

Matis, Jennifer A.

From: Peter Schaumber [peter@schaumber.com]

Sent: Wednesday, September 28, 2011 2:50 PM

To: Flynn, Terence F.

Subject: ?

This was the language as of yesterday. They deleted number original number 7 that said the distinctiveness of job function and work because I asked them to add at the end "provided the unit is sufficiently distinct to warrant separate group identify. I don't particularly like the two last sentences.

Question: should they have as a factor in addition to similarity of skills and training, job function and work? Perhaps they should.

In each case, prior to an election, the Board shall determine, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining. Unless otherwise stated in this Act, the unit appropriate for purposes of collective bargaining shall consist of employees that share a sufficient community of interest. In determining whether employees share a sufficient community of interest, the Board shall consider (1) similarity of wages, benefits, and working conditions; (2) similarity of skills and training; (3) centrality of management and common supervision; (4) extent of interchange and frequency of contact between employees; (5) integration of the work flow and interrelationship of the production process; (6) the consistency of the unit with the employer's organizational structure; and (7) the bargaining history in the particular unit and the industry. To avoid the proliferation or fragmentation of bargaining units, employees shall not be excluded from the unit unless the interests of the group sought are sufficiently distinct from those of other employees to warrant the establishment of a separate unit. Whether additional employees should be included in the unit shall be based on a showing of sufficient community of interest.

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Matis, Jennifer A.

From: Flynn, Terence F.
Sent: Friday, September 30, 2011 10:31 AM
To: Peter Schaumber
Subject: RE: HI

It does seem to assume proliferation, which may go to far. There was a record for that concern in the healthcare industry. I'm not sure the same could be said as a categorical matter across industries, although that is the likely ultimate result of Specialty. Your suggestion isn't a bad one, though I might offer "undue" in lieu of "unnecessary".

From: Peter Schaumber [peter@schaumber.com]
Sent: Friday, September 30, 2011 10:22 AM
To: Flynn, Terence F.
Subject: HI

Terry - In the process of moving and received the below e-mail. Any thoughts?

Below is the most recent version of the specialty language. I think you have seen it before. I was just wondering if you thought we needed a qualifier before "proliferation or fragmentation of bargaining units"? Maybe "unnecessary"?

In each case, prior to an election, the Board shall determine, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining. Unless otherwise stated in this Act, the unit appropriate for purposes of collective bargaining shall consist of employees that share a sufficient community of interest. In determining whether employees share a sufficient community of interest, the Board shall consider (1) similarity of wages, benefits, and working conditions; (2) similarity of skills and training; (3) centrality of management and common supervision; (4) extent of interchange and frequency of contact between employees; (5) integration of the work flow and interrelationship of the production process; (6) the consistency of the unit with the employer's organizational structure; (7) job functions and work; and (8) the bargaining history in the particular unit and the industry. To avoid the proliferation or fragmentation of bargaining units, employees shall not be excluded from the unit unless the interests of the group sought are sufficiently distinct from those of other employees to warrant the establishment of a separate unit. Whether additional employees should be included in a proposed unit shall be based on whether such additional employees and proposed unit members share a sufficient community of interest, with the sole exception of proposed accretions to an existing unit, in which the inclusion of additional employees shall be based on whether such additional employees and existing unit members share an overwhelming community of interest and the additional employees have little or no separate identity.

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Bill Text
112th Congress (2011-2012)
S.1843.IS

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S.1843 -- Representation Fairness Restoration Act (Introduced in Senate - IS)

S 1843 IS

112th CONGRESS

1st Session

S. 1843

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

IN THE SENATE OF THE UNITED STATES

November 10, 2011

Mr. ISAKSON (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CORKER, Mr. DEMINT, Mr. ENZI, Mr. GRAHAM, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. JOHANNIS, Mr. JOHNSON of Wisconsin, Mr. LEE, Mr. LUGAR, Mr. MCCAIN, Mr. PAUL, Mr. RISCH, Mr. SHELBY, Ms. SNOWE, Mr. THUNE, and Mr. VITTER) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Representation Fairness Restoration Act'.

SEC. 2. AMENDMENT TO THE NATIONAL LABOR RELATIONS ACT.

Section 9(b) of the National Labor Relations Act (29 U.S.C. 159(b)) is amended by striking the first sentence and inserting the following: 'In each case, prior to an election, the Board shall determine, in order to ensure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining. Unless otherwise stated in this Act, excluding acute health care facilities, the unit appropriate for purposes of collective bargaining shall consist of employees that share a sufficient community of interest. In determining whether employees share a sufficient community of interest, the Board shall consider (1) similarity of wages, benefits, and working conditions; (2) similarity of skills and training; (3) centrality of management and common supervision; (4) extent of interchange and frequency of contact between employees; (5) integration of the work flow and interrelationship of the production process; (6) the consistency of the unit with the employer's organizational structure; (7) similarity of job functions and work; and (8) the bargaining history in the particular unit and the industry. To avoid the proliferation or fragmentation of bargaining units, employees shall not be excluded from the unit unless the interests of the group sought are sufficiently distinct from those of other employees to warrant the establishment of a separate unit. Whether additional employees should be included in a proposed unit shall be based on whether such additional employees and proposed unit members share a sufficient community of interest, with the exception of proposed accretions to an existing unit, in which the inclusion of additional employees shall be based on whether such additional employees and existing unit members share an overwhelming community of interest and the additional employees have little or no separate identity.'

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Matis, Jennifer A.

From: peter@schaumber.com
Sent: Friday, October 07, 2011 2:40 PM
To: Flynn, Terence F.
Subject: Re: Hello

Not testifying after all.
Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: peter@schaumber.com
Date: Fri, 7 Oct 2011 13:59:35
To: Terry Flynn<terence.flynn@nrlrb.gov>
Reply-To: peter@schaumber.com
Subject: Hello

I was asked to testify on behalf of the retail industry at next week's hearing on Specialty. Have time to chat. Trying to figure out what to do with Ginzburg's decision and Solomon's claim yesterday that it is limited to non-acute healthcare.

Thanks.

Peter
Sent from my Verizon Wireless BlackBerry