

AMENDMENT TO H.R. 842
OFFERED BY MS. FOXX OF NORTH CAROLINA

Page 33, line 13, strike “Section 203(c)” and insert the following:

1 (a) REPORT OF EMPLOYERS.—Section 203(c)

Page 34, line 2, strike the period at the end.

Page 34, after line 2, insert the following:

2 (b) INCREASED STANDARDS FOR DELINQUENT
3 UNIONS.—In the case of a labor organization in which,
4 during the preceding three years, at least one president
5 or vice president has been convicted of a felony related
6 to financial malfeasance with respect to the labor organi-
7 zation, the Labor-Management Reporting and Disclosure
8 Act of 1959 (29 U.S.C. 401 et seq.) shall be applied as
9 if:

10 (1) Section 208 (29 U.S.C. 438) is amended—

11 (A) by striking “The Secretary” and in-
12 serting “(a) The Secretary”; and

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

14 “(b) Notwithstanding subsection (a) and for each fis-
15 cal year, a labor organization that would be required to
16 file form LM–2 under part 403 of title 29, Code of Fed-

1 eral Regulations, under section 201(a) (as such part was
2 in effect on October 12, 2009) shall be required to annu-
3 ally file with the Secretary—

4 “(1) form LM–2, as published in the appendix
5 to the final rule issued by the Secretary of Labor en-
6 titled ‘Labor Organization Annual Financial Re-
7 ports’ (74 Fed. Reg. 3678 (January 21, 2009)); or

8 “(2) a successor form that includes all of the
9 information required in such form LM–2 (as such
10 form was published on January 21, 2009).

11 “(c) Notwithstanding subsection (a) and for each fis-
12 cal year, a labor organization that would be required to
13 file form T–1 under part 403 of title 29, Code of Federal
14 Regulations (as such part was in effect on November 30,
15 2010) shall file with the Secretary, as the report con-
16 cerning trusts in which a labor organization is inter-
17 ested—

18 “(1) form T–1, as published in the appendix to
19 the final rule issued by the Secretary entitled ‘Labor
20 Organization Annual Financial Reports for Trusts
21 in Which a Labor Organization Is Interested, Form
22 T–1’ (73 Fed. Reg. 57412 (October 2, 2008)); or

23 “(2) a successor form that includes all of the
24 information required in such form T–1 (as such
25 form was published on October 2, 2008).

1 “(d) Notwithstanding subsection (a) and for each fis-
2 cal year, an officer or employee of a labor organization
3 who would be required to file form LM–30 under part 404
4 of title 29, Code of Federal Regulations (as such part was
5 in effect on October 25, 2011) shall be required to file
6 with the Secretary—

7 “(1) form LM–30, as published in the appendix
8 to the final rule issued by the Secretary entitled
9 ‘Labor Organization Officer and Employee Report,
10 Form LM–30’ (72 Fed. Reg. 36106 (July 2, 2007));
11 or

12 “(2) a successor form that includes all of the
13 information required in such form LM–30 (as such
14 form was published on July 2, 2007).”.

15 (2) Section 201 (29 U.S.C. 431) is amended—

16 (A) by redesignating subsection (c) as sub-
17 section (c)(1); and

18 (B) by inserting after such subsection
19 (c)(1) the following:

20 “(2) Any labor organization that fails to meet the re-
21 quirements of paragraph (1) with respect to a member,
22 by refusing to make available the information required to
23 be contained in a report required to be submitted under
24 this title, and any books, records, and accounts necessary
25 to verify such report (unless such failure or refusal results

1 from matters reasonably beyond the control of the labor
2 organization), may in the court’s discretion, and in addi-
3 tion to any other relief provided by law and determined
4 proper by the court, be liable to such member for an
5 amount that is not more than \$250 a day from the date
6 of such failure or refusal (except that such amount shall
7 be adjusted for inflation in the same manner as the Sec-
8 retary adjusts the amount of a civil fine under section
9 211(e)). For purposes of this paragraph, each violation
10 with respect to any single member shall be treated as a
11 separate violation.”.

12 (3) Section 210 (29 U.S.C. 440) is amended to
13 read as follows:

14 **“SEC. 210. CIVIL ENFORCEMENT.**

15 “(a) IN GENERAL.—Whenever it shall appear that
16 any person has violated or is about to violate any of the
17 provisions of this title, or section 301(a), the Secretary
18 may bring a civil action for such relief, including an in-
19 junction or the enforcement of a civil fine imposed under
20 section 211, as may be appropriate. Any such action may
21 be brought in the district court of the United States where
22 the violation occurred or in the United States District
23 Court for the District of Columbia.

24 “(b) JUDICIAL REVIEW FOR ENFORCEMENT OF
25 CIVIL FINES.—

1 “(1) STANDARD OF REVIEW.—Upon a com-
2 plaint filed by the Secretary seeking the enforcement
3 of a civil fine, the appropriate district court shall im-
4 pose the civil fine that has been determined to be
5 appropriate by the Secretary—

6 “(A) if the person, labor organization, or
7 employer against whom the civil fine is sought
8 has been provided written notice and an oppor-
9 tunity to be heard before the Secretary or a
10 designee of such Secretary, in accordance with
11 procedures established by the Secretary under
12 section 211(g)(1); and

13 “(B) unless the Secretary’s determination
14 is shown to be arbitrary and capricious.

15 “(2) SCOPE OF REVIEW.—The appropriate
16 court shall not consider any objection or argument
17 that was not raised in the proceedings before the
18 Secretary.

19 “(c) APPROPRIATENESS OF INJUNCTIVE RELIEF.—
20 Upon a complaint filed by the Secretary seeking relief
21 under this section demonstrating that a person, labor or-
22 ganization, or employer has failed to file timely and com-
23 plete reports required by this title or section 301(a), or
24 has filed reports that are substantially incomplete or inac-
25 curate, or that information required to be reported may

1 be lost or destroyed absent such relief, the district court
2 shall issue an order enjoining continued violation of this
3 title or section 301(a). Injunctive relief may be awarded
4 in addition to any other additional civil or criminal remedy
5 and whether or not the Secretary seeks enforcement of a
6 civil fine.”.

7 (4) Title II (29 U.S.C. 431 et seq.) is amend-
8 ed—

9 (A) by redesignating section 211 as section
10 212; and

11 (B) by inserting after section 210 the fol-
12 lowing:

13 **“SEC. 211. CIVIL FINES.**

14 “(a) NOTICE; CORRECTION PERIOD.—Upon finding
15 a violation of subsection (a) or (b) of section 201 or sec-
16 tion 202, 203, 207, 212, or 301(a), the Secretary shall,
17 in accordance with standards and procedures established
18 by the Secretary under subsection (g), provide the person,
19 labor organization, or employer responsible for such viola-
20 tion—

21 “(1) written notice of the violation; and

22 “(2) a period of time to correct the violation
23 that is not more than 30 days after the date that
24 the Secretary provides such written notice.

1 “(b) FINES ASSESSED.—Subject to the other provi-
2 sions of this section, if the Secretary determines that a
3 person, labor organization, or employer has violated sub-
4 section (a) or (b) of section 201 or section 202, 203, 207,
5 212, or 301(a) and has not corrected the violation within
6 the period described in subsection (a)(2), the Secretary
7 may assess a civil fine against the person, labor organiza-
8 tion, or employer responsible for such violation.

9 “(c) AMOUNT OF CIVIL FINE.—

10 “(1) MAXIMUM AMOUNT.—A civil fine under
11 this section shall be for an amount that is not more
12 than \$250 a day from the date of the violation, and
13 not more than \$45,000 in the aggregate, except that
14 such amounts shall be adjusted in accordance with
15 the inflation adjustment procedures prescribed in the
16 Federal Civil Penalties Inflation Adjustment Act of
17 1990 (28 U.S.C. 2461 note; Public Law 101–410).

18 “(2) FACTORS IN DETERMINING AMOUNT.—In
19 determining the amount of a civil fine under this
20 section, the Secretary may consider—

21 “(A) the gravity of the offense;

22 “(B) any history of prior offenses (includ-
23 ing offenses occurring before the date of enact-
24 ment of this section) of the person, labor orga-

1 nization, or employer responsible for such viola-
2 tion;

3 “(C) the ability of such person, labor orga-
4 nization, or employer to pay the civil fine with-
5 out material impairment of the ability to carry
6 out representational functions or honor other fi-
7 nancial obligations;

8 “(D) any injury to uninvolved members of
9 the labor organization or to the public;

10 “(E) any benefits to such person, labor or-
11 ganization, or employer resulting from such vio-
12 lation;

13 “(F) the ability of the civil fine to deter fu-
14 ture such violations; and

15 “(G) any other factors that the Secretary
16 may determine to be appropriate to further the
17 purposes of this Act.

18 “(d) LIMITATION.—A person, labor organization, or
19 employer shall not be required to pay a civil fine under
20 this section for a violation of subsection (a) or (b) of sec-
21 tion 201 or section 202, 203, 207, 212, or 301(a) for
22 which a material cause was reasonably beyond the control
23 of such person, labor organization, or employer.

24 “(e) INCOMPLETE REPORTS.—A report rejected by
25 the Secretary as incomplete shall be considered not filed

1 for purposes of determining the existence of a violation
2 of subsection (a) or (b) of section 201 or section 202, 203,
3 207, 212, or 301(a), and a civil fine may be assessed for
4 such violation.

5 “(f) EFFECT ON CRIMINAL SANCTIONS.—The impo-
6 sition of a civil fine under this section shall not affect the
7 availability of criminal sanctions against any person, labor
8 organization, or employer who knowingly or willfully vio-
9 lates a provision of this Act.

10 “(g) STANDARDS AND PROCEDURES.—

11 “(1) IN GENERAL.—The Secretary shall estab-
12 lish, pursuant to sections 208 and 606, standards
13 and procedures governing the imposition of a civil
14 fine under this section that include providing the
15 person, labor organization, or employer responsible
16 for an alleged violation of subsection (a) or (b) of
17 section 201 or section 202, 203, 207, 212, or 301(a)
18 with—

19 “(A) written notice of such violation; and

20 “(B) an opportunity for a hearing before
21 the Secretary or a designee of such Secretary.

22 “(2) JUDICIAL REVIEW.—

23 “(A) IN GENERAL.—After exhausting all
24 administrative remedies established by the Sec-
25 retary under paragraph (1), a person, labor or-

1 ganization, or employer against whom the Sec-
2 retary has imposed a civil fine under this sec-
3 tion may obtain a review of such fine in the
4 United States District Court where the viola-
5 tion occurred or in the United States District
6 Court for the District of Columbia, by filing in
7 such court, within 30 days of the entry of a
8 final order imposing the civil fine, a written pe-
9 tition that the Secretary’s order or determina-
10 tion be modified or be set aside in whole or in
11 part.

12 “(B) STANDARD OF REVIEW.—Upon peti-
13 tion for review of a civil fine under this section,
14 the appropriate district court shall impose the
15 civil fine determined to be appropriate by the
16 Secretary—

17 “(i) if the person, labor organization,
18 or employer against whom the civil fine is
19 sought has been provided written notice
20 and an opportunity to be heard, in accord-
21 ance with the procedures established by the
22 Secretary under paragraph (1); and

23 “(ii) unless the Secretary’s determina-
24 tion is shown to be arbitrary and capri-
25 cious.

1 “(C) SCOPE OF REVIEW.—In reviewing a
2 civil fine under this section, the appropriate dis-
3 trict court shall not consider any objection or
4 argument that was not raised in the pro-
5 ceedings before the Secretary.

6 “(h) SETTLEMENT BY SECRETARY.—The Secretary
7 may compromise, modify, or remit any civil fine that may
8 be, or has been, imposed under this section.”.

9 (5) The Labor-Management Reporting and Dis-
10 closure Act of 1959 (29 U.S.C. 401 et seq.) is fur-
11 ther amended—

12 (A) in section 205 (29 U.S.C. 435), by
13 striking “211” each place it appears and insert-
14 ing “212”;

15 (B) in section 207(b) (29 U.S.C. 437(b)),
16 by striking “211” each place it appears and in-
17 serting “212”; and

18 (C) in section 301(b) (29 U.S.C. 461(b)),
19 by striking “and 210” and inserting “210, and
20 211”.

