

Boeing case raises job concerns

Labor board's complaint could scare away new industry, lawyers say

By Rudolph Bell

STAFF WRITER

dbell@greenvilleonline.com

The federal government's complaint against Boeing's decision to build a newplant in South Carolina could chill the state's recruitment of industry, say lawyers critical of the government's action.

The National Labor Relations Board said Boeing cited unionized employees' past strike activity and the possibility of future strikes as overriding factors in deciding to locate a second production line for 787 Dreamliner jets at a nonunion facility in North Charleston.

That decision, said the board's acting general counsel, violated federal labor law and the NLRB is seeking an order that would require Boeing to maintain the second production line in the state of Washington but not the closure of the Charleston plant.

Boeing called the complaint frivolous and a radical departure from past NLRB and U.S. Supreme Court precedent.

Corporate attorneys said they expect Boeing to ultimately win. But while the case winds its way through the courts, some attorneys opposed to the government's action said they fear other companies with unionized work forces may shy away from South Carolina out of concern they could face similar action.

"What this means in practical terms is thousands of new jobs may be lost here in South Carolina," said Greenville attorney William W. "Billy" Wilkins, former chief judge of the 4th U.S Circuit Court of Appeals now in private practice. Wilkins said his firm, Nexsen Pruet, has done work for Boeing but

See **BOEING** on page [3A](#)

BOEING

FROM PAGE [1A](#)

isn't directly involved in the NLRB complaint.

In the competition between states for new industry, South Carolina has long benefitted from its right-to-work status and low unionization rate.

With the NLRB accusing Boeing of breaking federal labor law, Wilkins said he's worried about a possible chilling effect on the state's industrial recruitment.

"Other companies thinking about South Carolina may think twice now," he told GreenvilleOnline.com. "I hope that's not true, but I think anybody who's objectively analyzing what's going on could reasonably come to that conclusion."

Rich Michalski, vice president of the International Association of Machinists and Aerospace Workers, said in a statement after the NLRB complaint that Boeing's decision to build the 787 line in South Carolina "sent a message that Boeing workers would suffer financial harm for exercising their collective bargaining rights."

He said it's illegal to "threaten or penalize workers who engage in concerted activity, and it's illegal in all 50 states."

J. Michael Luttig, Boeing's executive vice president and general counsel, in a statement calling the NLRB decision

frivolous, said “Boeing has every right under both federal law and its collective bargaining agreement to build additional U.S. production capacity outside of the Puget Sound region.”

Luttig is a former judge on the 4th Circuit, serving with Wilkins.

Boeing said the union has been pressing the NLRB for more than a year for the complaint. The company criticized its timing, which it said comes 17 months after it announced its plans.

The company said construction of the North Charleston factory is nearly complete, with more than 1,000 workers hired. Final assembly of the first plane there is scheduled to begin in July.

Boeing also said none of the South Carolina jobs came at the expense of jobs in Washington and that union employment at the company's Puget Sound facility has increased by about 2,000 workers since the decision to locate a line in North Charleston.

Jimmie Stewart, a labor lawyer in the Greenville office of Ogletree Deakins, said the federal action could affect industrial recruitment in all 22 states with laws protecting workers' rights not to join unions.

While it's unlawful for employers to close plants in retaliation for union activity, that's not what happened with Boeing, which has boosted its Seattle-area work force since announcing the North Charleston plant, Stewart said.

Stewart said he agrees the NLRB has little chance of prevailing, but the case isn't likely to be resolved quickly. “It could take years,” he said.

The NLRB said the next step in the process will be a June 14 hearing before an NLRB administrative law judge in Seattle.

Lafe Solomon, the NLRB's acting general counsel, said in a statement that he's “worked with the parties to encourage settlement in the hope of avoiding costly litigation, and my door remains open to that possibility.”

Luttig said he's confident the claim will be rejected by the federal courts. He said the company will begin assembling the 787s in North Charleston as planned.

Greenville site selection consultant Ed McCallum said he doesn't think South Carolina's economic development will be affected.

“The issue, and ultimately the opinion of industrial prospects, is the leadership response in Columbia and at the local level,” said McCallum, who helped Boeing pick the Seattle area for its first Dreamliner plant in 2003. “Prospects are a lot more sophisticated about these matters than most people think.”

However, John Sisson, another site consultant in Greenville, said he sees the NLRB action as a concern for industrial recruiters in right-to-work states.

“Companies dislike risks, especially ones that are difficult to define, in making siting decisions,” Sisson said. “The NLRB lawsuit adds a risk of legal action by the NLRB to a siting decision that selects South Carolina.”



LEROY BURNELL / The Post and Courier

The Boeing logo has already been placed on the side of the new plant under construction in North Charleston.

Powered by [TECNAVIA](#)

Copyright (c) 2011 The Greenville News 04/24/2011