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# Labor Board Vacates Key Ruling Over Conflict Of Trump Appointee

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The National Labor Relations Board (NLRB) on Monday vacated a decision that made it harder for workers and unions to hold corporations responsible for the actions of their franchisees.

The NLRB's decision follows an inspector general's report that said William Emanuel — a lawyer appointed to the board last year by President Trump — should have recused himself from the case that overturned the Obama-era rule.

Emanuel's former law firm, Littler Mendelson, is involved in another matter that would be affected by the ruling.

Known as the "joint employer" rule, the NLRB set a standard in 2015 that workers at the contractors or franchisees of large corporation could file lawsuits against or seek collective bargaining agreements with the parent company, despite not being a direct employee.

The NLRB overturned that decision in December, ruling that companies are only joint employers of firms working for them when the parent company has direct control of hiring and working conditions.

The 3-0 vote to reverse the December ruling, in which Emanuel did not participate, took place "in light of the determination by the Board's Designated Agency Ethics Official that Member Emanuel is, and should have been, disqualified from participating in this proceeding," the NLRB said in the notice of the change.

The joint-employer standard from 2015 has been targeted by business groups and conservative organizations, which call it overly onerous, ambiguous and damaging to the economy.

"This is a sad day for Main Street small businesses," said Job Creators Network CEO Alfredo Ortiz. "It's especially bad for

franchisees, most of whom are locally owned and operated small businesses, and it creates massive confusion for job creators everywhere who must now worry about being dragged into labor lawsuits involving someone else's employees."

The House passed legislation in November that would revise the Fair Labor Standards Act and make permanent the joint employer definition requiring direct control, but the Senate has yet to act on it.

"Today's decision raises the level of urgency for the Senate to act on the bipartisan joint employer bill passed by the House," said Matt Haller, the senior vice president of government relations and government affairs at the International Franchise Association, one of the most vocal opponents of the Obama-era joint-employer definition.

"We are hopeful Senators can step into the breach created by today's decision and exercise their right to codify a definition of joint employer for small business owners everywhere and end the constant ping-ponging back and forth of this issue," Haller said.

The Competitive Enterprise Institute, a conservative think tank, also called for legislative action.

"This turn of events illustrates how no decision by the Board is permanent and why it is crucial for Congress to set a standard into law instead of letting regulators decide," said Trey Kovacs, a labor policy expert at the Competitive Enterprise Institute. "Without a permanent legislative fix, the overly broad and vague Obama-era Browning-Ferris joint employer standard is once again a threat to entrepreneurs and workers nationwide."