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Labor - Team Act

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

Team Act

The Hon. James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Jeffords:

We understand that your Committee may consider S. 295, the "Teamwork for Employees and Managers Act," on Wednesday, February 26. I am writing to emphasize the Administration's opposition to S. 295, and to urge your Committee not to order the bill reported.

This bill would amend section 8(a)(2) of the National Labor Relations Act (NLRA) to broadly expand employers' abilities to establish and control employee involvement programs. Section 8(a)(2) states, in part, that it is an unfair labor practice for an employer to dominate or interfere with the formation or administration of any labor organization. By prohibiting employer domination and interference, section 8(a)(2) protects the right of employees to choose their own independent representative to advance their interests.

The Administration strongly supports further labor-management cooperation within the broad parameters allowed under current law. Recent decisions of the National Labor Relations Board (NLRB) have helped clarify the broad legal boundaries of labor-management teamwork, and the NLRB can be expected to provide additional guidance in the exercise of its independent authority. Your Committee's hearing showed that employers currently do have the latitude to cooperate with employee teams. The employee groups described by IBM, for example, were clearly legal, and the IBM team that testified has never found it necessary to discuss wages and hours, showing that productivity and quality teams need not run afoul of the law. I note that the NLRB has ordered only four companies a year, on average, to terminate illegal employee involvement schemes since *Electromation* was decided, and that there is no other penalty for violation of section 8(a)(2).

Rather than promoting genuine teamwork, S. 295 would undermine the delicate system of checks and balances between employer and employee rights and obligations that has served this country so well for six decades. It would do this by allowing employers to establish company unions where no union currently exists and by permitting company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging workplace cooperation, this bill would abolish basic protections that help ensure independent democratic representation in the workplace.

As several witnesses before the Committee testified, section 8(a)(2) is not the place to begin reform of the National Labor Relations Act. Rather, they -- as did the Dunlop Commission before them -- recommend changes in the law to facilitate the free choice of employees to be represented by an independent union and to deter unfair labor practices by employers, which have become routine and widespread. The Administration agrees with that approach.

For the foregoing reasons, the Administration opposes the enactment of S. 295. If S. 295 were presented to the President, I would recommend that he veto the bill.

Sincerely,

CYNTHIA A. METZLER
Acting Secretary of Labor

For Immediate Release July 30, 1996

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval, H.R. 743, the "Teamwork for Employees and Managers Act of 1995." This act would undermine crucial employee protections.

I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

Current law provides for a wide variety of cooperative workplace efforts. It permits employers to work with employees in quality circles to improve quality, efficiency, and productivity. Current law also allows employers to delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96 percent of large employers already have established such programs.

I strongly support further labor-management cooperation within the broad parameters allowed under current law. To the extent that recent National Labor Relations Board (NLRB) decisions have created uncertainty as to the scope of permissible cooperation, the NLRB, in the exercise of its independent authority, should provide guidance to clarify the broad legal boundaries of labor-management teamwork. The Congress rejected a more narrowly defined proposal designed to accomplish that objective.

Instead, this legislation, rather than promoting genuine teamwork, would undermine the system of collective bargaining that has served this country so well for many decades. It would do this by allowing employers to establish company unions where no union currently exists and permitting company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging true workplace cooperation, this bill would abolish protections that ensure independent and democratic representation in the workplace.

True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance. Any ambiguities in this situation should be resolved, but without weakening or eliminating the fundamental rights of employees to collective bargaining.

WILLIAM J. CLINTON

One Hundred Fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, one thousand nine hundred and ninety-six

An Act

To amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Teamwork for Employees and Managers Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

(2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as "Employee Involvement", which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;

(5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham "company unions" to avoid unionization; and

(7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated "company unions".

(b) PURPOSES.—The purpose of this Act is—

(1) to protect legitimate Employee Involvement programs against governmental interference;

(2) to preserve existing protections against deceptive, coercive employer practices; and

(3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: ": *Provided further*, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;".

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.

Newt Gingrich

Speaker of the House of Representatives.

Strom Thurmond

~~*Vice President of the United States and*~~
President of the Senate pro tempore

II

105TH CONGRESS
1ST SESSION

S. 295

To amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 1997

Mr. JEFFORDS (for himself, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. ASHCROFT, Mr. GORTON, Mr. GRASSLEY, Mr. NICKLES, Mr. MACK, and Mr. SHELBY) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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A BILL

To amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Teamwork for Employees and Managers Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.- Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

(2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as "Employee Involvement", which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;

(5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham "company unions" to avoid unionization; and

(7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated "company unions".

(b) PURPOSES.—The purpose of this Act is—

(1) to protect legitimate Employee Involvement programs against governmental interference;

(2) to preserve existing protections against deceptive, coercive employer practices; and

(3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: ": *Provided further*, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;".

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.

O

File: Labor-Team Act

URGENT

Total Pages: 3

LRM ID: CJB3

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, March 11, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: **Proposed Statement of Administration Policy on S295 Teamwork for Employees and Managers Act of 1997**

DEADLINE: **10:00 a.m. Thursday, March 13, 1997**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: S. 295 is scheduled for consideration by the Senate during the week of March 17th.

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LRM ID: CJB3 SUBJECT: Proposed Statement of Administration Policy on S295 Teamwork for Employees and Managers Act of 1997

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the reponse of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this reponse sheet

DRAFT – NOT FOR RELEASE

March , 1997
(Senate)

S. 295 - Teamwork for Employees and Managers Act
(Jeffords (R) VT and cosponsors)

The Administration opposes S. 295. If the bill were presented to the President, the Acting Secretary of Labor would recommend that the bill be vetoed.

The Administration supports workplace flexibility and high-performance workplace practices that promote cooperative labor-management relations. The National Labor Relations Act currently permits the creation of employee involvement programs that address workplace quality, productivity, and efficiency, with appropriate employee protections.

S. 295, however, would undermine these protections. The bill would allow employers to establish: (1) company unions where no union currently exists; and (2) alternative, company-dominated unions where employees are in the process of determining whether to be represented by a labor organization. These company-dominated unions would undermine a 60-year tradition of collective bargaining in this country and could undermine employees' rights to elect their own representatives. [Rather than encouraging true workplace cooperation, S. 295 would abolish protections that ensure independent and democratic representation in the workplace.]

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