

## Labor board proposes shortening election time

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On June 23, the National Labor Relations Board published a Notice of Proposed Rulemaking in the Federal Register to amend its existing rules and regulations regarding representation elections. The representation election is held to determine whether employees in an appropriate bargaining unit desire to have a particular union as their exclusive representative for purposes of collectively bargaining with that employer.

It appears that the Democratic-controlled board (three-to-one with one Republican vacancy) intends to accomplish some of what the Employee Free Choice Act, known as the Card Check bill, would have done if it had not become defunct after Republicans gained control of the House of Representatives in November 2010.

The overriding result of the proposed rules would be to shorten the time for elections to be held. Under the current procedures, elections are typically held within six weeks of the filing of a petition for election. The proposed rules would require the elections to be held within 10 to 21 days from the filing of the petition.

Such dramatic reduction in pre-election time is largely aimed to minimize the opportunity for the employer to legitimately express its views about union representation and collective bargaining.

In the vast majority of cases, the union has been conducting its campaign for the employees' votes well before it files the petition and often without the employer's knowledge. Social media clearly increases that opportunity. The union would usually like to have the vote on the day the petition is filed. It is typically at maximum strength before the employer's campaign messages can be conveyed to the employees.

A much shorter period for the campaign would not allow for a reasonably paced employer campaign. Even if the employer could convey its messages during the shortened period, it would be necessary to provide them with such rapidity that there is a risk of turning off employees by saturation.

The shortened period does not allow for the most meaningful presentation of the employer's position and it does not allow full consideration by the employees of competing campaigns for their commitments for the future of the relationship between them and their employer.

Additional significant changes in the proposed rules are:

- \* Allowing union access to the workplace.
- \* Establishing off-site Internet voting, instead of in-person private voting booth for a secret ballot.
- \* Deferring most voter and bargaining unit issues until after the election.
- \* Eliminating the right of parties to request review of a regional director's decision before an election is held.

\* Requiring recognition of "mini" unions that represent just a minority of workers, rather than the current requirement for a majority representation in a given bargaining unit.

\* Requiring employers to provide to the union in just two days - not the current seven - a final list of eligible voters containing phone numbers and email addresses, not just names and street addresses.

These proposals would radically change the opportunities for employers to resist union organizing efforts.

The board will accept public comments on the proposal until Aug. 22.

Comments may be delivered electronically through the Federal eRulemaking Portal, or by mail to Lester Heltzer, executive secretary, NLRB, 1099 14th St. NW, Washington, D.C., 20570.

Those interested may wish to express their views to their senators and congressmen as well.

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