

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1210  
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Taxpayers’  
3 Wallets Act”.

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

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

9 **“§ 7136. Charging labor organizations for use of Fed-  
10 eral resources**

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

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

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

6           “(A) the value of the union time of each  
7 labor representative for such labor organization  
8 while employed by such agency in such quarter;  
9 and

10           “(B) the value of agency resources pro-  
11 vided for union use to such labor organization  
12 by such agency in such quarter.

13           “(3) TIMING.—

14           “(A) NOTICE.—Not later than 30 days  
15 after the end of each calendar quarter, the head  
16 of each agency shall submit to each labor orga-  
17 nization charged a fee by such head under  
18 paragraph (1) with respect to such calendar  
19 quarter a notice stating the amount of such fee.

20           “(B) DUE DATE.—Payment of a fee  
21 charged under paragraph (1) is due not later  
22 than 60 days after the date on which the labor  
23 organization charged such fee receives a notice  
24 under paragraph (A) with respect to such fee.

25           “(4) PAYMENT.—

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

4           “(B) TRANSFER TO GENERAL FUND.—The  
5 head of an agency shall transfer each payment  
6 of a fee charged under paragraph (1) that such  
7 head receives to the general fund of the Treas-  
8 ury.

9           “(b) VALUE DETERMINATIONS.—

10           “(1) IN GENERAL.—The head of an agency  
11 charging a labor organization a fee under subsection  
12 (a) shall determine the value of union time used by  
13 labor representatives and the value of agency re-  
14 sources provided for union use for the purposes of  
15 paragraph (2) of such subsection in accordance with  
16 this subsection.

17           “(2) VALUES.—For the purposes of paragraph  
18 (2) of subsection (a), with respect to a fee charged  
19 to a labor organization by the head of an agency  
20 under paragraph (1) of such subsection—

21           “(A) the value of the union time of a labor  
22 representative during a calendar quarter is  
23 equal to amount that is the product of the  
24 hourly rate of pay of such labor representative  
25 paid by such agency and the number of hours

1 of union time of such labor representative dur-  
2 ing such calendar quarter during which such  
3 labor representative was on duty as an em-  
4 ployee of such agency; and

5 “(B) such head of such agency shall deter-  
6 mine the value of agency resources provided for  
7 union use during a calendar quarter using rates  
8 established by the General Services Administra-  
9 tion, where applicable, or to the extent that  
10 such rates are inapplicable to such the use of  
11 such resources, the market rate for the use of  
12 such resources, except that with respect to re-  
13 sources used for both agency business and for  
14 purposes pertaining to matters covered by this  
15 chapter, only the value of the portion of the use  
16 of such resources for the business of such labor  
17 organization shall be included.

18 “(3) DETERMINATIONS NOT SUBJECT TO RE-  
19 VIEW.—No determination of the head of an agency  
20 described in paragraph (1) may be determined to be  
21 an unfair labor practice or subject to collective bar-  
22 gaining or grievance procedures under this chapter,  
23 or otherwise contested or appealed.

24 “(c) ENFORCEMENT AND PENALTIES.—

25 “(1) PENALTIES.—

1           “(A) IN GENERAL.—If a labor organization  
2 does not pay a fee charged to such labor orga-  
3 nization under subsection (a)(1) on or before  
4 the date on which payment for such fee be-  
5 comes due, during the period beginning on the  
6 date on which such payment becomes due and  
7 ending on the date on which every fee charged  
8 to such labor organization under such sub-  
9 section is fully paid—

10           “(i) the amount of such fee shall be  
11 increased at a rate equal to the interest  
12 rate;

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

14           “(I) beginning on the date that is  
15 90 days after the date on which such  
16 period begins—

17           “(aa) deny such labor orga-  
18 nization and the labor represent-  
19 atives for such labor organization  
20 any further union time;

21           “(bb) cease providing and  
22 the deny further use of agency  
23 resources provided for union use  
24 by such labor representatives for

1 the business of such labor organi-  
2 zation; and

3 “(cc) not be subject to—

4 “(AA) any grievance  
5 procedures or binding arbi-  
6 tration invoked by such  
7 labor organization under  
8 section 7121; or

9 “(BB) any unfair labor  
10 practice complaints or pro-  
11 ceedings under this chapter  
12 pertaining to such labor or-  
13 ganization or employees rep-  
14 resented by such labor orga-  
15 nization; and

16 “(II) beginning on the date that  
17 is 180 days after the date on which  
18 such period begins—

19 “(aa) terminate all allot-  
20 ments made by or on behalf of  
21 the agency with respect to such  
22 labor organization under section  
23 7115; and

1                   “(bb) not authorize any such  
2 allotments with respect to such  
3 labor organization; and

4                   “(III) on the date that is 365  
5 days after the date on which such pe-  
6 riod begins, inform the Authority and  
7 such labor organization that such pe-  
8 riod has reached a duration of 365  
9 days; and

10                  “(iii) on the date that is 380 days  
11 after the date on which such period begins,  
12 the Authority shall terminate the certifi-  
13 cation of such labor organization as the ex-  
14 clusive representative of employees of such  
15 agency.

16                  “(B) EXCLUSIVE REPRESENTATIVE PROHI-  
17 BITION.—A labor organization for which the  
18 Authority terminates a certification as the ex-  
19 clusive representatives of employees of an agen-  
20 cy under subparagraph (A)(iii) may not be cer-  
21 tified as the exclusive representative of any em-  
22 ployee of such agency unless such labor organi-  
23 zation pays all fees charged to such labor orga-  
24 nization by the head of such agency under sub-

1 section (a)(1), including any increases to such  
2 fees under subparagraph (A)(i).

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

5 “(i) tolling any statutory or contrac-  
6 tual deadline for the filing of a grievance,  
7 complaint of an unfair labor practice, or  
8 proceeding to binding arbitration; or

9 “(ii) preventing or limiting an agency  
10 from filing any grievance against a labor  
11 organization or advancing such grievances  
12 to binding arbitration.

13 “(2) TIME TRACKING.—

14 “(A) IN GENERAL.—Each agency shall  
15 track the use of union time by labor representa-  
16 tives using the applicable time and attendance  
17 tracking system of such agency.

18 “(B) FAILURE TO RECORD.—

19 “(i) IN GENERAL.—A labor represent-  
20 ative who uses union time and fails to  
21 record such use in the applicable time and  
22 attendance tracking system shall be consid-  
23 ered absent without leave and subject to  
24 appropriate adverse action.



1           “(ii) WILLFUL OR REPEATED FAIL-  
2           URES.—A failure of a labor representative  
3           described in clause (i) shall constitute an  
4           impairment to the efficient of the service if  
5           such failure is willful or occurs in the same  
6           fiscal year as another such failure by such  
7           labor representative.

8           “(iii) LIMITED REVIEW.—Adverse ac-  
9           tion take against an employee under clause  
10          (i)—

11                   “(I) may not be determined to be  
12                   an unfair labor practice or subject to  
13                   grievance procedures or binding arbi-  
14                   tration under section 7121; and

15                   “(II) notwithstanding any other  
16                   provision of law, shall be sustained on  
17                   appeal if the determination of the  
18                   agency to take such adverse action  
19                   against such employee is supported by  
20                   substantial evidence.

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

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

5           “(A) conduct an evaluation of the compli-  
6 ance of such agency and each relevant labor or-  
7 ganization with the requirements of this section,  
8 including the accuracy with which labor rep-  
9 resentatives recorded the use of union time, the  
10 promptness with which fees under subsection  
11 (a) were charged and paid, and the valuation of  
12 agency resources provided for union use by such  
13 agency pursuant to subsection (b)(2)(B); and

14           “(B) submit to the head of such agency,  
15 the Committee on Oversight and Government  
16 Reform of the House of Representatives, and  
17 the Committee on Homeland Security and Gov-  
18 ernmental Affairs of the Senate a report on the  
19 findings of the evaluation required by subpara-  
20 graph (A).

21           “(d) DEFINITIONS.—In this section:

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

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

13           “(3) LABOR ORGANIZATION.—The term ‘labor  
14          organization’ means a labor organization recognized  
15          as an exclusive representative of employees of an  
16          agency under this chapter or as a representative of  
17          agency employees under any system established by  
18          the Transportation Security Administration Admin-  
19          istrator pursuant to section 111(d) of the Aviation  
20          and Transportation Security Act (49 U.S.C. 44935  
21          note).

22           “(4) HOURLY RATE OF PAY.—The term ‘hourly  
23          rate of pay’ means the total cost to an agency of em-  
24          ploying an employee in a pay period or pay periods,  
25          including wages, salary, and other cash payments,

1 agency contributions to employee health and retire-  
2 ment benefits, employer payroll tax payments, paid  
3 leave accruals, and the cost to the agency for other  
4 benefits, divided by the number of hours such em-  
5 ployee worked in such pay period or pay periods.

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

10 “(6) LABOR REPRESENTATIVE.—The term  
11 ‘labor representative’ means an employee of an agen-  
12 cy serving in any official or other representative ca-  
13 pacity for a labor organization (including as any of-  
14 ficer or steward of a labor organization) that is the  
15 exclusive representative of employees of such agency  
16 under this chapter or is the representative of em-  
17 ployees under any system established by the Trans-  
18 portation Security Administration Administrator  
19 pursuant to section 111(d) of the Aviation and  
20 Transportation Security Act (49 U.S.C. 44935  
21 note).

22 “(7) UNION TIME.—The term ‘union time’  
23 means the time an employee of an agency who is a  
24 labor representative for a labor organization spends  
25 performing non-agency business while on duty, ei-

1       ther in service of such labor organization or other-  
2       wise acting in the capacity as an employee represent-  
3       ative, including official time authorized under sec-  
4       tion 7131.”.

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

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

