

NEWS RELEASE

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FOR IMMEDIATE RELEASE

June 9, 2011

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AG STRANGE JOINS LEGAL CHALLENGE TO NLRB COMPLAINT

(MONTGOMERY) – Attorney General Luther Strange joined in an amicus brief filed today in opposition to the National Labor Relation Board’s proposal to punish employers for creating new jobs in right-to-work states. The Alabama Attorney General and 15 others from both right-to-work and unionized states argue that the NLRB’s unprecedented enforcement action would stifle job creation and economic opportunity.

Attorney General Strange called the matter “an incredibly important issue for Alabama as a right-to-work state.” Citing broad experience with recruiting industry to Alabama before becoming Attorney General, Attorney General Strange noted, “In a global economy where states are competing for well-paying jobs like automobile manufacturing, whether to locate in Alabama or elsewhere is a business decision that companies make, and one driving factor is our right-to-work laws. It is essential that we maintain a favorable climate for starting and growing businesses in Alabama. The complaint filed by the National Labor Relations Board against Boeing is a direct threat to the kind of business climate Alabama needs to recruit industry and thrive. I want to thank Attorney General Alan Wilson of South Carolina and Attorney General Greg Abbott of Texas for their leadership on this issue.”

The States’ legal action was filed in response to a proposed enforcement action by the NLRB that threatens jobs creation at a time when the nation’s unemployment rate is 9.1% percent and the country is still struggling to recover. On April 20, the NLRB’s acting general counsel proposed an enforcement action against The Boeing Company for building a new final production line and creating one thousand new jobs in South Carolina, which is a right-to-work state. The NLRB incorrectly claims that Boeing “retaliated” against its unionized employees in Washington State – which is not a right-to-work state – because the aircraft manufacturer exercised its business judgment to create new manufacturing capacity in South Carolina. Further, the NLRB is considering an enforcement action despite the fact that Boeing has created 2,000 new jobs in Washington, does not plan to eliminate any union jobs, and only proposes to create new jobs in South Carolina.

In right-to-work states such as Alabama, workers cannot be forced to join a union or pay union dues as a condition of employment. Workers in states that have not enacted right-to-work laws, however, do not have a choice to join or not join a union. All employees at unionized facilities must join the local union and pay union dues – even if the employee prefers to not join a union – or risk losing their jobs.

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The States' brief says that the NLRB's proposal violates federal labor law, ignores states' discretion to enact right-to-work laws, and harms all states by discouraging employers from opening new manufacturing facilities anywhere in the United States, where the NLRB has enforcement jurisdiction. According to the brief, states that have not enacted right-to-work laws will be harmed by the NLRB's proposal because newly established employers will be discouraged from basing their operations in unionized states – because they could face a federal enforcement action if they decide to create a new facilities or jobs in right-to-work states. Similarly, the NLRB poses a threat to right-to-work states because its enforcement action could discourage existing employers from exercising their discretion to build new facilities in states that protect workers from compulsory union membership.

A federal administrative law judge is scheduled to hold a hearing on the NLRB's proposed enforcement action against Boeing on June 14. Legal documents filed in that case indicate that surging global demand for the 787 Dreamliner led Boeing to conduct a geographical and economic cost-benefit analysis before deciding whether to expand operations in Washington – or to construct a second final assembly facility in Charleston, South Carolina.

More than a year after Boeing invested hundreds of millions of dollars constructing its South Carolina facility – and only weeks before the new assembly line was scheduled to begin operations – the NLRB's General counsel filed the proposed enforcement action against Boeing. If the proposal survives the federal administrative process, the Attorneys General say that NLRB could be empowered to micromanage private sector business decisions and improperly force Boeing to close its South Carolina facility.

The States' challenge to the NLRB's proposal explains that the general counsel has not only misapplied the National Labor Relations Act, but has threatened economic development and job growth across the United States. Newly-established businesses will be discouraged from building their manufacturing facilities in unionized states and pre-existing employers will be prohibited from expanding operations to right-to-work states. The Attorneys General also contend that, because employers can avoid NLRB enforcement actions and micromanagement by simply creating new manufacturing facilities in foreign countries, the NLRB's proposal creates a perverse incentive for employers to move their operations overseas.

Further, the brief explains that the NLRB is pursuing its job-killing enforcement action just days after the federal Bureau of Labor Statistics announced that 13.9 million Americans are still unemployed. Despite the nation's 9.1 percent unemployment rate, the brief argues, the NLRB continues to pursue an enforcement action that will further undermine job growth and threaten the United States' economic recovery.

The brief was authored by South Carolina and Texas, and joined by the following states: Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Kansas, Michigan, Nebraska, Oklahoma, South Dakota, Utah, Virginia and Wyoming.