OHLA
OHIO HOTEL & LODGING ASSOCIATION

Government Affairs Update

September 14, 2022

Federal Labor Regulator Moves to Expand "Joint Employer" Standard

The National Labor Relations Board (NLRB) issued a notice on Sept. 6 of a new proposed rule which would reduce the control owners and franchisees have over their own businesses. This is the latest attempt to establish a new legal standard for determining which entities are considered employers.

Under the Biden Administration proposal, entities which have "indirect and unexercised" control over working conditions could be considered employers. This would mean that franchisors would be considered a joint employer, as well as entities utilizing contractors.

The definition of working conditions would be changed to include vague standards such as "workplace health and safety," which will inevitably lead to litigation and allow courts and regulators to determine employment status subjectively.

The Obama Administration had previously explained the joint employer standard. Those rules were overturned during the Trump Administration. The new proposal does not only return to the Obama-era standard, it goes beyond those rules with even more damaging language.

A study found that fear of joint employer liability under an expanded doctrine has caused franchise brands to "distance" themselves from franchisee owners by curtailing guidance regarding compliance with labor and employment laws, limiting training programs, withdrawing assistance with marketing and cost control practices, and eliminating other previously-provided services.

The International Franchise Association also found that previous expansion of the joint employer standard cost the American economy $33.3 billion per year, led to 376,000 fewer job opportunities, and resulted in a 93 percent increase in lawsuits against franchise businesses.

The NLRB doesn't hide its goal of requiring multiple entities, including franchisors, to participate in key decisions and processes related to employees, including collective bargaining. The proposal states, "labor relations are best served when two or more putative employers are parties to bargaining agreements."

The American Hotel & Lodging Association is part of a coalition of national business groups which is engaging officials, Members of Congress, and others to fight this most recent regulatory overreach.

Download an AHLA whitepaper on the proposed NLRB rule here.

To find out more about how you can submit a comment regarding the proposed new labor standard, or help our outreach, contact joe@ohla.org.

Two Statewide Issues Approved for November Ballot

The Ohio Ballot Board approved ballot language for two constitutional amendments that will be decided by voters on Tuesday, Nov. 8.

Issue 1 is a proposed constitutional amendment that will make public safety a required consideration when setting amounts for bail. The proposal to refer the amendment to the ballot was passed by the General Assembly as HJR 2 (Rep. LaRe/Rep. Swearingen).

Issue 2 would bar individuals who are not U.S. citizens from voting in local elections. The proposal to refer the amendment to the ballot was passed by the legislature as HJR 4 (Rep. Seitz/ Rep. Edwards).

Ohio Secretary of State Frank LaRose supports the measure, stating "American elections are only for American citizens. And the cities in other states that have granted non-citizens the right to vote in local elections are undermining the value of what it means to be an American. This is a smart preventative measure that will provide the certainty needed to ensure this right is protected for Ohioans."

State Rep. Mike Skindell disagrees, stating: "Immigrants serve as firefighters, they serve as police officers in our communities, they are homeowners, they contribute to our societies, they serve as schoolteachers, their kids go to schools in our community. And they have a right to have a voice, and we should allow that."

OHLA Discusses Missing Tax Revenue with DMOs

At a recent meeting of regional CVBs comprising the Capital Area Tourism Alliance, OHLA reminded travel economy partners of the availability of additional tax dollars due to the continuation of Ohio's online travel company tax loophole. OHLA has introduced legislation or budget bill amendments in the last several General Assemblies to take the same step as a growing number of states to ensure that all of the tax dollars collected by third-party intermediaries are remitted to state and local jurisdictions.

OHLA is calling on entities in the travel economy, the sector most impacted by the continuing pandemic, to join in a renewed effort to ensure enactment of tax parity legislation in the 2023-24 legislative biennium.

OHLA has also worked with parties examining Ohio's short-term rental laws and pending legislation to address the issue of taxation for those types of lodging businesses in a manner that is fair and equitable with traditional hotels. This would include a consistent approach to collecting lodging and sales tax by short-term rental platforms.

Ensuring remittance of online travel company tax, however, provides the greatest opportunities in securing revenue that is in part statutorily required to be directed to DMO activities. For more information about the online travel company tax issue, see this OHLA overview, and/or contact joe@ohla.org.

Franklin County Auditor Promotes Affordable Housing

One public policy priority for all employers trying to attract and retain a workforce is the availability of affordable housing. Franklin County Auditor Michael Stinziano is presenting a free Affordable Housing Resource Fair on Sept. 17 from 1:00 to 4:00 p.m. at East High School, 1500 E. Broad St., Columbus. Anyone interested in this critical need may attend to connect with, learn more about, and access resources of organizations that provide a wide range of affordable, accessible, and high-quality housing and social services. See details on this information page.

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