

at this time, I find the process the FCC is proposing to be arbitrary and inconsistent decisionmaking.

The FCC has proposed to add an additional 90-day process that includes staff discussions, another Commission en banc hearing and another round of public comment to help in reviewing this merger. I find this unprecedented additional process quite worrisome since the Commission has already held a public proceeding which took nine months and generated 12,000 pages of written submissions from over 50 parties. It is hard to believe that the Commission might need more information to determine what sort of conditions it should impose on these companies. I am also puzzled by the fact that Chairman Kennard has not seen fit to use such a process with any other mergers he has considered recently in the communications industry.

Mr. Speaker, this merger was announced 11 months ago. During this time, the Department of Justice reviewed the proposal extensively and just ruled on April 8, that it is not anti-competitive—however, the FCC continues to drag its feet in deciding on this matter. I firmly believe that the FCC has a duty to uphold in the strongest possible terms the “public interest” when looking at a merger. However, I do not believe that it gives them cover to devise a unique, convoluted process which applies a different standard and much stricter burden of proof than what was acceptable for similar cases.

At this time, Ameritech and SBC still remain in the regulatory swamp which unfairly disadvantages the competitive positions of both companies. I strongly encourage the FCC to consider the Ameritech-SBC merger with the same speed, efficiency and fairness that it has considered other recent mergers in the telecommunications industry. For the FCC to do otherwise is something we should all find intolerable.

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#### AIRSPACE REDESIGN ENHANCEMENT ACT

**HON. RODNEY P. FRELINGHUYSEN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 15, 1999*

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to introduce the Airspace Redesign Enhancement Act. This bill would require the Federal Aviation Administration to speed up the process of redesigning the airspace over the New Jersey and New York Metropolitan area.

For over a decade, residents in my district and countless other areas of New Jersey and New York have been plagued by the problem of aircraft noise. According to the FAA, redesign of the airspace will solve many of the region's air noise problems.

The airspace over our region—Newark, Kennedy, and LaGuardia airports, along with a host of smaller municipal and regional airports—has made this area the busiest, most congested and most complex in the Nation. These three major airports have over 1 million flight arrivals and departures a year. Further, the high volume of flights is further com-

plicated by the fact that these three airports share airspace. When Newark changes departure and arrival patterns, adjustments must be made at Kennedy and LaGuardia airports as well.

Last July, the FAA announced at Newark Airport that it would begin the process of redesigning the airspace over the New Jersey and New York Metropolitan Region. This was to be the first area in the country addressed by the FAA, and the results could be applied to other regions during future airspace redesign processes.

So why the delays? Since last July, no real action has been taken. The 5-year timetable has fallen behind, and residents in my district face a long wait before any potential relief from constant aircraft noise.

Mr. Speaker, 5 years is too long. These families should not be forced to wait 5 years before these planes stop flying, low and loud, over their homes and yards. I have heard too many stories from too many families who cannot have conversations in their homes when these planes fly overhead.

Enough is enough. The Airspace Redesign Enhancement Act would give the FAA 2 years to complete the airspace redesign process, and would give them the money they need to do so. By speeding up the process of redesigning the airspace over the New Jersey and New York Metropolitan region, other areas of the country will have their airspace redesigned much quicker as well. New Jersey is not the only region to suffer from aircraft noise. This bill can help residents near Chicago's O'Hare Airport, Reagan National Airport, Los Angeles International Airport, Denver International Airport, and other airports across the country.

The FAA has offered too many excuses for not getting this job done. Mr. Speaker, I urge my colleagues to support the Airspace Redesign Enhancement Act so that this process will not stretch out far into the 21st Century.

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#### INTRODUCTION OF THE TRUTH IN EMPLOYMENT ACT OF 1999

**HON. JOHN A. BOEHNER**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 15, 1999*

Mr. BOEHNER. Mr. Speaker, I rise today to introduce the Truth in Employment Act of 1999. This important legislation addresses the abusive union tactic commonly called “salting.” “Salting” is an economic weapon unions use to damage and even run employers out of business.

“Salting” abuse is the placing of trained professional organizers and agents in a non-union facility to harass or disrupt company operations, apply economic pressure, increase operating and legal costs, and ultimately put the company out of business. The object of the union agents are accomplished through filing, among other charges, unfair labor practice charges with the National Labor Relations Board. As brought out during the five hearings the Workforce Committee held on this issue in the 104th and 105th Congresses, “salting” is not merely an organizing tool, but has become an instrument of economic destruction aimed

at non-union companies that has nothing to do with legitimate union organizing.

As a former “salt” from Vermont testified last year before the Employer-Employee Relations Subcommittee:

“[Salting] has become a method to stifle competition in the marketplace, steal away employees, and to inflict financial harm on the competition. Salting has been practiced in Vermont for over six years, yet not a single group of open shop electrical workers have petitioned the local union for the right to collectively bargain with their employers. In fact, as salting techniques become more openly hostile . . . most workers view these activities as a threat to their ability to work. In a country where free enterprise and independence is so highly valued, I find these activities nothing more than legalized extortion.”

There can be no disputing what these “salts” are trying to do. As a former NLRB field attorney testified before the subcommittee, from his experience, “salts have no intention of organizing a company by convincing the co-workers that unions are a good thing for them. Instead, once a salt enters the workplace, that individual engages in a pattern of conduct to disrupt the workplace; to gather information about the employer to feed to the union; to disrupt projects; and ultimately to file charges with the National Labor Relations Board.”

Another witness quoted directly from the International Brotherhood of Electrical Workers' organizing manual, which states that the goal of the union salt is to “threaten or actually apply the economic pressure necessary to cause the employer to raise his prices, scale back his business activities, leave the union's jurisdiction, go out of business and so on.”

Hiding behind the shield of the National Labor Relations Act, unions “salt” employers by sending agents into non-union workplaces under the guise of seeking employment. These “salts” often try to harm their employers or deliberately increase costs through various actions, including sabotage and frivolous discrimination complaints with the NLRB. If an employer refuses to hire the “salt,” the union files unfair labor practice charges. Alternatively, if the “salts” are hired by the employer, they often attempt to persuade bona fide employees of the company to sign cards supporting the union. The union agents also often look for other reasons to file unfair labor practice charges, solely to impose undue legal costs on the employer.

The stark reality is that “salting” puts companies out of business and destroys jobs. Clearly, the drafters of the 1935 National Labor Relations Act did not intend this result. The Act was not intended as a device to circumvent the will of employees, to strangle businesses into submission to further a union's objectives, or to put non-union employers out of business.” One construction company testified before the subcommittee that it had to spend more than \$600,000 in legal fees from one salting campaign, with the average cost per charge of more than \$8,500. Beyond legal fees, one employer testified, “it would be impossible to put a dollar amount on the pain and suffering caused by the stress of the situation to a small company like ours who does not have the funds to fight these charges.”

Thus, under current law, an employer must choose between two unpleasant options: either hire a union "salt" who is there to disrupt the workplace and file frivolous charges resulting in costly litigation, or deny the "salt" employment and risk being sued for discrimination under the NLRA.

The Truth in Employment Act of 1999 would protect the employer by making it clear that an employer is not required to hire any person who is not a "bona fide" employee applicant. The bill states that someone is not a "bona fide" applicant is such person "seeks or sought employment with the employer with the primary purpose of furthering other employment or agency status." Simply put, if someone wants a job, but at least 50 percent of their intent is not to work for the employer, then they should not get the job and the employer has not committed an unfair labor practice if they refuse to hire the person.

As drafted, this legislation is a very narrow bill simply removing from the protection of Section 8(a) of the NLRA a person who seeks a job without at least 50 percent motivation to work for the employer. At the same time, the legislation recognizes the legitimate role for organized labor, and it would not interfere with legitimate union activities. The Act contains a proviso, which, by the way, passed the House 398 to 0 last March during consideration of H.R. 3246, the Fairness for Small Business and Employees Act, making clear that the bill does not affect the rights and responsibilities available under the NLRA to anyone, provided they are a bona fide employee applicant. Employees and bona fide applicants will continue to enjoy their right to organize or engage in other concerted activities under the NLRA, and, employers will still be prohibited from discriminating against employees on the basis of union membership or union activism.

It was alleged last Congress by some throughout the course of the many hearings on "salting" and during floor debate last March that this legislation overturns the Supreme Court's decision in *NLRB v. Town & Country Electric, Inc.* However, in fact, the Act reinforces the narrow holding of *Town & Country*. The Court held only that paid union organizers can fall within the literal statutory definition of "employee" contained in Section 2(3) of the NLRA. The Court did not address any other legal issues, but the effect of the decision is to uphold policies of the NLRB which subject employers to unwarranted union harassment and frivolous complaints.

The Act does not change the definition of "employee" or "employee applicant" under the NLRA, it simply would change the Board's enforcement of Section 8 "salting" cases by declaring that employers may refuse to hire individuals who are not at least half motivated to work for the employer. So long as even a paid union organizer is at least 50 percent motivated to work for the employer, he or she cannot be refused a job pursuant to the Act.

This bill establishes a test which does not seek to overrule *Town & Country* and does not infringe upon the legitimate rights of bona fide employees and employee applicants to organize on behalf of unions in the workplace. Indeed, the Supreme Court's holding that an individual can be the servant of two masters at the same time is similarly left untouched. In

fact, it is the acknowledgment that an applicant may in fact be split in motivation between an employer and a union that gives rise to the need for examining an applicant's motivation—a "primary purpose" test that the NLRB general counsel and courts will apply.

In closing, Mr. Speaker, forcing employers to hire union business agents or employees, who are primarily intent on disrupting or even destroying employers' businesses, does not serve the interests of bona fide employees under the NLRA and hurts the competitiveness of small businesses. This bill does not prohibit organizers from getting jobs, and it is completely consistent with the policies of the NLRA. All the legislation does is give the employer some comfort that it is hiring someone who really wants to work for the employer. The Truth in Employment Act of 1999 returns a sense of balance to the NLRA that is being undermined by the Board's current policies. I urge my colleagues to support its passage.

IN HONOR OF THE 100TH ANNIVERSARY OF THE VETERANS OF FOREIGN WAR

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the 100th anniversary of the Veterans of Foreign War (VFW).

The VFW traces its roots back to 1899 when Veterans of the Spanish-American War (1898) and the Philippine Insurrection (1899–1902) founded local organizations to secure rights and benefits for their service. A group of veterans founded the American Veterans of Foreign Service in Columbus, Ohio. Similar groups were later formed in Denver, Colorado and throughout Pennsylvania.

In 1913, the Veterans of the Foreign War came into existence as a result of the merger of these three separate foreign service organizations which held the same ideals and similar membership requirements. The mission of the VFW is to support and further the interests of United States veterans. Membership in the VFW is available to all US citizens, honorably discharged from the armed forces, who have earned an overseas campaign medal.

Currently, the VFW has a membership of 2.1 million. In addition to assisting veterans with numerous issues the organization is involved with national programs such as the Americanism Program. This program provides materials and information, sponsors events and promotes activities which are designed to stimulate interest in American's history and tradition, institutions of civic responsibility and patriotism.

A key element of VFW involvement is community service. The organization sponsors programs benefitting education, the environment, health services, civic pride, and community betterment. VFW is also the sponsor of Voice of Democracy, a national audio essay competition which annually provides more the \$2.7 million in college scholarships to high school students across the nation. In addition, members work with a variety of youth organi-

zations including Junior and Special Olympics and the Boy Scouts of America. The organization is also active in drug awareness and missing children efforts.

The VFW raises money for needy veterans and their families through the Buddy Poppy program. More than 17 million Poppies are sold each year, generating funds for the national veterans service program, relief for local veterans and their families and the VFW National Home.

My fellow colleagues, please join me in honoring the VFW's 100th anniversary and its members who have bravely risked their lives to serve the United States.

TRIBUTE TO HARRY BAKER

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 15, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Harry Baker on the occasion of his retirement from the Madera County Board of Supervisors. Harry attended his last board meeting on December 15, 1998, after 12 years of dedicated service.

Harry Baker was born in Eastern Madera County over 70 years ago. As a veteran of World War II, Harry was a first hand witness to the most turbulent time in the history of the twentieth century. Today Harry is a life member and Past Post Commander of Veterans of Foreign Wars, Post 8753 and a life member of the American Legion. Thanks to the GI Bill, Harry was able to go to college and finish his education, he is a graduate of the University of California, Berkeley.

Harry has been successful not only in politics, but also in business. In addition to serving as President and Chairman of the board of Sierra Tel Tronics, he also serves as President and Chairman of the Board of Sierra Telephone, Sierra Cellular, Sierra Tel Logic, Sierra Tel Internet, Sierra Telephone Long Distance, Sierra Tel Tronics Business Center, Sierra Tel Tronics Business Systems, El Dorado Cellular, and ST Air Services. Harry has operated Sierra Telephone, one of the area's largest employers, for over 48 years. Harry has taken the company through remarkable growth, increasing in size from 200 customers and 4 employees, to 20,000 customers and 230 employees. Harry was a founding member of the Western Rural Telephone Association and served as its president in 1967, he's been on the Board of Directors for 14 years.

Despite a busy work schedule, Harry makes time for many worthwhile community activities. He's a Life Member of the Madera County Historical Society and was appointed to the Madera District Fair Board by former Governor George Deukmejian. Harry is a Charter Member of the Gateway Yosemite Elks Lodge, and a member of the Sierra Oakhurst Lions Club. Harry is also an example to youth, he is a Cub Scout and Boy Scout Troop Leader as well as a 4-H Leader.

Mr. Speaker, I rise today to pay tribute to Harry Baker, on the occasion of his retirement from the Madera County Board of Supervisors. Supervisor Baker has been a devoted public