



56 Million Reasons Employers Should Watch The NLRB

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**David J.
Pryzbylski**
Partner

The National Labor Relations Board (NLRB) just issued a report detailing its [successes in securing monetary remedies](#) in cases for its Fiscal Year 2021 (Oct. 1, 2020-Sept. 30, 2021). If you're an employer that ever has proceedings before the agency, there is cause for concern.

According to a press release from the Board:

"[T]he National Labor Relations Board recovered \$56,801,407 (\$53,878,300 in backpay and \$2,923,108 in fees, dues, and fines). Additionally, 6,307 discriminatees were offered reinstatement to jobs from which they had been unlawfully discharged. These results represent a dramatic increase from Fiscal Year 2020, in which \$39,389,405 total was recovered in backpay, fees, dues, and fines and 978 workers were offered reinstatement.

That the NLRB saw a significant uptick in recoveries relative to 2020 may be due, in part, to the effects of mass layoffs and other issues related to the pandemic. It also likely stems from [several recent initiatives](#) by the agency to [increase enforcement](#) and seek [aggressive remedies](#) since NLRB General Counsel Jennifer Abruzzo took over several months ago. In other words, employers should expect backpay numbers to go up even more next fiscal year. While [backpay awards typically range](#) in the thousands to tens of thousands of dollars, depending on the case, there have been cases where [millions of dollars are in play](#).

The same NLRB press release notes:

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“Under its current statute, the NLRB cannot assess penalties. However, the Agency does have the authority to seek make-whole remedies, such as reinstatement, backpay, and consequential damages for discharged workers. Recently, the General Counsel issued a memorandum to all Regions advising them to seek a variety of remedies to ensure that victims of unlawful conduct under the National Labor Relations Act are truly made whole for losses they have suffered.”

Although the Board presently does not have legal authority to issue independent penalties for labor law violations, that could change [if the PRO Act becomes law](#). That legislation would, among other things, authorize monetary fines for up to \$100,000 for labor law violations in some cases. While that bill has stalled, Democrats are trying to include those penalty provisions in the [massive reconciliation bill](#) that is being debated in Congress right now. If the current version of the reconciliation bill passes, those penalties likely would become effective Jan. 1, 2022.

The \$56 million in backpay collected by the agency warrants attention by employers – but more concerning are other developments that are making it look like much more money will hang in the balance for companies facing alleged violation of labor law in the years to come.