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Strengthening and Promoting the Linen, Uniform and Facility Services Industry
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National Labor Relations Board Joint-Employer Rule

Millions of the nation's business owners were discouraged by the decision in 2015 of the National Labor Relations Board (NLRB) to expand joint-employer standards under the National Labor Relations Act (NLRA). Dues to that decision, 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 can destroy the type of family owned companies that make up the linen, uniform and facility services industry.

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.

The NLRB's 2015 ruling in Browning-Ferris Industries of California Inc. was 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.

The new Republican-majority NLRB decided 3-2 in Hy-Brand Industrial Contractors to overrule Browning-Ferris and return to a position that multiple entities can be considered joint employers of a group of employees only if each has exercised direct and immediate control over a group of employees. However the NLRB's inspector general issued a report that because of one of the Board members connection to the Browning-Ferris case he shouldn't have participated in deliberations or voting on Hy-Brand. Citing the inspector general's report, the board vacated Hy-Brand and announced "the overruling of the Browning-Ferris decision is of no force or effect." Thus further co0nfusing employers.

TRSA POSITION

The multiple NLRB rulings are confusing and will hurt businesses as diverse as the linen, uniform and facility services industry. 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

Support H.R. 3441 the Save Local Business Act, the bill was introduced by Rep. Bradley Byrne (R-Ala.) and would limit the extent to which affiliated businesses are considered joint employers for wage-and-hour and collective bargaining liability purposes. Ask Senate to take up and pass the legislation.