

PUBLICATION

Congress Reacts to NLRB's Attack on Boeing

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On April 20, 2011, the Acting General Counsel of NLRB issued a Complaint against Boeing Company, seeking to force it to build airplanes in Washington, rather than South Carolina. In October 2009, Boeing decided to build its second production line for its new 787 Dreamliner in North Charleston, South Carolina, rather than its factory outside of Seattle. At the time of the decision, Boeing executives noted that by locating the production in a right-to work-state, it would avoid potential future strikes. The NLRB misconstrued these comments to mean that Boeing was making a \$2 billion decision to punish the Seattle area employees for previous strike activity which is protected by the National Labor Relations Act.

The remedy sought by the NLRB is what makes this case so controversial. The NLRB trying to require Boeing to move the production of the airplane to Washington, despite the fact that Boeing has already invested hundreds of millions of dollars to build the facility in South Carolina.

The Boeing case is an example that calls into question any employer's decision to relocate operations to right to work states. Employers must operate in constant uncertainty that the NLRB will try to second guess a company's decision to relocate to a right-to work state, even after the company has invested millions of dollars in the new operations.

The NLRB's complaint against Boeing has prompted a legislative backlash. Senators Alexander (R-TN), Graham (R-SC), and DeMint (R-SC), along with 31 co-sponsors have introduced legislation that would clarify that the NLRB does not have authority to bring actions like the one that they are pursuing against Boeing.

According to a statement from Senator Alexander, the bill would clarify that the NLRB would not be able to order an employer to relocate jobs from one location to another; guarantee an employer the right to decide where to do business within the United States, and protect an employer's free speech regarding the costs associated with having a unionized workforce without fear of such communication being used as evidence in an anti-union discrimination claim.