



Sanders #6

AMENDMENT NO. _____ Calendar No. _____

Purpose: To accelerate workplace time-to-contract under the
National Labor Relations Act.

IN THE SENATE OF THE UNITED STATES—119th Cong., 1st Sess.

S. 1728

To amend the Employee Retirement Income Security Act
of 1974 to expand the membership of the Advisory
Council on Employee Welfare and Pension Benefit Plans
to include representatives of employee ownership organi-
zations.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the end, add the following:

2 **SEC. 3. FACILITATING INITIAL COLLECTIVE BARGAINING**
3 **AGREEMENTS.**

4 (a) IN GENERAL.—Section 8 of the National Labor
5 Relations Act (29 U.S.C. 158) is amended—

6 (1) in subsection (d)—

7 (A) by redesignating paragraphs (1)
8 through (4) as subparagraphs (A) through (D),
9 respectively;

1 (B) by striking "For the purposes of this
2 section" and inserting "(1) For the purposes of
3 this section";

4 (C) by inserting "(and to maintain current
5 wages, hours, and terms and conditions of em-
6 ployment pending an agreement)" after "aris-
7 ing thereunder";

8 (D) by inserting ": *Provided*, That an em-
9 ployer's duty to collectively bargain shall con-
10 tinue absent decertification of the representa-
11 tive following an election conducted pursuant to
12 section 9" after "making of a concession";

13 (E) by inserting "*further*" before ", That
14 where there is in effect";

15 (F) by striking "The duties imposed" and
16 inserting "(2) The duties imposed";

17 (G) by striking "by paragraphs (2), (3),
18 and (4)" and inserting "by subparagraphs (B),
19 (C), and (D) of paragraph (1)";

20 (H) by striking "section 8(d)(1)" and in-
21 serting "paragraph (1)(A)";

22 (I) by striking "section 8(d)(3)" each place
23 it appears and inserting "paragraph (1)(C)";

24 (J) by striking "section 8(d)(4)" and in-
25 serting "paragraph (1)(D)"; and

1 (K) by adding at the end the following:

2 “(3) Whenever collective bargaining is for the pur-
3 pose of establishing an initial collective bargaining agree-
4 ment following certification or recognition of an individual
5 or labor organization as a representative as provided
6 under section 9(a), the following shall apply:

7 “(A) Not later than 10 days after receiving a
8 written request for collective bargaining from an in-
9 dividual or labor organization that has been newly
10 recognized or certified as a representative as pro-
11 vided under section 9(a), or within such further pe-
12 riod as the parties agree upon, the parties shall meet
13 and begin bargaining collectively, and shall make
14 every reasonable effort to conclude and sign a collec-
15 tive bargaining agreement.

16 “(B) If after the expiration of the 90-day pe-
17 riod beginning on the date on which bargaining is
18 commenced, or such additional period as the parties
19 may agree upon, the parties have failed to reach an
20 agreement, either party may notify the Federal Me-
21 diation and Conciliation Service that a dispute ex-
22 ists, and may request mediation. Whenever such a
23 request is received, the Service shall promptly com-
24 municate with the parties and use its best efforts, by
25 mediation and conciliation, to secure an agreement.

1 “(C) If after the expiration of the 30-day period
2 beginning on the date on which the request for me-
3 diation is made under subparagraph (B), or such ad-
4 ditional period as the parties may agree upon, the
5 Service is not able to bring the parties to agreement
6 by conciliation, the Service shall refer the dispute to
7 a 3-person arbitration panel established in accord-
8 ance with such regulations as may be prescribed by
9 the Service, with one member selected by the indi-
10 vidual or labor organization, one member selected by
11 the employer, and one neutral member mutually
12 agreed to by the parties. The individual or labor or-
13 ganization and the employer must each select the
14 members of the 3-person arbitration panel within 14
15 days of the Service’s referral; if the individual or
16 labor organization or the employer fail to do so, the
17 Service shall designate any members not selected by
18 the individual or labor organization or by the em-
19 ployer. A majority of the 3-person arbitration panel
20 shall render a decision settling the dispute and such
21 decision shall be binding upon the parties for a pe-
22 riod of 2 years, unless amended during such period
23 by written consent of the parties. Such decision shall
24 be based on—

1 “(i) the employer’s financial status and
2 prospects;

3 “(ii) the size and type of the employer’s
4 operations and business;

5 “(iii) the employees’ cost of living;

6 “(iv) the employees’ ability to sustain
7 themselves, their families, and their dependents
8 on the wages and benefits they earn from the
9 employer; and

10 “(v) the wages and benefits other employ-
11 ers in the same business provide their employ-
12 ees.”; and

13 (2) in subsection (g), by striking “clause (B) of
14 the last sentence of section 8(d) of this Act” and in-
15 serting “subsection (d)(2)(B)”.

16 (b) GAO REPORT EXAMINING AVERAGE WORKPLACE
17 TIME-TO-CONTRACT.—Not later than 1 year after the date
18 of enactment of this Act, the Comptroller General of the
19 United States shall submit to Congress a report examining
20 the average number of days between—

21 (1) the date on which an individual or labor or-
22 ganization is certified or recognized as the represent-
23 ative of employees under section 9(a) of the National
24 Labor Relations Act (29 U.S.C. 159(a)), following
25 the date of enactment of this Act; and

- 1 (2) the date on which the parties enter into an
- 2 initial collective bargaining agreement.