



A bold voice for transportation workers

February 8, 2018

Oppose the Tribal Labor Sovereignty Act

Dear Senator:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I urge you to vote NO on the Tribal Labor Sovereignty Act, packaged together with several other bills as part of S.140. Under the guise of promoting tribal self-governance, the bill would deny labor rights and protections for hundreds of thousands of workers by exempting all tribal-owned and operated commercial enterprises located on tribal lands from the National Labor Relations Act (NLRA). In addition to over 600,000 casino workers, this legislation would impact employees at mining operations, power plants, smoke shops, saw mills, construction companies, ski resorts, high-tech firms, hotels, and other for-profit businesses.

Specifically, the legislation seeks to overturn a decision by the National Labor Relations Board (NLRB) in *San Manuel Indian Bingo and Casino*, 341 NLRB No. 138 (2004), which established a test for the application of whether the NLRB should assert jurisdiction over tribal enterprises. In this case, the NLRB determined that applying the NLRA did not interfere with the tribe's autonomy, and its protections may be applied when doing so would not affect the tribes' exclusive rights of self-governance or treaty rights. The NLRB's decision also took into account that many commercial enterprises on tribal owned land employ primarily non-Native Americans, and often cater to non-Native American customers.

Former NLRB General Counsel Richard Griffin Jr. testified to Congress on this point, stating that "if a tribe is participating in the national economy through a commercial enterprise, employing many non-Indian employees, catering largely to non-Indians, and competing with non-Indian businesses, the balance of conflicting considerations favors the Board's jurisdiction because the tribe's activity affects interstate commerce in a significant way."

If enacted into law, this legislation would be catastrophic to employees on tribal lands. Workers would be stripped of their rights to organize and assemble, with or without a union. Activity as basic and essential as refusing to work in unsafe conditions, discussing wages, and jointly bringing concerns to management would no longer be protected, and could be used as grounds to fire an employee. This denial of basic rights is unacceptable as this country seeks to raise stagnant wages and address chronic income disparity.

Transportation Trades Department, AFL-CIO

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Larry I. Willis, President / Greg Regan, Secretary-Treasurer



This approach also runs counter to international norms that the U.S. should be championing. The Director of the International Labour Organization (ILO), an agency of the United Nations, recently clarified that if tribes do not provide internationally recognized rights, which they frequently do not, the federal government must ultimately take the responsibility to do so, as it does currently under the *San Manuel* test.

While TTD supports the principle of tribal sovereignty and efforts to promote economic development in these communities, denying basic collective bargaining rights and freedom of association cannot be a tenet of this principle. Removing the critical protections of the NLRA from employees does nothing to promote a tribe's right to self-governance and only harms front-line workers who are seeking basic rights and a voice in the workplace. For these reasons, we urge you to oppose S. 140 when it is considered by the Senate.

Sincerely,

A handwritten signature in cursive script that reads "Larry I. Willis".

Larry I. Willis
President