

113TH CONGRESS
1ST SESSION

S. 1166

To amend the National Labor Relations Act to provide for appropriate designation of collective bargaining units.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2013

Mr. ISAKSON (for himself, Mr. ALEXANDER, Mr. BURR, Mr. COATS, Mr. CORKER, Mr. CORNYN, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. JOHANNIS, Mr. KIRK, Mr. ROBERTS, and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the National Labor Relations Act to provide for appropriate designation of collective bargaining units.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Representation Fair-
5 ness Restoration Act”.

6 **SEC. 2. AMENDMENT TO THE NATIONAL LABOR RELATIONS**

7 **ACT.**

8 Section 9(b) of the National Labor Relations Act (29
9 U.S.C. 159(b)) is amended by striking the first sentence

1 and inserting the following: “In each case, prior to an elec-
2 tion, the Board shall determine, in order to ensure to em-
3 ployees the fullest freedom in exercising the rights guaran-
4 teed by this Act, the unit appropriate for the purposes
5 of collective bargaining. Unless otherwise stated in this
6 Act, excluding acute health care facilities, the unit appro-
7 priate for purposes of collective bargaining shall consist
8 of employees that share a sufficient community of interest.
9 In determining whether employees share a sufficient com-
10 munity of interest, the Board shall consider (1) similarity
11 of wages, benefits, and working conditions; (2) similarity
12 of skills and training; (3) centrality of management and
13 common supervision; (4) extent of interchange and fre-
14 quency of contact between employees; (5) integration of
15 the work flow and interrelationship of the production proc-
16 ess; (6) the consistency of the unit with the employer’s
17 organizational structure; (7) similarity of job functions
18 and work; and (8) the bargaining history in the particular
19 unit and the industry. To avoid the proliferation or frag-
20 mentation of bargaining units, employees shall not be ex-
21 cluded from the unit unless the interests of the group
22 sought are sufficiently distinct from those of other employ-
23 ees to warrant the establishment of a separate unit.
24 Whether additional employees should be included in a pro-
25 posed unit shall be based on whether such additional em-

1 ployees and proposed unit members share a sufficient
2 community of interest, with the exception of proposed ac-
3 cretions to an existing unit, in which the inclusion of addi-
4 tional employees shall be based on whether such additional
5 employees and existing unit members share an over-
6 whelming community of interest and the additional em-
7 ployees have little or no separate identity.”.

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