

92ND SESSION

5TH SESSION

# H.R. 57



IN THE UNITED STATES HOUSE OF REPRESENTATIVES

April 6, 2024

Presented by House Majority Leader MR ALEX J. CABOT representing the Great State of South Carolina having introduced this bill which was later referred to the Committee on the Judiciary, Government Affairs and Ethics.

## AN ACT

To produce a tribunal of equity to deal with contentious matters of employment and labor relations in the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

### SECTION 1. SHORT TITLE.

This Act may be cited as the

**'National Employment and Labor Act of 2024'** or it may be cited in an abbreviated format of the 'NELA of 2024'.

### SEC. 2. CONFLICT, SEVERABILITY AND EFFECTIVE DATE.

- (a) In the case of conflict with any existing statute, including the U.S. Code this Act shall reign supreme and repeal any conflicting parts.
- (b) This Act shall also be severable. Meaning in the case that one part of this Act is declared unconstitutional the other constitutional and fit parts shall remain a statute.
- (c) This Act shall be enforceable effective immediately once it gains passage in both Houses of Congress and receives the signature of the President of the United States.

#### **SEC. 4. LEGISLATIVE PURPOSE.**

- (a) *Whereas*, the Congress of the United States recognizes that employment practices, disciplinary action and labor relations are currently in a poor condition.
- (b) *Whereas*, a tribunal of equity will address these issues in an equitable and fair manner.
- (c) *Whereas*, this tribunal will be composed of expert legal scholars, business representatives and government internal affairs employees who shall sit in panels.
- (d) *Whereas*, this shall serve to avoid arduous, complex and prolonged legal issues and will allow litigants to present their cases before an equitable tribunal.

### **TITLE I – NATIONAL EMPLOYMENT AND LABOR AUTHORITY**

#### **SEC. 101. ESTABLISHMENT.**

- (a) There shall be a tribunal of equity established by the Congress which shall possess original jurisdiction over disciplinary, labor and employment decisions taken by departments and ancillary agencies of the United States.

#### **SEC. 102. JURISDICTION.**

- (a) The tribunal shall have jurisdiction over matters as prescribed in Section 101 of this Act.
- (b) The tribunal shall also possess voluntary review powers over private employment, disciplinary and labor disputes if all relevant parties agree for the National Employment and Labor Authority (NELA) to assume jurisdiction over the matter.
  - (i) This agreement must be explicit and may be provided before (through written or oral contract) or after such action if all parties consent in writing to the NELA.
- (c) Any employee of any department or agency of the United States shall have the authority to petition the NELA for review of any adverse action taken by the aforementioned respective government authorities.

#### **SEC. 103. RIGHTS AND PROTECTIONS; MAINTAINED.**

- (a) Nothing in this Act shall be construed to abridge, challenge or adversely affect the rights and protections currently afforded to employees of the United States.
- (b) Their ability to pursue other courses of legal action in courts of law or through alternative dispute resolution remain unchanged.
- (c) This Act simply functions to have an authority provide equitable relief for employees of the United States.

**SEC. 104. POWERS OF THE AUTHORITY.**

- (a) The authority is empowered to provide equitable relief as recognized in this Act and other chancery courts.
- (b) The relief that may be provided by the NELA shall include:
  - (i) Injunctions;
  - (ii) Writs of both an ordinary and extraordinary nature;
  - (iii) and directions to agencies to engage in specific performance following the release of decisions from the NELA.
- (c) The NELA is specifically excluded from awarding monetary damages.
  - (i) Such power is reserved to courts of law, including the District Court following a trial on the law.

**SEC. 105. COMPOSITION OF THE AUTHORITY; GENERALLY.**

- (a) The NELA shall be composed of nine (9) members who shall sit in panels of three (3) or five (5) at the special discretion of the Chair.
  - (i) These members shall be referred to as ‘Special Adjudicators’.
  - (ii) The Chairman of the NELA shall be referred to as the Chief Adjudicator.
- (b) All members of the NELA shall be appointed by the President with the advice and consent of the Senate.
  - (i) Being a member of the NELA shall not constitute a civil office. Restrictions on membership are afforded to the Senate when exercising their advice and consent powers.
- (c) Of the nine (9) members the President shall nominate one of the individuals to sit as the Chief Adjudicator.
  - (i) Three (3) members shall be retired judges or justices of the United States.
    - (1) One of these members shall be appointed to sit as the Chief Adjudicator.
  - (ii) Three (3) members shall be current or former individuals who have led Internal Affairs Divisions;
  - (iii) Three (3) members shall be current employees of the Department of Commerce or the Department of Labor.

**SEC. 106. COMPOSITION; WHEN SITTING.**

- (a) The NELA shall sit in panels of three (3) or five (5) chaired by the Chief Adjudicator.
- (b) The Chief Adjudicator shall ensure that at least one individual from each specified category in Section 105(c)(i-iii) of this Act is appointed to each panel.

- (c) In cases of a conflict of interest the Chief Adjudicator shall disqualify and reappoint an appropriate individual.
- (d) The Chief Adjudicator shall maintain special and general administrative authority to ensure the smooth running and operation of the tribunal.

**SEC. 107. APPEALS; DECISIONS TAKEN.**

- (a) Decisions made by the NELA may only be appealed on the basis of law, not fact or equity.
- (b) All appeals taken against decisions of the NELA on the basis of legal deficiencies shall be processed by the United States District Court which shall retain original jurisdiction on appeals made as a matter of law from the NELA.

**SEC. 108. EMPLOYEES OF THE UNITED STATES; DEFINED.**

- (a) An employee of the United States, for the purposes of this Act, shall be defined as an individual employed by any department, ancillary agency or authority of the United States or the Government of the District of Columbia.
- (b) All employees of the United States as defined above are entitled to the relief and equity afforded by the NELA.

**TITLE II – PROCEDURES AND ADMINISTRATION OF THE  
NATIONAL EMPLOYMENT AND LABOR AUTHORITY**

**SEC. 201. PROCEDURES.**

- (a) The Chief Adjudicator shall be responsible for establishing the rules and procedures governing submissions and procedure by the NELA.
- (b) Amendments to these rules once established shall be by a majority vote of the entire membership (*en banc*).
- (c) The rules and procedures established shall have the primary aim of maintaining easy access to justice and equity for those who appear before the tribunal.
  - (i) Thus they shall be public, simple and easy to access and read for a layperson.
- (d) All work and decisions of the NELA shall be in a public forum and subject to Freedom of Information access requests.
- (e) The NELA shall have the capacity to hire administrative staff to ensure the proper running of the tribunal.

**SEC. 202. RELEASE OF DECISIONS.**

- (a) All decisions shall be published within five (5) working days of final submissions being made before the NELA.
  - (i) The Chief Adjudicator on a monthly basis shall be required to submit a report to Congress on how

- speedily tribunal matters are dealt with along with other appropriate statistics that are requested.
- (b) All decisions shall be publicly published on an appropriate forum.

**SEC. 203. REPRESENTATIONS BEFORE THE AUTHORITY.**

- (a) All representations made before the authority shall be based on equity and not law.
- (b) All persons may make representations before the NELA with the consent of the Chief Adjudicator, except in cases where the representative is obstreperous to proceedings.
- (c) The rules of equity rather than law govern the work of the NELA.
- (d) Constitutional principles should inform equitable decision making made by the tribunal.

**SEC. 204. ENFORCEMENT.**

- (a) The NELA is empowered to enforce their decisions as outlined in Section 104 of this Act.
- (b) In a case where a decision of the NELA is disregarded and enforcement mechanisms are ignored, the aggrieved party may petition the U.S. District Court for common-law relief, including a contempt citation.
- (i) The District Court is empowered to hold any non-compliant entity or representative in contempt for no more than thirty (30) days upon petition of an appropriate party, including counsel for the NELA – following a ‘show cause’ hearing.
- (c) It shall be a high misdemeanor to wilfully obstruct any lawful decision or order made by the NELA, without cause.

**SEC. 205. TENURE AND REMOVAL.**

- (a) Special Adjudicators shall sit as members following confirmation for a period of not longer than four (4) months without reappointment by the President and confirmation by the Senate.
- (b) The Chief Adjudicator shall sit not longer than six (6) months without reappointment by the President and confirmation by the Senate.
- (c) Both Houses of Congress may, by joint resolution with a simple majority, and signature of the President – remove any member of the NELA for:
- (i) Maladministration;
- (ii) Inactivity;
- (iii) Conflicts of interests or other unethical actions.

**SEC. 206. DUTY TO NOTIFY EMPLOYEES.**

- (a) Upon the passage of this Act all departments and agencies of the United States and Government of the District of Columbia shall be lawfully obliged to notify their employees of the establishment of the NELA and their right to seek equitable redress from it in case of adverse action.
- (b) Upon any adverse action being taken against any employee of the United States (as defined in this Act) the respective agency shall, *as a matter of law*, provide notice to employees that they may seek redress from the NELA in the form of equity or from the common law courts under existing federal employment and tortious legislation.