



## Tribal Sovereignty and Unions

by W. Ron Allen

Tribal governments, economic success, unions, employee rights, and political power. All of these key factors have merged into a new political challenge for tribal leaders with the new Obama administration and the 111th Congress. Indian Country's political strategy to address this challenge will require national unity and a firm plan to protect our tribal sovereignty, our governmental jurisdiction, and the interests of our tribal citizens.

Indian Country has grown immensely over the past 30 years. As a result of the success of the gaming and hospitality industry, many of our tribes have been launched into economic successes. Tribes have stepped up and become significant contributors to their communities. However, this success has drawn the attention and interests of the political system, including politicians, community leaders and now unions. Many come seeking help from the tribes now that we have become an economic force in our respective communities.

We are now exposed to a new political interest – the unions. The unions are not interested in the purpose of our tribal businesses, which is to generate revenue to address the needs of our communities including health care, education, housing, natural resources, public safety and cultural programs. The impressive success of many of our tribal businesses has resulted in generating literally thousands of new employees. These employees represent political power to the unions.

The unions have been a force for many years, although their political influence waned through the Bush administration and the past numerous Congresses. In the last few years and certainly in this past national election, the unions have been rising again in political influence. As a result, they have high political expectations from the Obama administration and the 111th Congress. However, so do the tribes! The tribes recognized that the Obama and congressional campaigns have made many promises to many constituents, including the tribes. So the challenge and question for us in this new campaign is, "How can we be assured that our most precious right of tribal sovereignty and governmental jurisdiction is protected?"

Unions have an agenda and they want the National Labor Relations Act (NLRA) to empower them to organize on tribal lands despite tribal laws. NLRA allows unions to strike a business and force the employer to the negotiation table regarding wages and other conditions. The conflict lies in the fact they are not allowed to strike governments. Governments are exempt from NLRA because it would

prevent the government (federal, state and local) from carrying out its public duty to the citizens. Unfortunately, what was revealed in the San Manuel decision, the NRLA didn't explicitly identify the tribal governments so that we are treated the same as any other government. This is now being raised in the proposed Employee Free Choice Act legislation. It currently does not contain the provision that clarifies that tribal governments are also exempt like other governments.

Tribes have been strengthening our governmental legal infrastructure over the years including employee right laws and ordinances. These laws and ordinances govern the relationship between the tribe as an employer and the employees and unions as authorized under tribal laws. We have become not just stronger, but more effective governments and smart businessmen. Tribal CEOs/general managers know that they must recruit and retain employees by providing competitive wages and benefits and safe working conditions. We know if we don't take care of our employees' interests, our businesses won't be successful.

More importantly, however, tribes must cause the Congress and the Obama administration to recognize that these businesses are our revenue base, just like taxes are their revenue base. Our governmental interest must be afforded the same protection to carry out our civic duty to our citizens as any other government. The United States government must stop treating tribal governments as "second-class" governments and assure any laws passed protect that principle. Our simple message to the Obama administration and the 111th Congress is ensuring fair and consistent treatment for all governments with respect to NLRA laws.

I'm confident and encouraged by the rising sophistication of tribal leaders, our lawyers/lobbyists, and our national Indian organizations, such as the National Congress of American Indians and the National Indian Gaming Association. I believe that we must continue to all work together to coordinate our collective efforts, strategic thinking and actions to advance our mission in Indian Country to become truly self-governing and self-reliant American Indian and Alaska Native governments for the benefit of our citizens.

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