INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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The Honorable John Kline
Chairman
House Committee on Education
and the Workforce
2181 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Robert C. Scott
Ranking Member
House Committee on Education
and the Workforce
2101 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Kline and Ranking Member Scott:

On behalf of the 1.4 million members of the International Brotherhood of Teamsters, I am writing to express our vigorous opposition to H.R. 3459, the Protecting Local Business Opportunity Act. I strongly urge you to reject this legislation.

On August 27, 2015, the National Labor Relations Board (NLRB), in its Browning Ferris Industries (BFI) decision, affirmed the basic principle that two or more employers are joint employers of the same employees if they are both employers under common law and they "share or co-determine those matters governing the essential terms and conditions of employment." H.R. 3459 would overturn this decision and allow employers to evade their responsibility to engage in meaningful collective bargaining.

The BFI case involves a labor-only, cost-plus staffing contract under which BFI has subcontracted the employment relationship only to a staffing agency, Leadpoint. BFI owns the facility and equipment on which Leadpoint's employees work; it directs the quality and quantity of work performed by Leadpoint workers. BFI oversees operations with its own personnel and retains authority to approve or reject Leadpoint's workers. Leadpoint can only pay its workers amounts that comply with its staffing agreement with BFI.

As the NLRB noted, the Union "assert(ed) that absent a change in the joint-employer standard, a putative employer, like BFI, that is a necessary party to meaningful collective bargaining will continue to insulate itself by the 'calculated restructuring of employment and insertion of a contractor to insulate itself from the basic legal obligation to recognize and bargain with employees' representative."

The sky is not falling. NLRB Joint Employer decision in the BFI case restates the joint employment standard. The so-called "new standard" is simply a reaffirmation of the rules applied by the Board during its first fifty years, before the 1984 board narrowed the test with little support or basis for its conclusion, inadvertently excluding more and more workers from the right to engage in meaningful collective bargaining.

Workers at BFI/Leadpoint chose to exercise their right to determine whether they wanted to organize and bargain collectively. Workers voted and the ballots from that election were impounded pending a decision in the BFI case. After the NLRB issued its decision, the ballots were counted. The BFI/Leadpoint workers decisively declared their desire to bargain collectively by voting 4-1 in favor of Teamster representation. The NLRB ruling will allow these (and other) workers to negotiate with and hold accountable the employer which actually controls the terms and conditions of their jobs. H.R. 3459 will deny them the ability to do so.

You will fail these workers if you do not reject H.R. 3459. I hope I can tell our members that you stood with these, and other, workers in their efforts to achieve meaningful collective bargaining.

Sincerely,

James P. Hoffa

James P. Hoffa
General President

cc: members of the Committee on Education and the Workforce