

National Labor Relations Board Revives Election Rules Amendments

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The National Labor Relations Board has announced that it will propose amending its representation case procedures to accelerate the holding of union representation elections, a move that reprises a June 2011 proposal, later made final as slightly modified, that was withdrawn this January after the NLRB suffered court defeats over its adoption. Dubbed the “ambush” or “quickie” election rule by critics, because it collapsed the time between the petitioning for an election and balloting by employees on whether a union should represent them, the hurry-up procedure deprived employees of a chance to hear their employer’s views on unionization and deliberate before voting. The Notice of Proposed Rulemaking appears to be identical to the original proposal. It will be published in the Federal Register on February 6, 2014. Many believe a majority of the present Board members will approve it quickly, without change, following an opportunity for comment. If agreed to, the rule would change current Labor Board election procedures by:

- Accelerating the initial hearing date following the filing of a representation petition;
- Mandating expansive pre-hearing discovery of issues;
- Significantly curtailing the ability to litigate issues before an election;
- Eliminating the right to file post-hearing briefs;
- Barring pre-election requests to review regional decisions;
- Requiring lists of eligible voters be filed within only two days; and
- Providing the union with voters’ phone numbers, e-mail addresses, and more.

Interested parties will have 60 days, or until April 7, 2014, to file comments on the new proposal. As with the June 2011 NPRM, this proposal is expected to be met with widespread opposition from the business community and renewed litigation from business groups.

Elections Could Take Place In As Few As 28 Days Or Even Less

Approximately 95 percent of all representation elections are held within 56 days of the filing of a representation election petition. The new procedures, if adopted, could reduce that number by nearly 30.

The new procedures would place employers at a significant disadvantage in communicating with employees about the merits of unionization before an election. Experience shows the greater the opportunity employees have to learn about unions and collective bargaining, the less likely they are to vote for union representation. The proposed changes would reduce that opportunity drastically. Practicing preventive labor relations in advance of union organizing would become more important for employers than ever.

For additional information about the withdrawn final rule that is essentially the same as the new proposed rule, please see [National Labor Relations Board Pauses from Election Rules Amendments](#)

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