

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2776
OFFERED BY MS. BONAMICI OF OREGON**

Page 2, beginning line 18, strike “Section” and all that follows through “(1) by” and insert the following: “Section 9 of the National Labor Relations Act (29 U.S.C. 159) is amended—”

1 (1) in subsection (b)—

2 (A) by

Page 2, line 22, redesignate paragraph (2) as subparagraph (B).

Page 4, line 14, strike “and”.

Page 4, line 15, redesignate paragraph (3) as subparagraph (C).

Page 4, line 17, strike the period and insert “; and” and after such line insert the following:

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

4 “(f)(1) Prior to presenting any objection, filing,
5 pleading, statement of position, paper, or appeal (in this
6 subsection referred to as ‘filing’) in any proceeding under
7 this section, an attorney or other party representative has

1 a duty, to the best of his or her knowledge, information,
2 and belief, and formed after an inquiry reasonable under
3 the circumstances, to assure that—

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

8 “(B) the claims, defenses, positions, and other
9 legal contentions in the filing are warranted by exist-
10 ing law or by a nonfrivolous argument for extending,
11 modifying, or reversing existing law or for estab-
12 lishing new law;

13 “(C) the factual contentions in the filing have
14 evidentiary support or, if specifically so identified,
15 will likely have evidentiary support after a reason-
16 able opportunity for further investigation or develop-
17 ment of the record; and

18 “(D) any denials of factual contentions in the
19 filing are warranted on the evidence or, if specifi-
20 cally so identified, are reasonably based on belief or
21 a lack of information.

22 “(2)(A) At any stage of a representation proceeding
23 under this section, including pre-election hearings, re-
24 quests for Board reviews, or Board reviews, the Board or
25 its agents, upon their own motion or that of a party to

1 the proceeding, shall have discretion to impose sanctions
2 against a party for presenting a frivolous or vexatious fil-
3 ing or raising a frivolous or vexatious matter to the Board
4 under this section, or upon a finding that an attorney or
5 other party representative breached his or her duty under
6 this subsection. Sanctions may include reasonable litiga-
7 tion costs, salaries, transcript and record costs, travel and
8 other reasonable costs and expenses. If at any time the
9 Board determines that a party has raised a frivolous or
10 vexatious matter or presented a frivolous filing for pur-
11 poses of delaying an election, the Board shall immediately
12 direct that an election be conducted not less than 7 days
13 after such determination.

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

