



## Legislative Bulletin.....April 10, 2013

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H.R. 1120—Preventing Greater Uncertainty in Labor-Management Relations Act

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### H.R. 1120 — Preventing Greater Uncertainty in Labor-Management Relations Act (Roe, R-TN)

**Order of Business:** The legislation is expected to be considered on Thursday, April 11, 2013, under a [closed rule](#). There will be one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce.

**Summary:** [H.R. 1120](#) prevents the NLRB from taking any action that that requires a quorum until:

1. The Board has a quorum of three members that have been confirmed by the Senate,
2. The Supreme Court rules on the constitutionality of President Obama’s January 2012 appointments to the Board, or
3. The adjournment sine die of the first session of the 113<sup>th</sup> Congress.

The restrictions of the Act terminate when any of the three conditions are met. In addition, H.R. 1120 prohibits the Board from implementing any decisions reached after January 4, 2012, until they can be approved by a constitutionally-confirmed quorum of the Board.

If the Act terminates because the Board either reaches a quorum of members that have been confirmed by the Senate or the first session of Congress ends, then all actions previously taken by the Board have to be approved by a constitutionally-confirmed quorum of the Board.

The Act does nothing to prevent workers from petitioning the NLRB for union elections. It also continues to allow any affected party (worker, union, or employer) to file an unfair labor charge with an NLRB regional office.

**Background:** On January 4, 2012, President Obama made three appointments to the National Labor Relations Board (NLRB) without the “advice and consent” of the Senate. President Obama argued that the three appointments were “recess” appointments and constitutional. The U.S. Court of Appeals for the District of Columbia, in *Noel Canning v. National Labor Relations Board*, disagreed and unanimously [ruled](#) on January 25, 2013, that the recess appointments were unconstitutional. Furthermore, the court ruled that the Board did not have a quorum of three, stating: “It is undisputed that the Board must have a quorum of three in order to take action.”

However, NLRB Chairman Mark Gaston Pearce [publically stated](#) that the NLRB will continue to issue decisions, ignoring the U.S. District Court of Appeals for D.C. ruling. The NLRB [stated](#) that it will appeal *Canning* to the Supreme Court but has not yet filed an appeal. The NLRB has until April 25, 2013 to file the appeal.

**Additional Background:** See House Committee on Education and the Workforce Committee Press Release regarding H.R. 1120 [here](#).

**RSC Bonus Fact:** The NLRB currently has only one Board member that has been confirmed by the Senate, Chairman Mark Pearce. President Obama re-nominated Sharron Black and Richard Griffin. Terence Flynn resigned.

**Committee Action:** House Committee on Education and Workforce Subcommittee on Health, Education and Workforce Training Chairman Phil Roe (R-TN) introduced H.R. 1120 on March 20, 2013. The [Committee](#) reported out H.R. 1120 favorably by a vote of 23 Yeas and 16 Noes, with no Republicans voting against it.

**Administration Position:** The Obama Administration released a [Statement of Administration Policy \(SAP\)](#) stating that it “strongly opposes H.R. 1120.”

**Cost to Taxpayers:** No Congressional Budget Office (CBO) cost estimate for H.R. 1120 has been released.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**What Is the Constitutional Authority for the Legislation?:** The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the follow: Article I, section 8 of the Constitution of the United States.” See statement [here](#).

**Outside Organizations In Support:** Heritage Action has included H.R. 1120 vote as a “key vote” on their scorecard. Also supporting are the Coalition for a Democratic Workplace (CDW), Associated Builders and Contractors, Inc. (ABC), National Association of Manufacturers (NAM), National Federation of Independent Business (NFIB), National School Transportation Association (NSTA), National Council of Chain Restaurants (NCCR), National Roofing Contractors Association (NRCA), National Restaurant Association, National Franchise

Association (NFA), National Retail Federation (NRF), Society for Human Resource Management (SHRM), Independent Electrical Contractors (IEC).

**Outside Organizations Against:** American Federation of Labor and Congress of Industrialized Organizations (AFL-CIO), American Federation of State, County and Municipal Employees (AFSCME), United Association, etc.

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