

### At a Glance

## H.R. 2474, Protecting the Right to Organize Act of 2019

As ordered reported by the House Committee on Education and Labor on September 25, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	14	39
Increase or Decrease (-) in the Deficit	0	-14	-39
Spending Subject to Appropriation (Outlays)	*	3	not estimated
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	<b>Yes, Under Threshold</b>
		Contains private-sector mandate?	<b>Yes, Over Threshold</b>

\* = between zero and \$500,000.

#### The bill would

- Expand the enforcement powers of the National Labor Relations Board (NLRB)
- Amend the definition of joint employer, employee, and supervisor under the National Labor Relations Act (NLRA)
- Authorize appropriations for additional data collection, reporting, and dispute mediation
- Impose intergovernmental and private-sector mandates by preempting state laws, requiring employers to undertake additional actions during collective bargaining negotiations, and prohibiting certain labor practices

#### Estimated budgetary effects would primarily stem from

- Imposing new civil penalties on violators of the NLRA
- Authorizing appropriations for the Federal Mediation and Conciliation Service and the Department of Labor

#### Areas of significant uncertainty include

- Predicting employer and employee responses to the legislation and resulting changes in the NLRB's workload
- Estimating costs to employers

**Detailed estimate begins on the next page.**



## Bill Summary

H.R. 2474 would amend several provisions of the National Labor Relations Act (NLRA), which establishes the rights of most private-sector employees to engage in collective bargaining. The bill would change the statutory definitions of joint employer, employee, and supervisor; modify the list of actions that would qualify as unfair labor practices; and allow collective bargaining agreements to require all employees in a unit to contribute fees to a labor organization as a condition of employment. Employers would be required to post notices that inform workers of their rights under the NLRA and would be prohibited from engaging in certain labor practices. Parties negotiating an initial collective bargaining agreement would be encouraged to use the mediation and arbitration services of the Federal Mediation and Conciliation Service (FMCS) early in the collective bargaining process.

The NLRA is administered by the National Labor Relations Board (NLRB). The bill would allow the NLRB to take into account economic analysis when deciding cases and to assess civil penalties for violations of the act. H.R. 2474 also would require the NLRB to report annually on its activities to the Congress and the President.

In addition, H.R. 2474 would require more employers to disclose to the Department of Labor any indirect activities (such as hiring outside parties to draft personnel policies or presentations) designed to persuade employees to exercise or not to exercise their right to organize and bargain collectively.

## Estimated Federal Cost

The estimated budgetary effect of H.R. 2474 is shown in Table 1. The costs of the legislation fall within budget function 500 (education, training, employment, and social services).

<b>Table 1. Estimated Budgetary Effects of H.R. 2474</b>												
By Fiscal Year, Millions of Dollars											2020-2024	2020-2029
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029		
<b>Increases in Revenues</b>												
Estimated Revenues	0	2	3	4	5	5	5	5	5	5	14	39
<b>Increases in Spending Subject to Appropriation</b>												
Estimated Authorization	*	1	1	1	1	n.e.	n.e.	n.e.	n.e.	n.e.	3	n.e.
Estimated Outlays	*	1	1	1	1	n.e.	n.e.	n.e.	n.e.	n.e.	3	n.e.

Components may not sum to totals because of rounding; n.e. = not estimated, \* = between zero and \$500,000.



## **Basis of Estimate**

CBO assumes that the bill will be enacted early in 2020 and that the necessary amounts will be available each fiscal year. Estimated outlays are based on historical patterns for existing and similar activities.

## **Revenues**

The bill would provide the NLRB with the authority to assess civil penalties on employers that violate certain sections of the NLRA. Under current law, the NLRB may seek remedies including reinstatement and back pay for discharged workers. H.R. 2474 would enable the NLRB to assess a civil penalty of up to \$50,000 on employers that commit an unfair labor practice as defined by the NLRA and up to \$100,000 on employers that specifically discriminate against or discharge an employee because of membership in a labor organization. The higher penalty also could be assessed on employers that discriminate against or discharge an employee for filing charges or giving testimony related to unfair labor practices. Based on the history of such cases, CBO estimates those penalties would be imposed in about 120 cases per year, about one-quarter of which would be subject to the higher penalty. The bill also would enable the NLRB to assess a civil penalty of up to \$10,000 on any person who fails to obey an order of the board. Based on the history of such cases, CBO estimates those penalties would apply to about 60 cases per year. Altogether, CBO estimates that enacting those provisions would increase revenues by \$39 million over the 2020-2029 period.

## **Spending Subject to Appropriation**

CBO estimates that implementing H.R. 2474 would cost \$3 million, on net, over the 2020-2024 period. Such spending would be subject to the availability of appropriated funds.

**National Labor Relations Board.** Some provisions of H.R. 2474 would increase the workload of the NLRB, such as requiring NLRB to report annually to the Congress and the President and allowing the agency to hire staff to conduct economic analysis to support the agency's rulemaking and decisionmaking. Other provisions would decrease the workload of the NLRB, because the agency would no longer need to seek enforcement of its orders through the U.S. Courts of Appeals. On net, CBO estimates that implementing those provisions would not significantly change the operating costs for the NLRB over the 2020-2024 period.

**Federal Mediation and Conciliation Service.** Currently, FMCS receives around 500 notifications annually from the NLRB that new bargaining units have been certified and that the parties are working toward an initial collective bargaining agreement. The agency mediates disputes only if both parties request its services, which occurs in roughly 10 percent of initial collective bargaining cases. H.R. 2474 would allow either side to request mediation



services from FMCS early in the collective bargaining process. If the dispute were not resolved, FMCS could refer the parties to an arbitration panel.

Using information from the agency, CBO expects that the number of initial cases mediated by FMCS would double under the bill because either party could request mediation. Additionally, CBO expects that the agency would continue to encourage parties to work toward an agreement independently before mediating any conflict and referring parties to arbitration. The costs of mediation are covered by FMCS; any arbitration costs are covered by the parties. Using information from FMCS, CBO estimates that personnel and administrative costs would increase by \$2 million over the 2020-2024 period mostly for the agency to update its system for referring parties to arbitration, and to hire an additional mediator.

**Department of Labor.** Section 4 would require employers to report more of their indirect efforts to influence employees’ decisions to organize or bargain collectively to the department’s Office of Labor-Management Standards. Using information from the department, CBO expects that the number of reports filed would roughly triple and that enforcement and processing costs would increase by \$1 million over the 2020-2024 period.

### Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in Table 2.

**Table 2.**  
**CBO’s Estimate of the Statutory Pay-As-You-Go Effects of H.R. 2474, Protecting the Right to Organize Act of 2019, as ordered reported by the House Committee on Education and Labor on September 25, 2019**

	By Fiscal Year, Millions of Dollars										2020-2024	2020-2029
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029		
	<b>Net Decrease in the Deficit</b>											
Pay-As-You-Go Effect	0	-2	-3	-4	-5	-5	-5	-5	-5	-5	-14	-39

**Increase in Long-Term Deficits:** None.

### Mandates

H.R. 2474 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the public-sector mandate would be below the annual threshold for the intergovernmental mandates established by UMRA (\$82 million in 2019, adjusted annually for inflation). CBO estimates that the aggregate cost of complying with the private-sector mandates would exceed the



annual threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

### **Mandate That Affects the Public Sector**

The bill would preempt current law in states that prohibit contracts between employers and unions from requiring workers to pay for the costs of union representation as a condition of employment. CBO estimates the costs of the preemption, for example to update the information available to businesses and employees about the change in law, would be small.

### **Mandates That Affect the Private Sector**

By requiring employers to post notices outlining new protections for employees and potential employees, H.R. 2474 would impose a mandate on employers under the jurisdiction of the NLRA. Using information from the NLRB, CBO estimates that the cost of the requirement would be approximately \$73 per business and that it would apply to most of the nation's roughly 8 million businesses. Thus, CBO estimates that posting the new notices would cost several hundred million dollars in total.

Several other private-sector mandates are contained in H.R. 2474 but CBO cannot anticipate the number of businesses that would be affected nor the extent to which changes in their labor practices would be required. Therefore, CBO cannot estimate the cost of the following mandates:

- Employers would be prohibited from participating in union elections, requiring employees to attend employer-organized meetings related to labor representation, or misrepresenting employees' status as it relates to the right to representation.
- Employers would be required to allow employees to use electronic and communication equipment for labor organizing and to maintain wages and working conditions for employees during collective bargaining.
- Employers could not reduce or deny employees' hours to influence their position in collective bargaining before a strike, permanently replace employees who participate in strikes seeking better wages and benefits, or prevent employees from engaging in class action lawsuits relating to employment conditions.

The bill also would broaden employers' reporting requirements related to labor-management representation and collective bargaining efforts. Finally, for employment contracts that are not part of a union agreement, the bill would prohibit and void predispute arbitration agreements.

### **Uncertainty**

Depending on the responses of labor organizations, employers, and employees to the bill's provisions, and on how the NLRB implements the bill, the agency's workload could change significantly. The NLRB could interpret the bill as increasing the number of people classified



as employees under the NLRA, and those employees might bring more charges of unfair labor practices to the NLRB, and thus increase its workload. On the other hand, larger potential penalties and additional enforcement powers for the NLRB could encourage violators of the NLRA to settle cases earlier, and thus decrease litigation costs. In addition, the NLRB could choose not to impose penalties when it settles certain cases, and thus reduce revenues.

For the private sector, CBO cannot anticipate the number of businesses likely to be affected by the bill or the extent of changes in their labor practices resulting from it; therefore, CBO cannot estimate the cost to comply with many of those requirements.

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