

.....
(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend chapter 71 of title 5, United States Code, to charge labor organizations for the agency resources and employee time used by such labor organizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. PERRY introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend chapter 71 of title 5, United States Code, to charge labor organizations for the agency resources and employee time used by such labor organizations, and for other purposes.

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 “Protecting Taxpayers’
5 Wallets Act”.

1 **SEC. 2. CHARGING LABOR ORGANIZATIONS FOR USE OF**
2 **FEDERAL RESOURCES.**

3 (a) IN GENERAL.—Chapter 71 of title 5, United
4 States Code, is amended by adding at the end the fol-
5 lowing new section:

6 **“§ 7136. Charging labor organizations for use of Fed-**
7 **eral resources**

8 “(a) FEES FOR USE OF AGENCY RESOURCES.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of this chapter, the head of each agency
11 shall charge each labor organization recognized as
12 an exclusive representative of employees of such
13 agency a fee each calendar quarter for the use of the
14 resources of such agency during such quarter.

15 “(2) FEE CALCULATION.—The amount of the
16 fee the head of an agency charges a labor organiza-
17 tion under paragraph (1) with respect to a calendar
18 quarter shall be equal to the amount that is the sum
19 of—

20 “(A) the value of the union time of each
21 labor representative for such labor organization
22 while employed by such agency in such quarter;
23 and

24 “(B) the value of agency resources pro-
25 vided for union use to such labor organization
26 by such agency in such quarter.

1 “(3) TIMING.—

2 “(A) NOTICE.—Not later than 30 days
3 after the end of each calendar quarter, the head
4 of each agency shall submit to each labor orga-
5 nization charged a fee by such head under
6 paragraph (1) with respect to such calendar
7 quarter a notice stating the amount of such fee.

8 “(B) DUE DATE.—Payment of a fee
9 charged under paragraph (1) is due not later
10 than 60 days after the date on which the labor
11 organization charged such fee receives a notice
12 under paragraph (A) with respect to such fee.

13 “(4) PAYMENT.—

14 “(A) IN GENERAL.—Payment of a fee
15 charged under paragraph (1) shall be made to
16 the head of the agency that charged such fee.

17 “(B) TRANSFER TO GENERAL FUND.—The
18 head of an agency shall transfer each payment
19 of a fee charged under paragraph (1) that such
20 head receives to the general fund of the Treas-
21 ury.

22 “(b) VALUE DETERMINATIONS.—

23 “(1) IN GENERAL.—The head of an agency
24 charging a labor organization a fee under subsection
25 (a) shall determine the value of union time used by

1 labor representatives and the value of agency re-
2 sources provided for union use for the purposes of
3 paragraph (2) of such subsection in accordance with
4 this subsection.

5 “(2) VALUES.—For the purposes of paragraph
6 (2) of subsection (a), with respect to a fee charged
7 to a labor organization by the head of an agency
8 under paragraph (1) of such subsection—

9 “(A) the value of the union time of a labor
10 representative during a calendar quarter is
11 equal to amount that is the product of the
12 hourly rate of pay of such labor representative
13 paid by such agency and the number of hours
14 of union time of such labor representative dur-
15 ing such calendar quarter during which such
16 labor representative was on duty as an em-
17 ployee of such agency; and

18 “(B) such head of such agency shall deter-
19 mine the value of agency resources provided for
20 union use during a calendar quarter using rates
21 established by the General Services Administra-
22 tion, where applicable, or to the extent that
23 such rates are inapplicable to such the use of
24 such resources, the market rate for the use of
25 such resources, except that with respect to re-

1 sources used for both agency business and for
2 purposes pertaining to matters covered by this
3 chapter, only the value of the portion of the use
4 of such resources for the business of such labor
5 organization shall be included.

6 “(3) DETERMINATIONS NOT SUBJECT TO RE-
7 VIEW.—No determination of the head of an agency
8 described in paragraph (1) may be determined to be
9 an unfair labor practice or subject to collective bar-
10 gaining or grievance procedures under this chapter,
11 or otherwise contested or appealed.

12 “(c) ENFORCEMENT AND PENALTIES.—

13 “(1) PENALTIES.—

14 “(A) IN GENERAL.—If a labor organization
15 does not pay a fee charged to such labor orga-
16 nization under subsection (a)(1) on or before
17 the date on which payment for such fee be-
18 comes due, during the period beginning on the
19 date on which such payment becomes due and
20 ending on the date on which every fee charged
21 to such labor organization under such sub-
22 section is fully paid—

23 “(i) the amount of such fee shall be
24 increased at a rate equal to the interest
25 rate;

1 “(ii) the head of each agency shall—

2 “(I) beginning on the date that is
3 90 days after the date on which such
4 period begins—

5 “(aa) deny such labor orga-
6 nization and the labor represent-
7 atives for such labor organization
8 any further union time;

9 “(bb) cease providing and
10 the deny further use of agency
11 resources provided for union use
12 by such labor representatives for
13 the business of such labor organi-
14 zation; and

15 “(cc) not be subject to—

16 “(AA) any grievance
17 procedures or binding arbi-
18 tration invoked by such
19 labor organization under
20 section 7121; or

21 “(BB) any unfair labor
22 practice complaints or pro-
23 ceedings under this chapter
24 pertaining to such labor or-
25 ganization or employees rep-

1 resented by such labor orga-
2 nization; and

3 “(II) beginning on the date that
4 is 180 days after the date on which
5 such period begins—

6 “(aa) terminate all allot-
7 ments made by or on behalf of
8 the agency with respect to such
9 labor organization under section
10 7115; and

11 “(bb) not authorize any such
12 allotments with respect to such
13 labor organization; and

14 “(III) on the date that is 365
15 days after the date on which such pe-
16 riod begins, inform the Authority and
17 such labor organization that such pe-
18 riod has reached a duration of 365
19 days; and

20 “(iii) on the date that is 380 days
21 after the date on which such period begins,
22 the Authority shall terminate the certifi-
23 cation of such labor organization as the ex-
24 clusive representative of employees of such
25 agency.

1 “(B) EXCLUSIVE REPRESENTATIVE PROHI-
2 BITION.—A labor organization for which the
3 Authority terminates a certification as the ex-
4 clusive representatives of employees of an agen-
5 cy under subparagraph (A)(iii) may not be cer-
6 tified as the exclusive representative of any em-
7 ployee of such agency unless such labor organi-
8 zation pays all fees charged to such labor orga-
9 nization by the head of such agency under sub-
10 section (a)(1), including any increases to such
11 fees under subparagraph (A)(i).

12 “(C) RULE OF CONSTRUCTION.—Subpara-
13 graph (A)(ii)(I)(cc) may not be construed as—

14 “(i) tolling any statutory or contrac-
15 tual deadline for the filing of a grievance,
16 complaint of an unfair labor practice, or
17 proceeding to binding arbitration; or

18 “(ii) preventing or limiting an agency
19 from filing any grievance against a labor
20 organization or advancing such grievances
21 to binding arbitration.

22 “(2) TIME TRACKING.—

23 “(A) IN GENERAL.—Each agency shall
24 track the use of union time by labor representa-

1 tives using the applicable time and attendance
2 tracking system of such agency.

3 “(B) FAILURE TO RECORD.—

4 “(i) IN GENERAL.—A labor represent-
5 ative who uses union time and fails to
6 record such use in the applicable time and
7 attendance tracking system shall be consid-
8 ered absent without leave and subject to
9 appropriate adverse action.

10 “(ii) WILLFUL OR REPEATED FAIL-
11 URES.—A failure of a labor representative
12 described in clause (i) shall constitute an
13 impairment to the efficient of the service if
14 such failure is willful or occurs in the same
15 fiscal year as another such failure by such
16 labor representative.

17 “(iii) LIMITED REVIEW.—Adverse ac-
18 tion take against an employee under clause
19 (i)—

20 “(I) may not be determined to be
21 an unfair labor practice or subject to
22 grievance procedures or binding arbi-
23 tration under section 7121; and

24 “(II) notwithstanding any other
25 provision of law, shall be sustained on

1 appeal if the determination of the
2 agency to take such adverse action
3 against such employee is supported by
4 substantial evidence.

5 “(3) PAYMENT REQUIRED.—The head of an
6 agency may not forgive, reimburse, waive, or in any
7 other manner reduce any fee charged under this sec-
8 tion.

9 “(4) COMPLIANCE.—Not later than two years
10 after the date of the enactment of this section, and
11 every two years thereafter, the Inspector General of
12 each agency shall—

13 “(A) conduct an evaluation of the compli-
14 ance of such agency and each relevant labor or-
15 ganization with the requirements of this section,
16 including the accuracy with which labor rep-
17 resentatives recorded the use of union time, the
18 promptness with which fees under subsection
19 (a) were charged and paid, and the valuation of
20 agency resources provided for union use by such
21 agency pursuant to subsection (b)(2)(B); and

22 “(B) submit to the head of such agency,
23 the Committee on Oversight and Accountability
24 of the House of Representatives, and the Com-
25 mittee on Homeland Security and Govern-

1 mental Affairs of the Senate a report on the
2 findings of the evaluation required by subpara-
3 graph (A).

4 “(d) DEFINITIONS.—In this section:

5 “(1) AGENCY BUSINESS.—The term ‘agency
6 business’ means work performed by employees on
7 behalf of an agency, or under the direction and con-
8 trol of the agency.

9 “(2) AGENCY RESOURCES PROVIDED FOR
10 UNION USE.—The term ‘agency resources provided
11 for union use’ means the resources of an agency,
12 other than the time of employees in a duty status,
13 that such agency provides to labor representatives
14 for purposes pertaining to matters covered by this
15 chapter, including agency office space, parking
16 space, equipment, and reimbursement for expenses
17 incurred while on union time or otherwise per-
18 forming non-agency business, except that this term
19 does not include any resource to the extent that such
20 resource is used for agency business.

21 “(3) LABOR ORGANIZATION.—The term ‘labor
22 organization’ means a labor organization recognized
23 as an exclusive representative of employees of an
24 agency under this chapter or as a representative of
25 agency employees under any system established by

1 the Transportation Security Administration Admin-
2 istrator pursuant to section 111(d) of the Aviation
3 and Transportation Security Act (49 U.S.C. 44935
4 note).

5 “(4) HOURLY RATE OF PAY.—The term ‘hourly
6 rate of pay’ means the total cost to an agency of em-
7 ploying an employee in a pay period or pay periods,
8 including wages, salary, and other cash payments,
9 agency contributions to employee health and retire-
10 ment benefits, employer payroll tax payments, paid
11 leave accruals, and the cost to the agency for other
12 benefits, divided by the number of hours such em-
13 ployee worked in such pay period or pay periods.

14 “(5) INTEREST RATE.—The term ‘interest rate’
15 means the average market yield of outstanding mar-
16 ketable obligations of the United States having ma-
17 turities of 30 years plus one percentage point.

18 “(6) LABOR REPRESENTATIVE.—The term
19 ‘labor representative’ means an employee of an agen-
20 cy serving in any official or other representative ca-
21 pacity for a labor organization (including as any of-
22 ficer or steward of a labor organization) that is the
23 exclusive representative of employees of such agency
24 under this chapter or is the representative of em-
25 ployees under any system established by the Trans-

1 portation Security Administration Administrator
2 pursuant to section 111(d) of the Aviation and
3 Transportation Security Act (49 U.S.C. 44935
4 note).

5 “(7) UNION TIME.—The term ‘union time’
6 means the time an employee of an agency who is a
7 labor representative for a labor organization spends
8 performing non-agency business while on duty, ei-
9 ther in service of such labor organization or other-
10 wise acting in the capacity as an employee represent-
11 ative, including official time authorized under sec-
12 tion 7131.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for chapter 71 of title 5, United States Code, is amended
15 by adding at the end the following new item:

“7136. Charging labor organizations for use of Federal resources.”.