

United States Senate
WASHINGTON, DC 20510

February 14, 2024

The Honorable Lauren McFerran
Chair
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570-000

Dear Chair McFerran:

We are writing to respectfully request a further delay in the implementation of the National Labor Relations Board's (NLRB) final rule on Joint Employer Status, currently scheduled to take effect on February 26, 2024. This rule will have a significant impact on small businesses, contractors, and franchisees, and continued confusion regarding the NLRB's publishing of this rule, as well as continued Congressional and legal concerns warrant a further delay.

Congress is currently considering a bipartisan resolution under the Congressional Review Act (CRA) to disapprove the rule. The CRA provides Congress with the ability to weigh in on any major rule that would have broad implications across the economy. Granting a delay would allow Congress to further debate this issue and address concerns from constituents.

The NLRB has already been required to extend the deadline for implementation of this rule, due to the fact that NLRB's publication of the rule was out of compliance with the CRA. While that extension brought NLRB into compliance, per the findings of the Government Accountability Office (GAO), it has not adequately resolved the confusion caused to those impacted businesses and employees. As the rollout of the rule has already resulted in violation of federal law, it would behoove the NLRB to take its time to ensure that all impacted parties are aware of these changes and properly educated on its proposal.

Another complicating issue is the existence of ongoing lawsuits in Texas and Washington, D.C., challenging the legality of the final rule, which are currently pending in federal court. Allowing time for the courts to render their determinations, and work through subsequent appeals, before imposing the rule's potentially flawed framework merits serious consideration for delaying the implantation of the final rule.

Finally, as previously stated, this rule places significant burdens on small businesses, particularly those who are a part of the franchise business model. Complying with its complex and ambiguous standards will require costly legal consultations, operational adjustments, and administrative changes. Delaying the rule's implementation will provide small businesses with much-needed time to prepare and mitigate potential disruptions.

We urge the NLRB to grant a further delay in the implementation of the Joint Employer Rule. Doing so will respect the ongoing democratic process in Congress, avoid the complications of

implementing a potentially unlawful rule, avoid further confusion, and grant small businesses a reasonable opportunity to prepare for its eventual impact.

We appreciate your consideration of this urgent request. We are confident that delaying the rule's implementation is in the best interests of all stakeholders involved in the American labor market.

Sincerely,



Joe Manchin III
United States Senator



Mike Braun
United States Senator