



TFA

Monthly Newsletter

August 2015

IN THE NEWS

The Tribal Labor Sovereignty Act—It's a No-Brainer

by Kristi Jackson

The proposed HR 511 bill before Congress, referred to as the Tribal Labor Sovereignty Act, is a no-brainer. Tribes are sovereign and should have the same powers as other governments.

The Act seeks to officially add Tribal governments to the list of those entities that are *exempt* from the National Labor Relations Act ("NLRA"). Congress enacted the NLRA in 1935 to protect the rights of employees and employers, to encourage collective bargaining, and to curtail certain private sector labor and management practices which can harm the general welfare of workers, businesses and the U.S.

economy. Simply put, NLRA is the law that unions rely on to access employees within private companies and form unions.

There are many instances where the Act does not apply, including: workers who are covered by the Railway Labor Act, agricultural employees, domestic employees, supervisors, **federal, state or local government workers**, independent contractors and some close relatives of individual employers.

That's right – the NLRA specifically exempts other types of government workers but is silent as to employees of Native American Tribes. There is no

(continued on Page 2)



Above: Kristi Jackson spoke on a finance panel at OIGA with moderator John Fryrear (center) and Gina Gray from NAFA (left).

Virginia's Pamunkey Indian Tribe Granted Federal Recognition

7/721/15 – RapidCityJournal.com

Court Holds that Tribe Is Subject to ACA Large Employer Mandate

7/09/15 – Forbes.com

Tribe Says 40-Greenhouse Grow Was Medicinal

7/15/15 – Redding.com

2014 Indian Gaming Revenues Increase 1.5 Percent

7/23/15 – NIGC.gov

Federal Judge Allows Injunction, Temporarily Halting Work on Aquinnah Casino

7/28/15 – VineyardGazette.com

(continued from page 1)

question that Tribes are forms of government, with sovereign rights. Tribes exercise jurisdiction on their lands and make their own laws. The fact that the Act is silent to Tribes needs to be fixed.

HR 511 does not intend to impact other aspects of federal law, it only establishes parity such that Tribes are treated the same as any other federal, state and local government. Further, HR 511 is not intended to disallow workers to unionize on Tribal lands. What it will provide, however, is for workers to pursue collective bargaining agreements pursuant to *Tribal law* – not based on a federal mandate.

In a recent testimony before the House Sub-Committee on Health, Employment, Labor and Pensions, the Chairman of the Mashantucket Pequot Tribal Nation (“MPTN”), Rodney Butler, highlighted that the United Auto Workers union recently organized workers on the Tribe’s reservation at

its Foxwoods Casino. According to Butler, “the Tribe made a sovereign decision to allow collective bargaining on its reservation land when supported by a majority of employees.” In fact, there are several unions represented at Foxwoods – all permitted under MPTN tribal law.

In California, where recent gaming compacts include a provision allowing workers to unionize at casinos in the state – this is similarly viewed not as a state-government imposed mandate, but rather an act of Tribes asserting

their sovereignty. Tribes willingly choose to enter into these compacts with the state. They are highly negotiated agreements – not ones with provisions such as these mandated by federal law.

HR 511 would prevent the National Labor Relations Board from asserting jurisdiction on businesses owned by Native American Tribes, operated by Tribes, and located on Tribal lands. It is time for parity in the law – Tribes deserve the same treatment as other forms of government.



TRIBAL FINANCIAL ADVISORS INCORPORATED

TFA

400 Continental Boulevard
Suite 320
El Segundo, CA 90245
tribaladvisors.com

KRISTI JACKSON
VICE CHAIR and CEO
310.341.2335
kjackson@tribaladvisors.com

JEFF HEIMANN
MANAGING DIRECTOR
310.341.2518
jheimann@tribaladvisors.com

DAVID HOWARD
PRESIDENT
310.341.2795
dhoward@tribaladvisors.com

WILLIAM CRADER
MANAGING DIRECTOR
310.341.2336
wcrader@tribaladvisors.com

TRIBAL BOARD OF ADVISORS

BRIAN PATTERSON
TOM RODGERS
VALERIE SPICER
JOHN TAHSUDA
DANIEL TUCKER

FOLLOW TFA ON:

