be final, except that the same
5 shall be subject to review by the appropriate United States
6 court of appeals if application was made to the district
7 court as hereinabove provided, and by the Supreme Court
8 of the United States upon writ of certiorari or certification
9 as provided in section 1254 of title 28, United States
10 Code.”.

11 (2) CONFORMING AMENDMENTS.—The National
12 Labor Relations Act is amended—

13 (A) in section 9(d) (29 U.S.C. 29 U.S.C.
14 159(d)), by striking “10(e) or”;

15 (B) in section 10(g) (29 U.S.C. 160(g)),
16 by striking “(e) or”; and

17 (C) in section 18 (29 U.S.C. 168), by
18 striking “(e) or”.

19 **SEC. 6. COVERAGE.**

20 (a) ENSURING THAT EMPLOYEES ARE NOT WRONG-
21 LY CLASSIFIED AS SUPERVISORS AND DENIED THE PRO-
22 TECTIONS OF THE NATIONAL LABOR RELATIONS ACT.—
23 Section 2(11) of the National Labor Relations Act (29
24 U.S.C. 152(11)) is amended by—

1 (1) inserting “and for a majority of the individ-
2 ual’s worktime” after “interest of the employer”;

3 (2) striking “assign,”; and

4 (3) striking “or responsibly to direct them,”.

5 (b) ENSURING THAT EMPLOYEES ARE NOT
6 MISCLASSIFIED AS INDEPENDENT CONTRACTORS AND
7 DENIED THE PROTECTIONS OF THE NATIONAL LABOR
8 RELATIONS ACT.—Section 2(3) of the National Labor Re-
9 lations Act (29 U.S.C. 152(3)) is amended by adding at
10 the end the following: “An individual performing any serv-
11 ice shall not have the status of an independent contractor
12 unless—

13 “(1) the individual is free from control and di-
14 rection in connection with the performance of the
15 service, both under the contract for the performance
16 of service and in fact;

17 “(2) the service is performed outside the usual
18 course of the business of the employer; and

19 “(3) the individual is customarily engaged in an
20 independently established trade, occupation, profes-
21 sion, or business of the same nature as that involved
22 in the service performed.”.

1 **SEC. 7. FACILITATING INITIAL COLLECTIVE BARGAINING**
2 **AGREEMENTS.**

3 Section 8 of the National Labor Relations Act (29
4 U.S.C. 158), as amended by section 5, is further amended
5 by adding at the end the following:

6 “(i) INITIAL COLLECTIVE BARGAINING AGREE-
7 MENT.—Whenever collective bargaining is for the purpose
8 of establishing an initial agreement following certification
9 or recognition, the provisions of subsection (d) shall be
10 modified as follows:

11 “(1) Not later than 10 days after receiving a
12 written request for collective bargaining from an in-
13 dividual or labor organization that has been newly
14 organized or certified as a representative under sec-
15 tion 9(a), or within such further period as the par-
16 ties agree upon, the parties shall meet and com-
17 mence to bargain collectively and shall make every
18 reasonable effort to conclude and sign a collective
19 bargaining agreement.

20 “(2) If after the expiration of the 90-day period
21 beginning on the date on which bargaining is com-
22 menced, or such additional period as the parties may
23 agree upon, the parties have failed to reach an
24 agreement, either party may notify the Federal Me-
25 diation and Conciliation Service of the existence of
26 a dispute and request mediation. Whenever such a

1 request is received, it shall be the duty of the Service
2 promptly to put itself in communication with the
3 parties and to use its best efforts, by mediation and
4 conciliation, to bring them to agreement.

5 “(3) If after the expiration of the 30-day period
6 beginning on the date on which the request for me-
7 diation is made under paragraph (2), or such addi-
8 tional period as the parties may agree upon, the
9 Service is not able to bring the parties to agreement
10 by conciliation, the Service shall refer the dispute to
11 a tripartite arbitration panel established in accord-
12 ance with such regulations as may be prescribed by
13 the Service. The tripartite arbitration panel shall
14 render a decision settling the dispute and such deci-
15 sion shall be binding upon the parties for a period
16 of 2 years, unless amended during such period by
17 written consent of the parties.”.

○