

# ALPA Urges Congress to Move on Bankruptcy Reform Bill

By John Perkinson, Staff Writer

**A**LPA and the AFL-CIO have lobbied aggressively for new legislation that reestablishes collective bargaining as the principal means to amend a labor contract and clarifies that a union may seek damages from the employer, or strike, if the bankruptcy process results in forced changes to the labor contract. For the airline industry, battered by bankruptcies during the post 9/11 era, the February 24 announcements of both U.S. Senate and House of Representatives bankruptcy reform bills could not come soon enough. This legislation curbs abuses that unfairly deprive both workers and retirees of their earnings and retirement savings when businesses file for bankruptcy protection.

"Since 2001, pilots have given tens of billions of dollars in concessions, sacrificing enormously to save our airlines and our jobs," said ALPA's president, Capt. John Prater. "This comprehensive reform legislation promotes fairness and shared sacrifice during economic crisis and brings needed transparency to the bankruptcy process to the benefit of all U.S. workers."

The Protecting Employees and Retirees in Business Bankruptcies Act of 2010 (S. 3033 and H.R. 4677) promotes worker interests, clarifying the standards that bankruptcy courts must apply to determine the outcome of a case. The bill restricts the scenarios in which collective bargaining agreements can be rejected, tightens the criteria by which labor contracts can be amended, and encourages negotiated settlements. Most importantly, it clarifies that a primary purpose of the Chapter 11 bankruptcy process provisions dealing with labor agreements is the preservation of existing jobs and working conditions and the promotion of collectively bargained, rather than

imposed, solutions to corporate financial crises.

The legislation also directs the court to weigh in its deliberations the effect a reorganization plan will have on wages, job security, health-care benefits, pension and other retirement plans, and the legal requirement for adequate notice of job termination.

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Durbin (D-Ill.) and [House Judiciary Committee chairman] Rep. John Conyers (D-Mich.) for introducing this legislation to put transparency back in the process, stop companies from rewarding executives for declaring bankruptcy, and ensure that any cuts to workers' pay or benefits are truly needed and fair in comparison to sacrifices by other stakeholders," said Prater.

"American workers and retirees who give their lives to a company are too often treated like strangers when their employer files for bankruptcy," said Durbin after the announcement of the Senate bill. "This bill says that if a company goes bankrupt, employees and retirees won't take a back seat to creditors and executive bonuses in getting fair treatment.... It is time for a more balanced and just approach."

Bankruptcy filings have been particularly devastating for airline employees. Between 2000 and 2010, the following airlines experienced bankruptcies: Aloha, American Trans Air, Atlas Air/Polar Air Cargo, CCAir, Champion, Comair,

Delta, Emery Worldwide, Gemini Air Cargo, Hawaiian, Independence Air, Kitty Hawk Air Cargo, Mesa Air Group, Mesaba, Midway, Northwest, Pan American, Piedmont, PSA, Skyway, Sun Country, TWA, United, and US Airways. Air Canada Jazz and Canada 3000 also sought bankruptcy protection, but these Canadian airlines are subject to a different legal framework.

The current bankruptcy process enables employers to exact contract changes through the court, as opposed to the normal collective bargaining process. Recent bankruptcy court decisions have made it easier for employers to impose economic concessions on their workers. As a result, managements have been able to violate employee labor contracts with impunity with grossly unfair results.

The most significant recent change to U.S. bankruptcy rules has been the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Passed by the 109th Congress and signed into law by President George W. Bush, the bill was enacted to make it more difficult for businesses to file for bankruptcy but did little to further the protections for affected employees and retirees.

"History shows that managements exploit the bankruptcy process to get the economic changes they want from employees, rather than the changes that are truly needed for the survival of the company," said Prater. "This legislation will restore balance to the bankruptcy process and with it an incentive for management to bargain in good faith.

"Managements must work fairly with their employees as partners to restore the health of their company during a financial crisis," added Prater. "Congress owes it to workers across this country to swiftly pass this comprehensive reform legislation and restore basic fairness for workers in the bankruptcy process." 