



October 28, 2015

Chairman John Kline
U.S. House Education and the Workforce Committee
2181 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member Robert C. "Bobby" Scott
U.S. House Education and the Workforce Committee
2101 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Kline and Ranking Member Scott:

On behalf of the Society for Human Resource Management (SHRM) and more than 275,000 HR professionals, I am writing in strong support of legislation introduced by Chairman John Kline, H.R. 3459, the Protecting Local Business Opportunity Act. We applaud the Chairman for his leadership on this issue and the Committee for scheduling a markup on this important legislation that will impact a wide variety of employers and employees across the country.

The Protecting Local Business Opportunity Act would overturn the National Labor Relations Board's (NLRB) *Browning-Ferris Industries* decision which fundamentally changed the existing joint employer standard. The Board found that "indirect control" or even "unexercised potential" to control working conditions now makes two separate employers joint employers. This decision disrupts a well-recognized 30-year standard by employers and employees. The previous joint employer standard focused on the employer having "actual, direct, and immediate" control over an employee to be considered a joint employer. SHRM urges a return to this standard.

Changing the joint employer standard disadvantages employers in significant ways. If the ruling is allowed to stand, in many situations multiple employers will have to jointly negotiate working conditions and would be held liable under the National Labor Relations Act for labor law violations. Any employer who contracts out services or is a franchisee will be greatly impacted by this ruling. Further, this NLRB decision completely disrupts the franchise industry, which employs numerous SHRM members. If legislation is not enacted, franchisors will be forced to extend greater oversight of the franchisees, limiting the flexibility and autonomy enjoyed by so many across the country.

Again, thank you for scheduling this markup and moving forward with legislation that will restore the existing labor standard that is well understood and widely applied by employers. SHRM strongly supports this legislation and recommends its swift passage.

Sincerely,

A handwritten signature in black ink that reads "Michael P. Aitken". The signature is written in a cursive style.

Michael P. Aitken
Vice President, Government Affairs

CC: Members of the U.S. House Education and Workforce Committee