



International Union of Operating Engineers

AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

January 8, 2018

JAMES T. CALLAHAN
GENERAL PRESIDENT

The Honorable Paul D. Ryan
1233 Longworth House Office Building
Washington, DC 20515

The Honorable Nancy Pelosi
233 Cannon House Office Building
Washington, DC 20515

BRIAN E. HICKEY
GENERAL SECRETARY-TREASURER

Dear Speaker Ryan and Leader Pelosi:

GENERAL VICE PRESIDENTS

The International Union of Operating Engineers opposes the Tribal Labor Sovereignty Act, legislation contained in S. 140 (115-54) that would eliminate the labor protections currently guaranteed to hundreds of thousands of American workers. Indeed, if enacted into law, this bill would constitute the biggest rollback in labor law since the passage of the Taft-Hartley Act in 1947.

The International Union of Operating Engineers (IUOE) represents nearly 400,000 men and women across North America. Members of the International Union of Operating Engineers maintain and operate Native American and non-Native American gaming facilities around the United States, from Connecticut to California, and this legislation would have a dramatic effect on their lives and livelihoods. The IUOE is the second-biggest union in the hospitality sector. But this legislation extends beyond casinos and gaming. IUOE members work in mining and energy facilities on Native American lands in a number of locations, and those workers eventually could lose their rights as a result of this legislation.

In a few short words, this bill changes current law by exempting the National Labor Relations Act from tribal enterprises on tribal lands. Today, the National Labor Relations Board (Board) implements a case-by-case review of whether labor law applies to tribal enterprises.

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The precedent-setting case that comes from the San Manuel Band of Mission Indians is instructive. The Tribe operated a 92,000-sq.ft. casino (over two acres), with 1,400 employees. Only five of the workers were Native American. The Board determined that this large commercial establishment should not receive the exemption from labor law provided to states and local government because its operations were fundamentally different than a government. *The San Manuels were not providing a public good to members of the tribe.* They were not behaving like a government. Instead, the Board determined that when the tribal operation in question is commercial in nature, employs significant numbers of non-Indians, and caters to a non-Native American clientele, “the special attributes of sovereignty are not implicated.” The Board determined that private labor law applies to the San Manuel casino, just as it would with any other commercial operation. Federal courts have supported this interpretation. Sovereignty does, however, apply to governmental functions of the tribe, just as they would with any state government.

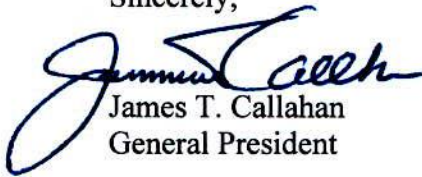
If passed, the exemption from labor law would *unfairly advantage commercial tribal operations at the expense of non-Native American private-sector companies.* Competitors with Native American commercial operations must comply with labor law; Native American operations will not. As mentioned above, the bill’s reach extends well beyond the gaming industry. Tribes are engaged in a variety of commercial enterprises, from mining and energy development, to manufacturing and construction. Over time, it is reasonable to expect that tribal enterprises will expand and compete more aggressively with non-Native companies in a wide variety of commercial sectors, without any concern for the rights of workers.

Tribal labor law is woefully inadequate – virtually non-existent in most tribes around the country. It is no replacement for the nation’s basic legal framework that protects workers’ rights. Eliminating the NLRA for tribal enterprises will strip away freedoms guaranteed to Americans today, including hundreds of thousands of workers at tribal casinos who are not Native American. S. 140 (115-54) would immediately eliminate the rights of thousands of Operating Engineers in workplaces all over the United States.

The International Union of Operating Engineers opposes S. 140 (115-54), which eliminates nearly one-million workers' individual right to take collective action to improve their working conditions, and respectfully urges you to oppose it when it comes to the floor of the House of Representatives on Wednesday.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "James T. Callahan". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline that extends under the rest of the name.

James T. Callahan
General President