



Congress shouldn't tinker with labor law in fragile economy

By David J. Bronczek

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It is FedEx's business to ship the goods that are sold around the country and world, and we are often seen as a bellwether for other industries. It is no surprise that the economy is still experiencing difficulty, as shown by continued unemployment and higher fuel prices, and experts disagree over when we'll recover.

And yet, during the greatest financial upheaval in six decades, the U.S. Senate could soon vote on a bill that would add unnecessary risk to the business model of overnight shipping, which FedEx Express originated in 1971. The bill would require our drivers to be covered under a different section of federal labor law, a move that would have rippling effects throughout the still-fragile economy, in the form of higher costs, less reliability and reduced access to global markets.

The Federal Aviation Authority Reauthorization Act was approved in May by the House of Representatives and included a special interest clause that is highly anti-competitive and would unfairly benefit one company, UPS, while targeting another company, FedEx Express. UPS is working this issue in concert with the International Brotherhood of Teamsters.

Federal Express was founded on an innovative concept: a completely integrated air-ground delivery system. As a result, it has always been a Railway Labor Act carrier. The Railway Labor Act was passed in 1926, covering at first railroads and express companies; airlines were added in 1936. That was one year after Congress passed another labor act that would evolve into what we now refer to as the National Labor Relations Act.

The RLA has two very important features: One, it requires bargaining units that are made up of employees throughout a company's system. This is not an anti-union act in any respect; in fact, more than 70 percent of the employees covered by the RLA are covered by collective bargaining agreements, vs. about 8 percent of the private employment sector under the NLRA. Secondly, the RLA requires additional steps by labor and management before certain actions, such as a strike by employees. The purpose of the RLA is to keep large commercial enterprises serving the public interest, or the "arteries of commerce" as they were called when the act was passed in 1926.

Clearly, FedEx Express, with its enormous network of interconnected hubs, hundreds of airplanes and tens of thousands of vehicles, is prototypical of the type of enterprise that Congress intended to cover by the RLA. So it's not surprising that in every instance of litigation questioning this status, every court and administrative agency to have addressed this issue was affirmed the fact that FedEx Express is the type of integrated air ground system that Congress intended to operate under the RLA.

Conversely, litigation concerning UPS was concluded in 1996 at the D.C. Circuit Court of Appeals — with a much different finding: UPS was correctly covered under the NLRA. UPS has been covered under the NLRA since its inception. Although UPS had combined the transportation of its air and ground packages when it attempted to set up a company to compete with FedEx, the vast majority of its packages were — and still are — ground packages. UPS's air carrier operation is a separate RLA company, and rightly so.

This special-interest legislation, already approved by the House, would overturn federal court decisions and put our pickup and delivery drivers under the NLRA without one word of testimony from the millions of customers who depend on the FedEx Express network. Not surprisingly, we object very much to the effort to do this and have opposed it vigorously in Washington. We hope the Senate, which is scheduled to take up the matter this summer, will make the right decision and maintain the protection the RLA provides to the U.S. and global economies.

At FedEx, we run the sort of nimble, 21st-century company necessary to help businesses throughout America thrive. I am proud to say that recently we received record-high scores on an employee survey that points to high morale among the FedEx teammates — in spite of these challenging times for our nation's economy. Every day at FedEx, we do everything we can to provide superior customer service. We will continue to do so. We think it's important for American businesses and consumers to know what's going on here. We hope the Senate, in its collective wisdom, will see not only that they shouldn't try to "fix" something that isn't broken, but that — in this most fragile economy — they could break something that has served the American people very well for decades.

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