



United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570
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April 22, 2011

The Honorable Tom Horne
Attorney General
State of Arizona
1275 West Washington Street
Phoenix, AZ 85007

The Honorable Alan Wilson
Attorney General
State of South Carolina
P.O. Box 11549
Columbia, SC 29211

The Honorable Marty J. Jackley
Attorney General
State of South Dakota
1302 E. Highway 14 – Suite 1
Pierre, SD 57501-8501

The Honorable Mark L. Shurtleff
Attorney General
State of Utah
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320

Re: Arizona Constitution Article 2 § 37
South Dakota Constitution Article 6 § 28

Gentlemen:

After carefully considering your responses to my letters and in view of the seeming impossibility of settling this dispute without litigation, I have directed my staff to initiate lawsuits in federal court seeking to invalidate Arizona Constitution Article 2 § 37 and South Dakota Constitution Article 6 § 28 as preempted by operation of the NLRA (29 U.S.C. 151, *et seq.*) and the Supremacy Clause of the United States Constitution (U.S. Const. Art VI, cl. 2). I expect that they will do so shortly.

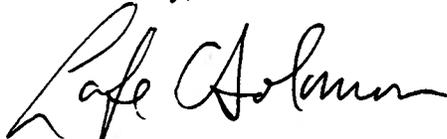
Because of my desire to conserve limited federal and state agency resources and taxpayer funds, I have decided not to bring suit at this time against all four states. The Arizona and South Dakota constitutional provisions contain very similar language requiring a secret ballot election whenever an election, designation, or authorization for employee representation is required or permitted by state or federal law. Accordingly, I have decided it would be efficient to place those two provisions before the courts within the same general time frame.

We adhere to our position that all four state constitutional provisions are preempted and reserve the right to initiate a suit against the other two states at the appropriate time.

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If you wish to discuss these matters, please contact Mark G. Eskenazi, the attorney assigned to this matter ((202) 273-1947) or Deputy Assistant General Counsel Abby Propis Simms ((202) 273-2934) or Assistant General Counsel Eric G. Moskowitz ((202) 273-2931).

Sincerely,

A handwritten signature in black ink, appearing to read "Lafe E. Solomon". The signature is written in a cursive style with a large initial "L" and "S".

Lafe E. Solomon
Acting General Counsel