

NLRB Reissues Proposed “Quickie Election” Rule: Non-Union Employers Must Be Prepared

Labor & Employment Law Update

By Jeffrey Risch on February 5, 2014

Earlier today the National Labor Relations Board announced proposed rule changes that will *drastically* speed the union election process, limit issues employers can raise in the pre-election process, and limit employers’ appeal rights. The proposed amendments are nothing new. Substantively identical changes – dubbed the “Quickie” or “Ambush” Election Rule — went into effect April 30, 2012 but was quickly invalidated when the D.C. Circuit ruled the Board did not have a quorum when it passed the rule changes. The amendments proposed today are open for public comment for 60 days with public hearing taking place the week of April 7, 2014. Now that all seats on the Board are properly filled, any Rule changes that ultimately emerge may just stick.

Don’t be caught off guard. The proposed rule will *significantly* reduce the time between when a union petition is filed and when the election takes place. Currently, employers have approximately 42 days to respond to a formal organizing petition (which in many instances is not enough time to effectively campaign against a union that may have been “seasoning” the workforce for many months). Although details are still emerging, the essence of the proposed rule is to substantially reduce the time frame for employers to mount a counter campaign. The counter campaign predominantly focuses on educating the workforce on the TRUTH about labor unions; often separating fact from fiction because the labor union can legally make wild promises without any guarantees. The “ambush” election rule could reduce the employer’s messaging to as little as 10-14 days.

Any employer that waits until a union petition has been filed to launch its counter campaign is at the mercy of the union and the NLRB. It is imperative that the employer has its campaign ready to go *before* facing an organizing campaign and expedited election. If an employer prefers to remain union free, *now* is the time to prepare and implement an effective and lawful union avoidance strategy, educate the workforce, and train supervisors on proper union prevention measures. Amundsen Davis’s experienced labor law team stands ready to discuss the ABCs and 123s of legally maintaining a union-free workforce.