DISCUSSION DRAFT · REWRITE OF 5 U.S.C. CHAPTER 71

The Federal Workforce Bargaining Rights Protection Act

Seven issues in the federal bargaining law, and how the bill closes each one.

ISSUE	THE PROBLEM	THE FIX
ISSUE 1 **Who is covered**	One order excluded about two-thirds of the workforce as "national security."	A narrow exception that Congress must approve and courts can review. TSA officers covered.
ISSUE 2 **What can be bargained**	Subjects switch on and off by executive order. The labor board rewrote the rules in 2020.	The scope of bargaining is fixed in the statute. No order may void a signed contract.
ISSUE 3 **The referees**	The labor board's chair was fired. Its prosecutor's seat has had no confirmed occupant since 2017.	An automatic acting General Counsel, deadlines for every case, neutral arbitrators for deadlocks.
ISSUE 4 **Enforcement**	An agency that breaks the law is told to stop and post a notice.	A right to sue, injunctions, civil penalties, make-whole relief, discipline for officials.
ISSUE 5 **Contracts and arbitration**	In 2025 agencies stopped processing grievances and declined to arbitrate.	Courts can compel arbitration. Arbitrators' awards get deference.
ISSUE 6 **Union operations**	Official time was capped by order. Dues withholding was shut off.	Both are locked against limits imposed by order or guidance.
ISSUE 7 **Restoration**	The 2025 orders cancelled contracts covering hundreds of thousands of employees.	Voids the orders and restores every agreement in effect on March 26, 2025.

SECTION 7103(B) TODAY

The president "determines" that an agency does national security work. No findings, no notice, no review, no time limit.

SECTION 7103(B) UNDER THE DRAFT

Units, not departments. An order may cover a subdivision, never a whole department.

Findings in writing. A majority of the unit's employees must do intelligence or national security work.

Congress decides. An order lapses unless Congress approves it by joint resolution within 180 days.

CONTINUED

No retaliation. An order cannot rest on a union's lawsuits, grievances or politics.

Recognized units. Extra findings are required before employees already in a bargaining unit can be excluded.

Court review. Contracts continue while a federal court reviews the order fresh, with the burden on the government.

Limits. An order expires after four years and cannot be delegated.

STATUS OF THE DRAFT

Statutory text is drafted for Issue 1 (sections 2 to 5 of the draft): an amended section 7103(b) and a new section 7136. Section 6 voids the 2025 orders. The other issues are in outline.

WHAT THE BILL LEAVES ALONE

The ban on strikes. Congress's control of pay. Management's emergency authority. The job-by-job exclusion for security positions. The statutory exclusion of the FBI, the CIA and the NSA.

Read the full record, sources and draft text

reform.local1776.org

Scan the code with a phone camera. Every figure and quotation on this page is sourced on the site. The bill language is a discussion draft and has not been reviewed by legislative counsel.

LIUNA Local 1776
Ben Banchs
Business Manager-Secretary Treasurer
We represent U.S. government employees