Amendment to Rules Committee Print 117-52

Offered by Mr. Norcross of New Jersey

Add at the end of subtitle E of title VIII the following:

SEC. 8. RESOLUTION OF DEFENSE CONTRACTOR COLLECTIVE BARGAINING DISPUTES.

(a) In General.—Notwithstanding any contrary provision of law, including the National Labor Relations Act (29 U.S.C. 151 et seq.), subparagraphs (b) through (e) shall apply only with respect to any contractor or subcontractor of the Department who is an employer and any labor organization who represents employees of such a contractor or subcontractor.

(b) Duty to Bargain.—Not later than 10 days after receiving a written request for collective bargaining from an individual or labor organization that has been newly recognized or certified as a representative (as defined in section 9(a) of the National Labor Relations Act (29 U.S.C. 159)), or within such further period as the parties agree upon, the employer shall meet with the labor organization and commence to bargain collectively and
shall make every reasonable effort to conclude and sign a collective bargaining agreement.

(c) **Labor Organization Recognition.**—

(1) **In General.**—An employer shall recognize, for purposes of collective bargaining, a labor organization that demonstrates that—

(A) a majority of the employees of such employer in a unit appropriate for collective bargaining who perform or will perform funded work have signed valid authorizations designating the labor organization as the collective bargaining representative for such employees; and

(B) no other labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit under the National Labor Relations Act (29 U.S.C. 151 et seq.).

(2) **Notification.**—Upon a labor organization making a demonstration described in paragraph (1) to an employer, the employer shall notify the labor organization and the National Labor Relations Board that the employer—

(A) has determined that the labor organization represents a majority of the employees in
the unit with respect to which the labor organization made such demonstration; and

(B) is recognizing the labor organization as the exclusive representative of such employees for the purposes of collective bargaining pursuant to Section 9 of the National Labor Relations Act (29 U.S.C. 159).

(3) Disputes.—

(A) In general.—In the event of a dispute over majority status or the appropriateness of the unit arise between the employer and the labor organization, the National Labor Relations Board may, at the request of either the labor organization or the employer, investigate and resolve a dispute between the labor organization and the employer regarding—

(i) the appropriateness of the unit for which the labor organization seeks to be recognized as the representative; or

(ii) whether the labor organization has signed valid authorizations from a majority of the employees of such employer who perform or will perform funded work in a unit appropriate for collective bargaining designating the labor organization as the
collective bargaining representative for such employees.

(B) RESOLUTION.—In resolving a dispute under subparagraph (A), the National Labor Relations Board shall, without an election, certify the labor organization as the representative described in Section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)) if the Board finds that—

(i) a majority of the employees of the employer who perform or will perform funded work in a unit appropriate for collective bargaining has signed valid authorizations designating the labor organization as their collective bargaining representative; and

(ii) no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit.

(4) FUNDED WORK DEFINED.—In this subsection, the term “funded work” means work performed under a contract, cooperative agreement, grant, or other agreement with the Department.
(d) **Federal Mediation and Conciliation Service Referral.**—

(1) **In General.**—If, after the expiration of the 90-day period beginning on the date on which collective bargaining is commenced between an employer and a labor organization, or such additional period as such parties may agree upon, such parties have failed to agree to a collective bargaining agreement, either party may notify the Department, which may in turn refer the parties to the Federal Mediation and Conciliation Service and request mediation.

(2) **Duties.**—Whenever such a request is received, the Service shall promptly begin communicating with such parties and use best efforts, by mediation and conciliation, to bring such parties to agreement.

(e) **Mandatory Arbitration.**—

(1) **In General.**—If after the expiration of the 30-day period beginning on the date on which the request for mediation is made under subsection (d), or such additional period as the parties may agree upon, the Service is not able to bring the parties to agreement by conciliation, the Service shall refer the parties to a tripartite arbitration panel (in this sub-
section referred to as the “Panel”) established in accordance with this section and such regulations as may be prescribed by the Service.

(2) PANEL SELECTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), the Panel shall be composed of one member selected by the labor organization, one member selected by the employer, and one neutral member who shall be mutually selected by the parties.

(B) TIMING.—

(i) IN GENERAL.—The labor organization and the employer shall select the members of the Panel with respect to a dispute referred in paragraph (1) not later than 14 days after the date on which the Service refers the dispute under such paragraph.

(ii) DEFAULT SELECTION.—The Service shall select each member of the Panel not selected prior to the expiration of the 14-day period described in clause (i).

(3) PANEL DECISION.—

(A) IN GENERAL.—Except in the case of extraordinary circumstances or by agreement or
permission of the parties, not later than 120
days after all members of a Panel are selected,
a majority of the Panel shall, as soon as prac-
ticable, render a decision settling the all dis-
putes between the parties pertaining to collective bargaining, and such decision shall be bind-
ing upon the parties for a period of two years,
unless amended during such period by written
consent of the parties.

(B) CONSIDERATIONS.—The Panel shall
base the decision described in subparagraph (A)
on—

(i) the financial status and prospects

of the employer;

(ii) the size and type of the operations
and business of the employer;

(iii) the cost of living of the employees;

(iv) the ability of the employees to
sustain themselves, their families, and
their dependents on the wages and benefits
they earn from the employer; and

(v) the wages and benefits other em-
ployers in the same business provide their
employees.
(f) DEFINITIONS.—In this subsection:

(1) DEPARTMENT.—The term “Department” means the Department of Defense.

(2) EMPLOYEE; EMPLOYER; LABOR ORGANIZATION.—The terms “employee”, “employer”, and “labor organization” have the meanings given such terms in section 2 of the National Labor Relations Act (29 U.S.C. 152).

(3) SERVICE.—The term “Service” means the Federal Mediation and Conciliation Service.