



Vote Alert: Vote NO on the Tribal Labor Sovereignty Act (S. 140)

January 10, 2018

Dear Representative:

On behalf of the Transport Workers Union of America (TWU), AFL-CIO, we write urging you to oppose the Tribal Labor Sovereignty Act. This bill (introduced as H.R. 986) has been paired with unrelated bills and packaged as part of S. 140, which the House is expected to vote on today. We urge you to oppose the Tribal Labor Sovereignty Act by voting NO on S. 140.

The Tribal Labor Sovereignty Act would exempt from the protections of the National Labor Relations Act (NLRA) workers employed by tribal-owned and -operated commercial enterprises located on tribal lands. Under this bill, the NLRA rights and protections would be denied to more than 600,000 tribal casino workers, the vast majority of whom are not Native American.

This bill would overturn a 2004 decision by the Bush Administration's National Labor Relations Board (Board), in which the Board applied the NLRA to a tribal casino (San Manuel Indian Bingo and Casino, 341 NLRB No. 138 (2004)). In reaching this decision, the Board applied a test: the NLRA will not apply if its application would "touch exclusive rights of self-governance in purely intramural matters." And, the NLRA will not apply if it would "abrogate Indian treaty rights." The Board also considered other factors, including that the casino in question was a typical commercial enterprise that catered to non-Native American customers and employed non-Native Americans. While the Board asserted NLRA protections in the San Manuel decision, it ruled the opposite way, denying its jurisdiction in a companion case (Yukon Kuskokwim Health Corporation, 341 NLRB No. 139 (2004)).

We understand the importance of tribal sovereignty and support the principle in true self-governance matters. But the fundamental human rights of employees are not the exclusive concern of tribal enterprises or tribal governments. While proponents of the bill falsely compare tribal governments to state governments, they miss a glaring truth: while state governments are exempt from NLRA protections, their workers are eligible to vote for those who set their labor laws. But the vast majority of the 600,000 casino workers who would be impacted by the Tribal Labor Sovereignty Act are not Native Americans, and therefore have no voice in the selection of those setting tribal policy nor the ability to petition the tribal government to protect their rights.

We object to a sweeping exemption of all tribal enterprises from the NLRA, and believe the test used by the Board to determine whether the NLRA is applicable should remain. Unfortunately, the Tribal Labor Sovereignty Act has been packaged with unrelated bills in an attempt to pressure support for this particular bill. While TWU has no position on the other bills contained in S. 140, we urge you vote NO in opposition to the Tribal Labor Sovereignty Act.