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Faster is Not Always Better: House Passes Bill Seeking Radical Change in First Contract Bargaining

Labor Relations Update on **June 11, 2026**

In a surprise move, on June 9, 2026, the U.S. House of Representatives passed the Faster Labor Contracts Act ("FLCA") by a vote of 230-193, sending the bill to the Senate. The legislation—passed without Republican leadership support and via a discharge petition—seeks a dramatic restructuring of the National Labor Relations Act ("NLRA").

Since its passage in 1935, Section 8(d) of the NLRA has imposed a good-faith bargaining obligation on both employers and unions once a union becomes the designated bargaining representative. However, a core principle codified in the statute is that no party was ever required to accept any specific proposal or make any particular concession—a final contract could only be reached through agreement. The National Labor Relations Board ("NLRB") has also long recognized that upon reaching a good-faith impasse, the NLRA entitles an employer to unilaterally implement its last, best, and final offer.

If passed by the Senate and signed by the President, for the first time in over 80 years of federally governed labor law, an employer could be forced to accept the terms of a collective bargaining agreement ("CBA") directed by a panel of arbitrators if a first contract is not reached within newly created statutory deadlines. The bill also appears to eliminate the ability of all employers in *any* contract negotiation to implement their final offers upon impasse—a tool that has been a basic element of labor relations for generations.

First Contract "Interest Arbitration"

Negotiating a first contract is complicated and intricate, requiring the parties to address the full range of mandatory subjects of bargaining from scratch. New contracts typically take 18 to 24 months to negotiate. The FLCA would remove the parties' ability to negotiate meaningfully and instead impose a strict timeline:

- The parties must meet within 10 days of an initial request to bargain following the union's certification.
- The parties then have 90 days to reach agreement on the entire contract.
- If there is no agreement after the initial 90-day period, either party can request mediation from the Federal Mediation and Conciliation Service ("FMCS")—an agency that has seen an exodus of mediators over the past 18 months.
- After 30 days of mediation, either party may invoke "interest arbitration"—meaning a panel of three arbitrators (one selected by the employer, one by the union, and one mutually selected neutral) will determine and impose the terms of the first contract, which will become the baseline for all future contracts.

The bill would grant arbitrators authority to determine all terms of the parties' first CBA based on five factors: (i) the employer's financial status and prospects; (ii) the size and type of the employer's business; (iii) cost of living; (iv) the employees' "ability to sustain themselves, their families, and their dependents" based on compensation received from the employer; and (v) wages and benefits of comparable employers. The resulting CBA would remain in effect for two years.

Removing the Ability to Implement Upon Impasse

The FLCA also appears to prohibit unilateral implementation of an employer's last, best, and final offer—whether during negotiations for a first contract or for a successor agreement. The bill seeks to add to Section 8(d) of the NLRA an obligation "to maintain current wages, hours, and terms and conditions of employment pending an agreement." While the NLRA has always required maintaining the status quo while negotiations are ongoing, this new language appears to extend that obligation in perpetuity—even if the parties reach a good-faith bargaining impasse.

While the FLCA's formal legislative history is not yet available, the 2021 Protecting the Right to Organize ("PRO") Act contained virtually identical language. According to the PRO Act's legislative history, that language was inserted as "[a] protection for good faith collective bargaining to prevent employers from declaring an impasse and unilaterally implementing new terms or conditions of employment." The PRO Act failed to pass the Senate.

A Dramatic Departure That Disregards the Reality of Bargaining

If enacted, the FLCA would be an unprecedented change to federal labor law and create new challenges for employers and unions alike. Put simply, four months is rarely enough time to go from a blank page to a fully negotiated CBA—for both employers and unions. Beyond scheduling issues and the obvious need to keep a business running rather than bargaining around the clock, there are too many topics requiring in-depth discussion, negotiation, and drafting to reach agreement in that timeframe.

Moreover, the bargaining process changes significantly when a third party may intervene and determine the contract's terms, often creating negative incentives to reach agreement. Rather than relying on longstanding bargaining leverage and economic tools available to each party (such as strikes and public relations campaigns), the prospect of inevitable third-party intervention may inhibit productive bargaining. Unions, for example, may have less incentive to reach agreement quickly if they believe arbitration will yield more favorable terms.

The bill also raises questions about the lawfulness of strikes and lockouts during these first contract negotiations. Typically, where parties agree to interest arbitration (or where it exists in the public sector) it is premised on a mutual commitment of labor peace, *i.e.*, the union will not go on strike, and the employer will not lock employees out while negotiations are ongoing and the arbitration is pending. However, in the private sector and in the absence of such a mutual commitment, both such economic weapons may be used offensively in furtherance of a party's bargaining demand. The FLCA does not explain if or how a party may exercise such an economic weapon in furtherance of their bargaining position if the dispute will be submitted to an FMCS panel for binding interest arbitration.

Equally troubling is the FLCA's potential impact on unilateral implementation. Unilateral implementation upon reaching a good-faith bargaining impasse has long been a vital bargaining tool for employers. The possibility of implementing terms when negotiations stall has been an effective tool to encourage the parties to continue making movement towards the other. Eliminating this option will alter bargaining leverage and strategies particularly in successor contracts where the FLCA's temporal framework does not apply.

Importantly, the FLCA is just a bill at this stage, and its prospect of passage is certainly questionable in the Senate. While there is currently an unusually large bipartisan effort by lawmakers to strengthen organized labor's position during the unionization and collective bargaining process, it is unclear whether the bill could garner the 60-vote requirement to get to a final vote on the Senate floor or whether the Senate Republican leadership would even attempt to do so.

We will continue to keep a close eye on the status of the FLCA as it proceeds to the Senate.

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