

National Labor Relations Board Joint-Employer Rule

Millions of the nation's business owners are discouraged by the decision of the National Labor Relations Board (NLRB) to expand joint-employer standards under the National Labor Relations Act (NLRA). Now, companies that contract with other businesses can be pulled into collective-bargaining negotiations with contract employees and held liable for any labor violations committed against the contract partner. A rule that companies can be held responsible for labor violations committed by their contractors will be harmful to the economy as companies attempt to protect themselves.

BACKGROUND

Congress enacted the NLRA in 1935 to protect the rights of employees and employers, encourage collective bargaining, and curtail certain private sector labor and management practices, believed to harm the general welfare of workers, businesses and the economy. Under the NLRA, a company can be considered an employer over a company it contracts with if it has significant enough control over the employees. This joint-employer standard helps to resolve labor disputes when it is not clear whether the dispute arose from decisions made by the direct employer or a larger corporation it contracts with.

Rather than hiring their own employees, it is not uncommon for many companies, to contract with other companies or use staffing agencies to supply temporary, or even-long term, workers. In the past, the NLRB held that companies were only responsible for employees who were under their direct control. Without the power to set hours, wages or job responsibilities, the earlier rulings held that companies could not be held responsible for the labor practices of contractors.

The NLRB's ruling in Browning-Ferris Industries of California Inc. this year is a sharp departure from its previous decisions by holding that also having indirect and potential control over working conditions are all relevant to determining joint employer status. This redefines what it means to be an employer and makes it easier for employees to unionize, something that small businesses rarely have the infrastructure to manage.

TRSA POSITION

The NLRB ruling will hurt businesses as diverse as commercial laundries, restaurants, hotels, cleaning services, hospitals and staffing agencies. For example, many healthcare facilities use the staff of a commercial laundry to work in the facility full-time to oversee linen distribution. Such employees work for the commercial laundry but, under the new rule, the hospital may now be considered a joint employer, the laundry would then be held fully responsible for the staff of hospital and be forced to negotiate a union contract when the laundry is not unionized.

ACTION

Provide Congressional Comments to the Administration's proposal and work with businesses to resolve this burden that threatens to cause further damage to the U.S. economy and jobs.