

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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United States Senate
Washington, D.C. 20510

Dear Senator:

The International Brotherhood of Teamsters urges you to oppose S. 63, the Tribal Labor Sovereignty Act. This legislation would exempt all tribally-owned and -operated commercial enterprises on Indian lands broadly defined from the National Labor Relations Act (NLRA).

If S. 63 were to become law, hundreds of thousands of workers at these enterprises, including Teamsters, would be stripped of their protections and rights under the NLRA, including the right to organize and collective bargaining. It would deprive both tribal members and non-member employees of the right to form or join unions and to bargain collectively for better wages, hours, and working conditions. We should be working to expand the rights and ability of workers to earn a decent living for themselves and their families and to secure a safe and healthy workplace.

While tribal casinos have been the focus of discussion, this legislation affects not just casino workers. Since the 1980's tribes have expanded business interests beyond casinos. They now operate many different revenue producing commercial enterprises -- construction companies, mining operations, power plants, hotels, water parks and ski resorts, to name a few.

In 2004, the National Labor Relations Board (NLRB) (in San Manuel) ruled that tribal casino workers should have NLRA protections. Shortly after the San Manuel decision, legislation, in the form of amendments, was twice offered to block the NLRB from enforcing the San Manuel decision. These amendments were rejected. Since then, the NLRB has proceeded in a measured fashion asserting jurisdiction on a case-by-case basis.

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The NLRB will not assert jurisdiction where it would interfere with internal governance rights in purely intramural matters or abrogate treaty rights. Otherwise, the NLRB will protect workers' rights at tribally owned enterprises by asserting jurisdiction. With its case-by-case approach, San Manuel takes a careful approach to balancing tribal sovereignty interests with Federal labor law.

It should be noted that other important federal laws that protect workers apply to Indian businesses, such as the Occupational Safety and Health Act, the Fair Labor Standards Act, the Employee Retirement Income Security Act, and Title III of the Americans with Disabilities Act. Indeed, courts have denied attempts to gain exemptions on numerous occasions ruling commercial tribal enterprises should not be excluded from such laws. NLRA rights and protections should not be treated differently.

Proponents assert that they are seeking the same exemption as state and local governments. However, this is inaccurate. The NLRA only exempts actual government employees and not private sector employees performing contracted out government functions. Also, a substantial majority of workers at these enterprises are not Indian or tribe members, and thus have no ability to influence tribal governance, since non-tribal members are prohibited from petitioning a tribe.

The bill could also undermine enforcement of existing labor contracts and the decision workers made to organize and bargain collectively. When a collective bargaining agreement expires, a tribe could unilaterally terminate the relationship with the union without consequence under the NLRA. The employer's obligation to bargain could be eliminated.

Employees of tribal enterprises have no constitutional rights to protect against employers. Only the NLRA gives them free speech rights. Absent the NLRA they have no protection. Workers cannot be left without any legally enforceable right to form unions and bargain collectively just because they are employed by at tribally owned enterprise.


Finally, the United States requires its trading partners to implement and abide by internationally recognized labor standards, while S. 63 deprives workers at these tribal enterprises of these core rights – the right to organize and bargain collectively.

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To focus solely on the NLRA raises the question of the true motivation for this legislation. It is regrettable that the principle of tribal sovereignty is being used to cloak an attack on the basic rights of workers to organize and bargain collectively. The Teamsters Union respects tribal sovereignty. However, we do not believe that this principle should be used to deny workers their collective bargaining rights and freedom of association. We urge you to oppose the Tribal Labor Sovereignty Act and to vote no on S. 63 should the legislation come to a vote in the Senate.

Sincerely,



James P. Hoffa
General President