

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3094  
OFFERED BY \_\_\_\_\_**

Page 3, line 2, strike “and”.

Page 4, line 19, strike the second period and insert  
“; and” and after such line insert the following:

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

2           “(f)(1) Prior to presenting any objection, filing,  
3 pleading, statement of position, paper, or appeal (in this  
4 subsection referred to as ‘filing’) in any proceeding under  
5 this section, an attorney or other party representative has  
6 a duty, to the best of his or her knowledge, information,  
7 and belief, and formed after an inquiry reasonable under  
8 the circumstances, to assure that—

9           “(A) such a filing is not being presented for  
10 any improper purpose, such as to harass, cause un-  
11 necessary delay, or needlessly increase the cost of  
12 litigation;

13           “(B) the claims, defenses, positions, and other  
14 legal contentions in the filing are warranted by exist-  
15 ing law or by a nonfrivolous argument for extending,

1        modifying, or reversing existing law or for estab-  
2        lishing new law;

3            “(C) the factual contentions in the filing have  
4        evidentiary support or, if specifically so identified,  
5        will likely have evidentiary support after a reason-  
6        able opportunity for further investigation or develop-  
7        ment of the record; and

8            “(D) any denials of factual contentions in the  
9        filing are warranted on the evidence or, if specifi-  
10       cally so identified, are reasonably based on belief or  
11       a lack of information.

12        “(2)(A) At any stage of a representation proceeding  
13       under this section, including pre-election hearings, re-  
14       quests for Board reviews, or Board reviews, the Board or  
15       its agents, upon their own motion or that of a party to  
16       the proceeding, shall have discretion to impose sanctions  
17       against a party for presenting a frivolous or vexatious fil-  
18       ing or raising a frivolous or vexatious matter to the Board  
19       under this section, or upon a finding that an attorney or  
20       other party representative breached his or her duty under  
21       this subsection. Sanctions may include reasonable litiga-  
22       tion costs, salaries, transcript and record costs, travel and  
23       other reasonable costs and expenses. If at any time the  
24       Board determines that a party has raised a frivolous or  
25       vexatious matter or presented a frivolous filing for pur-

1 poses of delaying an election, the Board shall immediately  
2 direct that an election be conducted not less than 7 days  
3 after such determination.

4 “(B) For purposes of this section, a frivolous or vexa-  
5 tious filing is one that an attorney of ordinary competence  
6 would recognize as so lacking in merit that there is no  
7 substantial possibility that the Board would accept it as  
8 valid. The Board shall be guided by Rule 11 of the Federal  
9 Rules of Civil Procedure in determining whether an objec-  
10 tion, filing, pleading, paper or appeal is frivolous.”.

