

AFL-CIO

LEGISLATIVE ALERT

June 28, 2017

The Honorable Virginia Foxx, Chair
The Honorable Robert C. Scott, Ranking Member
House Committee on Education and the Workforce
2176 Rayburn House Office Building
Washington, DC 20510

Dear Chair Foxx and Ranking Member Scott:

The AFL-CIO urges you to oppose three anti-union bills that will come before the Committee on Education and the Workforce this week. Taken together, the Tribal Labor Sovereignty Act (H.R. 986), the Employee Privacy Protection Act (H.R. 2775), and the Workforce Democracy and Fairness Act (H.R. 2776) are an assault on the freedom of workers to form and join unions to negotiate with their employers over wages, benefits and working conditions.

Tribal Labor Sovereignty Act (H.R. 986)

The Tribal labor Sovereignty Act would deny protection under the National Labor Relations Act (NLRA) to a large number of workers employed by tribal-owned and -operated enterprises located on Indian land. Among these workers are over 600,000 tribal casino workers, the vast majority of whom are not Native Americans. As proposed, this bill would strip all workers in these enterprises of their rights and protections under the NLRA.

The bill would deprive the National Labor Relations Board of any opportunity to balance carefully, on a case-by-case basis, tribal sovereignty interests with workers' fundamental right to organize a union in situations where these interests may conflict. For example, in *San Manuel Indian Bingo & Casino*, 341 NLRB No. 138 (2004), the Board found that the NLRA should apply to a tribal casino enterprise, because the law's reach would not "extend beyond the tribe's business enterprise and regulate intramural matters." In a companion case, however, *Yukon Kuskokwim Health Corp.*, 341 NLRB No. 139 (2004), the Board tipped the balance the other way in favor of the employer, deciding not to assert jurisdiction.

The AFL-CIO fully supports the principle of sovereignty for tribal governments. This bill, however, would distort this principle in order to squash workers' right to collective bargaining and freedom of association in every single case where tribal employers seek to cheat their employees of this right—even when the tribal enterprise is simply a commercial operation competing with non-tribal businesses.

American Federation of Labor and Congress of Industrial Organizations

815 16th St., N.W. • Washington, D.C. 20006 • 202-637-5000 • www.aflcio.org

RICHARD L. TRUMKA
PRESIDENT

ELIZABETH H. SHULER
SECRETARY-TREASURER

TEFERE GEBRE
EXECUTIVE VICE PRESIDENT

The Workforce Democracy and Fairness Act (H.R. 2776)

The Workplace Democracy and Fairness Act would make it more difficult for workers to exercise their right to form a union and bargain with their employer by imposing new requirements that will unduly complicate and delay the process. Reversing important elements of the NLRB's 2015 election reforms, the bill would require the NLRB to wait at least two weeks before holding a pre-election hearing. No election could be held sooner than 35 days after the filing of an election petition, providing employers with at least five weeks to conduct a one-sided campaign against the union.

The bill also invites employer manipulation of bargaining units as a way to dilute support for the union. Overturning the NLRB decision in *Specialty Healthcare*, the bill would establish a default rule that all workers who share a community of interest should be in the same bargaining unit—regardless of whether that is the particular unit for which workers have petitioned.

Employee Privacy Protection Act (H.R. 2775)

The Employee Privacy Protection Act would erect barriers to union supporters talking with workers prior to a representation election by delaying and limiting the contact information employers are required to provide. Current NLRB rules require employers to provide available telephone numbers and e-mail addresses to union supporters within two business days; this bill would require employers to provide only one form of contact information, and not until 7 days after the NLRB rules on the appropriate bargaining unit. That is, the bill furthers an even more one-sided election process, undermining union supporters' ability to talk with employees—while doing nothing to rein in employers' anti-union campaigns.

Instead of addressing America's widening income gap and persistent wage stagnation by making it easier for workers to negotiate for better wage and working conditions, these bills would make it harder for workers to exercise these fundamental rights. We urge you to oppose this trio of anti-worker bills at Thursday's markup.

Sincerely,



William Samuel, Director
Government Affairs Department

Cc: members, House Committee on Education and the Workforce

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