

Labor Board Tries Again to Change Union Rules

SAM HANANEL, Associated Press

WASHINGTON (AP) — Labor regulators are trying once again to streamline the process in which workers decide whether to join labor unions, a move sure to reignite the bitter debate between union advocates and employers that seek to discourage workers from unionizing.

The National Labor Relations Board proposed rules Wednesday that would allow unions to hold workplace elections more quickly by simplifying procedures, setting shorter deadlines and requiring businesses to hand over lists of employee phone numbers and emails to union leaders before an election. That could make it easier for unions to organize and reverse decades of steep membership declines.

The board approved similar rules more than two years ago, but business groups challenged them in court and a federal judge ruled in 2012 that the NLRB failed to follow proper voting procedures. The judge did not consider the merits of the rules, leaving the door open for the board to try again.

"Unnecessary delay and inefficiencies hurt both employees and employers," said NLRB Chairman Mark Pearce. He said the new proposals would help the process for workers who want union representation, or for unionized workers trying to decertify a union.

The NLRB has been mired in controversy since the first time the board attempted to modify union election rules. Some Senate Republicans vowed to effectively shut the agency down by blocking President Barack Obama from appointing new board members. Obama responded by circumventing the Senate to install recess appointments.

A federal appeals court ruled last year that those recess appointments were unconstitutional, leaving the agency in limbo and its powers uncertain. After a Senate showdown, Senate Republicans agreed to end delaying tactics and allow confirmation of five members to full terms on the board — three Democrats and two Republicans.

The U.S. Supreme Court will decide later this year whether Obama exceeded his authority in making recess appointments. But the issue no longer impacts future decisions of the NLRB since it has now a fully confirmed board.

The board said in a statement that the new case procedures are aimed at "modernizing processes, enhancing transparency and eliminating unnecessary litigation and delay. The latest proposal was approved by its three Democratic members, which both Republicans dissented.

Businesses vigorously oppose the rules because they complain the shortened time

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frames won't give employers enough of a chance to counter union organizers. Most labor elections take place within 45-60 days after a union gathers enough signatures to file a petition. The new plan could cut that time by days or even weeks, opponents warn.

The rules "would improperly shorten the time needed for employees to understand relevant issues, compelling them to vote now, understand later," said a dissent issued by the board's two Republicans, Philip Miscimarra and Harry Johnson. "It would also curtail the right of employers, unions and employees to engage in protected speech."

The plan also calls for electronic filing of petitions and other documents and streamlining procedures to reduce unnecessary litigation. Unions have complained for years about aggressive employer litigation tactics at retailers like Wal-Mart and Target that they say are designed to delay elections and intimidate workers.

AFL-CIO President Richard Trumka called the rules "an important step in the right direction."

"The current NLRB election process is riddled with delay and provides too many opportunities for employers to manipulate and drag out the process through costly and unnecessary litigation and deny workers a vote," Trumka said.

Pearce said the board would review all of the comments filed in response to the original proposals and allow 60 days for the public to submit new comments.

The union membership rate has plummeted over the last few decades. It now stands at just 11.3 percent of the overall workforce and just 6.7 percent workers in the private sector.

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