



June 9, 2015

VIA EMAIL

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

The United Steelworkers (USW) represents hundreds of workers in the gambling industry in Nevada and Ohio, and has recently filed a petition with the National Labor Relations Board (NLRB) to represent over 100 workers at the Saganing Eagles Landing Resort and Casino in Sandish, MI. Saganing Eagles Landing Resort and Casino is owned and operated by the Saginaw Chippewa Indian Tribe. The Tribal Labor Sovereignty Act (HR 511), if passed, would exempt Indian-owned and operated interstate commercial enterprises operated on Indian lands from the National Labor Relations Act (NLRA). The USW supports Tribal Sovereignty; however, we believe workers should be afforded federal labor law protections where no other protections exist.

Indian Tribes own and operate many different interstate commercial enterprises on Indian lands - not just casinos. Tribes operate mines, smoke shops, power plants, saw mills, construction companies, ski resorts, hotels and spas, gift and farmers markets. The vast majority of these businesses are not exclusively Tribal in nature, because they market to the general public while providing a source of revenue for Tribal governments and members.

Since the 1980s, as Tribes have expanded their business interests, they have also sought exemptions from federal labor laws. The courts have consistently ruled Tribal Sovereignty extends to, *“only that power needed to control internal relations, preserve their own unique customs and social order, and prescribe and enforce rules of conduct for their own members. Toward this end, the Supreme Court has recognized that a tribe may regulate any internal conduct which threatens the political integrity, the economic security, or the health or welfare of the tribe.”* *Reich v. Mashantucket Sand & Gravel*, 95 F.3d 174, 178-79 (2nd Cir. 1996) [Emphasis added].

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Also, Courts have ruled on numerous occasions that commercial tribal enterprises should not be excluded from the ADA, FLSA, OSHA, ERISA and other Federal labor law protections. See, *Donovan v. Coeur d'Alene Tribal Farm*, 751 F.2d 1113 (9th Cir. 1985).

HR 511, if passed, would overturn the NLRB decision that workers at Tribal owned and operated casino enterprises should receive the benefits of collective bargaining, just like other casino employees, see *San Manuel Indian Bingo and Casino*, 341 NLRB No. 138 (2004).

In 2011 before the Senate Indian Affairs Committee, the National Indian Gaming Commission testified that of 566 federally-recognized tribes, 246 operate 460 gaming facilities in 28 states, **and that the vast majority of employees (up to 75 percent) were non-Tribal members.** That same testimony reported in 2009 that tribal casinos generated gross gaming revenue of \$27.2 billion, only a fraction of the estimated \$100 billion U.S. gambling industry revenue. As of September 2014 the Federal Gaming Commission estimated there were 733,930 people directly employed by the gambling industry in the United States.

HR 511 would rob the NLRB of exercising jurisdiction on a case-by-case basis. Just last week the NLRB declined to take jurisdiction citing the 1830 Treaty of Dancing Rabbit Creek and 1866 Treaty of Washington stating, “*We have no doubt that asserting jurisdiction over the Casino and the Nation would effectuate the policies of the Act. However, because we find that asserting jurisdiction would abrogate treaty rights specific to the Nation.*” *Chickasaw Nation Windstar World Casino*, 362 NLRB 109 92015). Similarly the NLRB declined jurisdiction, “*when an Indian tribe is fulfilling a traditionally tribal or governmental function that is unique to its status,.. fulfilling just such a unique governmental function [providing free health care services to Indians],*” *Yukon Kuskokwim Health Corporation*, 341 NLRB 139 (2004). [Emphasis added].

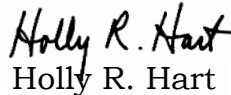
Finally, the Tribes assert that, if passed, HR 511 would grant the same exemption as state and local governments under the NLRA. This argument is inaccurate because the NLRA **only exempts actual government employees**, and not private sector employees working for commercial enterprises within the boundaries of state or local governments. Casinos are not inherently governmental operations and their employees may not work directly for a Tribe.

Casinos and other Tribal enterprises should be reviewed on a case-by-case basis, as was done in Chickasaw and Yukon Kuskokwim.

HR 511 would take a meat cleaver to the Act and deny thousands of workers protection under the guise of Tribal Sovereignty. HR 511 would deny Indian and non-Indian workers alike their ability to collectively negotiate their wages, hours and working conditions and improve their lives and that of their families. Please do not support or co-sponsor HR 511, and vote NO should it reach the House floor.

Thank you for your consideration and please contact Alison Reardon, USW Legislative Representative at 202-778-3301 or areardon@usw.org for additional information.

Sincerely,



Holly R. Hart

Assistant to the International President
Legislative Director

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