

104TH CONGRESS  
2D SESSION

# H. R. 3091

To amend the National Labor Relations Act to allow individuals against whom injunctive relief is sought an opportunity to be heard.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1996

Mr. FAWELL introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

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## A BILL

To amend the National Labor Relations Act to allow individuals against whom injunctive relief is sought an opportunity to be heard.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Injunctive Relief  
5 Amendments Act of 1996”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the pursuit of preliminary injunctive relief  
9 under section 10(j) of the National Labor Relations  
10 Act can be an effective and necessary tool in ensur-

1       ing the efficiency of the process and remedies estab-  
2       lished in the Act for the resolution of labor disputes;

3           (2) preliminary injunctive relief is any extraor-  
4       dinary remedy in the United States system of civil  
5       law and courts have typically been guided by tradi-  
6       tional principles of equity in awarding such relief;

7           (3) the standards currently used by courts in  
8       awarding preliminary injunctive relief under section  
9       10(j) of the National Labor Relations Act are not  
10      uniform and are often not consistent with traditional  
11      principles of equity;

12          (4) the awarding of preliminary injunctive relief  
13      under section 10(j) of the National Labor Relations  
14      Act is often a determinative factor in the resolution  
15      of a labor dispute even though the merits of an un-  
16      fair labor practice complaint underlying the dispute  
17      have not been thoroughly considered; and

18          (5) because of the impact that the award of  
19      preliminary injunctive relief under section 10(j) of  
20      the National Labor Relations Act can have on the  
21      resolution of a labor dispute, individuals against  
22      whom such relief is sought should have an oppor-  
23      tunity to review and respond to any legal memo-  
24      randa or other documents presented to the National  
25      Labor Relations Board supporting the pursuit of

1 such relief and courts awarding such relief should be  
2 guided by traditional principles of equity.

3 (b) PURPOSES.—The purposes of this Act are—

4 (1) to preserve the ability of the National Labor  
5 Relations Board to seek preliminary injunctive relief  
6 under section 10(j) of the National Labor Relations  
7 Act in those instances where such relief is necessary  
8 to preserve the effectiveness of the remedial pur-  
9 poses of the Act;

10 (2) to allow individuals against whom prelimi-  
11 nary injunctive relief is being pursued an oppor-  
12 tunity to review and respond to any legal memo-  
13 randa or other documents presented to the National  
14 Labor Relations Board in support of such relief; and

15 (3) to require courts awarding preliminary in-  
16 junctive relief under section 10(j) of the National  
17 Labor Relations Act to be guided by a uniform  
18 standard incorporating traditional principles of eq-  
19 uity.

20 **SEC. 3. INJUNCTIVE RELIEF.**

21 Section 10(j) of the National Labor Relations Act is  
22 amended by—

23 (1) inserting after “unfair labor practice” the  
24 first time it appears “and after allowing individuals  
25 against whom preliminary relief is being sought an

1 opportunity to review and respond to any legal  
2 memoranda or other documents supporting such re-  
3 lief”; and

4 (2) adding at the end the following sentence:  
5 “Such relief shall not be granted unless there is a  
6 reasonable likelihood of success on the merits of the  
7 complaint that an unfair labor practice has occurred,  
8 there is a possibility of irreparable harm if such re-  
9 lief is not granted, a balancing of hardships favors  
10 injunctive relief, and harm to the public interest  
11 stemming from injunctive relief is tolerable in light  
12 of the benefits achieved by such relief.”.

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