

Loudoun County Chamber of Commerce

EMPLOYMENT AND LABOR ISSUES

The Loudoun County Chamber supports legislative and regulatory policies that stimulate economic growth and job creation by allowing businesses to fairly manage their personnel resources without undue government or outside intervention. The Chamber supports allowing free market conditions to determine important labor issues, such as compensation and conditions of employment, and supports all employers meeting their legal and ethical obligations to their employees and the government. The Chamber opposes expanded government manipulation of the workplace, including legislation and regulatory policies that would limit an employer's right to operate during a labor dispute.

Unionization and Right-to-Work:

The Chamber supports Virginia's Right-to-Work law and opposes any local, state or federal laws or regulations that undermine it. The Right-to-Work law permits workers the freedom to choose whether to join a union and has played a historically significant role in the Commonwealth's nationally recognized economic and employment growth. The Chamber opposes all federal legislative or regulatory proposals that undermine the rights of Virginia's workers to secret ballot elections to decide whether to form a union. The Chamber also opposes the creation of micro-unions, which undermine Virginia's Right to Work laws by allowing unions to be formed, not by the preference of the employees as a whole, but rather by each individual department, section or other faction within a workplace. The Chamber opposes through legislative and/or regulatory proposals administratively imposed workplace rules, such as wage levels and work hours, and collective bargaining, in the absence of an agreement between management and employees. The Chamber also opposes the imposition of sanctions; such as fines against businesses for unintentional violations during the union recognition process.

Ambush Union Elections:

The Chamber supports repeal of the National Labor Relations Board's Ambush Election rule which undermines employers' due process rights, and prevents workers from getting balanced information about forming a union.

Joint Employer Standard:

The Chamber supports well-established joint employer standards under the National Labor Relations

Act, Title VII of the Civil Rights Act, and other federal and state laws that have existed for many years. Generally, these standards permit separate entities to be determined to be a joint employer only if they exercise direct and immediate control over another business's employees, including having the ability to hire, fire, discipline, supervise or direct an individual. The Chamber opposes loosening of these standards such that one employer could be held liable for labor and employment law violations of another employer for which the first employer had no direct control or responsibility.

Minimum Wage:

Because increases in the minimum wage fall disproportionately on small businesses, which are often the least able to absorb dramatic increases in labor costs, the Chamber opposes increases in the minimum wage.

Unemployment Compensation:

The Chamber supports Virginia's unemployment compensation laws, which provide adequate and temporary financial assistance, at the expense of employers, to employees who become unemployed through no fault of their own. The Chamber opposes the extension of benefits to workers who, through their own actions or inactions, become unemployed, including during an employee strike.

Wage and Benefit Mandates:

The Chamber opposes changes to the well-established white collar exemptions under the Fair Labor Standards Act (FLSA), or the Overtime Rule, that would narrow the current exemptions. The Chamber specifically opposes the Department of Labor regulations which increase by more than 100% the salary level required for an employee to be categorized as exempt under FLSA and will dramatically expand the number of employees for which employers will be forced to pay premium overtime rates.

The Chamber opposes Living Wage proposals and other government mandates that establish wage and benefits levels as a condition for obtaining contracts with that government or obtaining a business license.

DOL Blacklisting:

The Chamber opposes federal "blacklisting regulations," that will require federal contractors to disclose what has been very broadly defined by the Department of Labor (DOL) as "violations" of 14 labor and

workplace laws as a condition of contracting with the federal government. Information on companies that have labor and workplace law violations, however, is already available without the need to establish this new, complicated, duplicative reporting regime. In addition, this reporting requirement violates contractors' due process rights by requiring the submission of records of mere citations and allegations that could lead to contracting penalties before a contractor has had a chance to exhaust their due process rights. The reporting requirements in the blacklisting regulations will impose massive new burdens on contractors and subcontractors, as well as overwhelm contracting officers, which will prevent federal contracting from running efficiently. The Chamber supports efforts to reverse this requirement.

Workers' Compensation:

The Chamber opposes any changes to Virginia's workers' compensation law that would increase costs and regulatory burdens on businesses, or otherwise undermine the law's existing sound principles and purpose.

Davis-Bacon Act:

The Chamber supports the outright repeal of the Davis-Bacon Act, which requires businesses to pay employees in the construction industry government-determined prevailing wages and benefits on federal and federally-assisted construction contracts exceeding \$2,000 in total cost. The Chamber also opposes expanded interpretation of this law to cover minor activities that are ancillary to the overall contract.

Project Labor Agreements:

The Chamber opposes project labor agreements (PLAs) mandated by local, state and federal governments, and other entities, on taxpayer-funded construction projects. Government-mandated PLAs end open, fair and competitive bidding on public works projects by discouraging competition from qualified nonunion contractors and their nonunion employees.

In-sourcing:

The Chamber opposes any federal, state, or local in-sourcing of private-sector labor positions to government-sector positions, unless the function being in-sourced is inherently governmental in nature and/or the in-sourcing decision is substantiated by a bona-fide cost-benefit analysis that shows that

efficiencies and documented cost savings will result from the in-sourcing activity. Any such cost-benefit analysis must reflect all true costs associated with both the private-sector activity, as well as the government-sector activity, to include items such as, but not limited to, direct labor costs, fringe benefit costs, retirement costs, overhead costs, general and administrative costs, and any other direct and indirect costs that would be incurred by either party.

Out-sourcing:

The Chamber opposes government competition with private industry and encourages out-sourcing of government-sector contracts and positions when such competition exists.

Background Checks:

Criminal and credit background checks can be a useful tool for employers to protect customers, workers and assets. The Chamber opposes any effort to restrict the ability of employers to use these tools to appropriately screen job applicants.

Independent/Outside Contractors:

The Chamber opposes any initiative which would unduly prevent or otherwise restrict businesses from utilizing the services of independent/outside contractors in full compliance with current Virginia and federal laws. The Chamber also opposes any effort to administratively, by statute or through legal action redefine the term contractor to impose additional wage and benefit costs on employers.

Internships:

Appropriate paid and unpaid internships provide valuable work experience and mentoring opportunities. The Chamber opposes any effort to restrict the use of appropriate internships by the private sector.

Retention of the Persuader Rule Advice Exception to Protect Employer-Attorney/Labor Consultant

Confidentiality:

The Chamber opposes efforts to eliminate what is known as the advice exception to the “Persuader Rule,” requiring employers and labor relations professionals, including attorneys, to report indirect activities undertaken to persuade employees to exercise or not exercise their right to organize into unions and bargain collectively to the DOL. The existing exception to the Persuader Rule is critical to

protecting the confidentiality of the attorney-client relationship. Efforts to eliminate this exception would harm an employer's ability to remain union-free by requiring reporting of agreements between employers and their labor relations professionals/attorneys, employers' payments to labor relations professionals/attorneys, and the specific activities the professionals/attorneys are retained to perform. The rule also upsets long-standing labor relations policy by restricting the ability of employers to retain counsel to prepare lawful communications with their employees during union organizing campaigns so their employees are fully informed before voting in union representation elections.