

Under a rule proposed by the National Labor Relations Board, employers would be required to post a notice informing employees of their right to unionize. According to the NLRB, "[M]any employees protected by the NLRA are unaware of their rights under the statute. The intended effects of this action are to increase knowledge of the NLRA among employees, to better enable the exercise of rights under the statute, and to promote statutory compliance by employers and unions." (See *Board proposes rule to require posting of NLRA rights*, NLRB Dec. 10, 2010 <http://bit.ly/e8BEx4>).

If the rule, (<http://bit.ly/f4A8GU>) becomes final, employers would be required to post yet another notice along with the myriad of other employment-related notices they must already post. Furthermore, failure to post the notice would be treated as an unfair labor practice under the National Labor Relations Act.

Board member Brian Hayes dissented from the proposed rule, noting "the Board lacks the statutory authority to promulgate or enforce the type of rule which the petitions contemplated and which the proposed rule makes explicit." Other opponents have noted that the proposed notice provides a skewed explanation of employees' rights along with pro-organizing examples. (See *NLRB rule has lawyers bracing for litigation*, Minnesota Lawyer Feb. 14, 2011).

There is certainly a basis for these concerns. The NLRA is a complex statute which is not limited to merely granting rights to employees; it also imposes obligations on them, and it provides certain protections to employers as well. The text of the NLRB's proposed notice lists all of the employees' rights, but it does not mention their corresponding obligations or the employers' rights.

The comment period for this proposed rule ends on February 22, 2010. Comments may be posted electronically by going to <http://bit.ly/f4A8GU>.

If you have any questions about this post, please contact me at taj@alexandriamnlaw.com.

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