

# United States Senate

WASHINGTON, DC 20510

October 6, 2011

The Honorable Hilda L. Solis  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NE  
Washington, D.C. 20210

Dear Secretary Solis:

I am writing to request that you rescind the proposed rule pertaining to the Section 203(c) "advice" exemption of the Labor Management Reporting and Disclosure Act (LMRDA).

President Obama has emphasized that regulations in the United States are "placing unreasonable burdens on business." Yet, according to the Federal Register, there were 1,841 rulemaking proceedings during the first six months of fiscal year 2011. With unemployment at 9.1% and no new jobs created in the month of August, another regulatory burden will further increase uncertainty for job creators.

Up until now, employers have been exempt from reporting advice they receive from labor counsel or consultants in preparation for union negotiations. Under the proposed rule, employers would be required to report to the Department of Labor all consultations with labor counsel or consultants from draft speeches on union negotiations to routine business matters such as supervisor training or handbook policies. Such changes are a significant expansion of current labor management reporting requirements. Combined with the existing criminal penalties for non-compliance and average estimated compliance costs of \$1.5 billion in the first year, this proposed rule raises serious concerns.

According to the Chamber of Commerce, the proposed rule would inhibit companies from gaining the "legal advice they need to safely exercise their statutory rights to express their view during union organizing campaigns." As reporting also applies to labor counsel and consultants, the American Bar Association warns that such changes will discourage "lawyers and law firms from agreeing to represent employers," fearing violations of the attorney-client relationship. Without adequate advice on labor matters, employers are more vulnerable to violations of the law.

Employers have federally protected free speech rights on labor management matters, including union campaigns. Absent adequate legal counsel, employers are likely to respond to this proposed rule by choosing not to exercise these rights—a chilling effect that would limit the information an employee receives on union organization or collective bargaining matters.

Employers and employees alike should fully understand the impact that a union organization will have on a particular company.

The primary aim at DOL should be to stimulate job creation and improve economic growth. I respectfully request that you rescind the proposed rule pertaining to the "advice" exemption of the "persuader activity" requirement under Section 203(c) of the Labor Management Reporting and Disclosure Act.

Sincerely,

Ron Johnson

Randy Paul

Jim DeMint

Mike McClellan

Kelly Leyette

John Boozman

Paul Blunt

Chris Alexander

M.A. (FL)

Roy Blunt

Wendell R. Allen

W. Blunt

Eric

John

John McLean

John Lahey

Don Kyle

Robin L. Hatch

Ray Winter

John Shan

Susan Collins

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