

Bill to end tribal worker union rights fails in Senate

Labor had a rare win in the Republican-controlled U.S. Senate April 16. A bill to strip Indian casino workers of their federally protected right to unionize couldn't get the 60 votes needed in the Senate to overcome a filibuster and cut off debate.

The vote was 55-41, largely along party lines, with Republicans voting to cut off debate in

order to allow the bill to pass. But there were exceptions: Republican Rob Portman (R-OH) voted with the Democrats, and seven Democrats voted with the Republicans: Tammy Baldwin (D-WI), Martin Heinrich (D-NM), Heidi Heitkamp (D-ND), Tim Kaine (D-VA), Jon Tester (D-MT), Tom Udall (D-NM), and Mark Warner (D-VA). Four

others were absent for the vote.

The Tribal Labor Sovereignty Act passed the House by 239-173 on Jan. 10. Oregon Democrat Kurt Schrader voted for it. The bill would end federal protection of the union rights of an estimated 600,000 workers in tribe-owned commercial enterprises. It's unclear if the Senate will try again to pass the bill.

Guest Column

By Ray Thomas, Attorney
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Making construction zones safer

More roadway construction workers are killed each year by construction equipment and vehicles than by on-road vehicles. How can we make construction sites safer for the workers?

As part of the permit process, most construction sites must file Traffic Control Plans (TCP) or, for projects where the work moves with the progress made on a roadway, Temporary Traffic Control Plans (TTCP). However, these plans often overlook the danger to workers on the job site, since Internal Traffic Control Plans (ITCP)—whose basic role is to separate the machinery and construction vehicles from the workers on foot—aren't required or regulated to the same degree. But ITCPs should be a core part of every job site safety plan.

ITCPs should include a realistic plan for worker safety. For example, does the highway project involve work at night under artificial lights? Do some pieces of equipment make noise that will mask the sound of an approaching vehicle? Are workers at risk for being caught between pinch points or hit by moving equipment parts? If workers cannot be kept out of the hazard zone, then spotters, flaggers and guarding must be used to reduce the danger. There is simply no excuse for failing to create a safe work site when it has been known for at least 10 years from available studies that a large percentage of deaths on the site result from being run over. For example, of 639 fatal occupational injuries that were reviewed at road construction sites between 2003 and 2007, 305 were due to a worker being struck by a vehicle or mobile equipment. [See "Fatal Occupational Injuries at Road Construction Sites, 2003-07," Monthly Labor Review, November 2010.]

Here are a few common-sense measures construction sites can and should consider implementing to protect workers.

- **ITCPs:** Every construction site should make and implement an Internal Traffic Control Plan to separate workers on foot from the heavy equipment.
- **On-site internal traffic control personnel,** including flaggers and spotters. This is especially important when heavy equipment must move, or in limited visibility conditions.
- **"If you don't know, don't go" policies:** Address any "blind spots" via flaggers, spotters, and modifying equipment to have appropriate mirrors, cameras, and/or sun-shades. It's also important for workers to know that no deadline is more important than preserving their own safety and the safety of their colleagues.
- **Protective guards and barriers:** Sites should use chains, cables, and barriers to separate workers from moving equipment or equipment parts.
- **Appointing a properly trained Safety Manager,** whose focus is not so much "punishing" violations as examining why workers feel as though they need to cut corners in order to get the job done, and then forcing management to address those systemic problems.
- **Training for emergencies:** Workers should be briefed on emergency traffic control plans, as well as plans and protocols for how to rescue and evacuate co-workers in the event of an accident or injury.
- **Regular job site safety meetings:** Safety on the site can't be solved once and then set aside—workers and management need to check in regularly to make sure the site is as safe as it can be as the work continues and conditions change.

Ray Thomas is a Portland attorney. He and his law partner Jim Coon have been practicing claimant law together at Thomas, Coon, Newton & Frost for the past 27 years.



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