

# Employer LINC™

LEGAL INFORMATION, NEWS AND COMMENTARY FOR EMPLOYERS

LABOR LAW UPDATE 06.22.2011

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## Unionizing employers is about to get easier

Nationally, union membership has been rapidly declining since its peak in the early 1980s. Last year, organized labor was unsuccessful in convincing Congress to pass legislation doing away with secret ballot elections and making unionization of workplaces easier. Since that time, unions have shifted their focus to convincing a pro-labor National Labor Relations Board for election rules more favorable to organized labor and making it easier to unionize employers. It looks like the unions' change in strategy has borne fruit. On Monday, June 20, 2011, the National Labor Relations Board announced proposed new rules, which, if adopted, would radically change the landscape when it comes to union elections.

Currently, once a union has obtained enough employee signatures to call for an election, there is a 45- to 60-day period before employee voting occurs to determine whether the workplace will be unionized. This "campaign period" is the best opportunity for an employer to tell its side of the story and to explain to its employees the disadvantages of collective bargaining and unionization. Tactically, unions have always believed that, if they could shorten the campaign time period before an election is held, the union's chances of winning elections will dramatically increase. Apparently, organized labor has found sympathetic ears at the National Labor Relations Board.

The proposed rules announced this week by the National Labor Relations Board do not include any specific deadlines for an election to occur after a petition has been filed by a union. However, the proposed rules shorten the timeframe for pre-election filings, information exchange and hearings. The practical effect of these rules is just what the unions ordered: an accelerated union election, with less time for an employer to express its views to employees about the disadvantages of bringing a union into the workplace.

Although a formal decision by the National Labor Relations Board whether these election rules should go into effect could be three months out, Tuesday's announcement confirms employers will be facing an increasingly more union-friendly Labor Board and a more energized organized labor movement desperate to increase membership. Employers who want to stay non-union must be increasingly vigilant for union organizing efforts and should take preventative, union-avoidance steps, including educating and training supervisors and management. In this rapidly changing environment, an employer who waits until it receives a union election petition will have waited too long.

For more information about the union organizing process and union avoidance strategies, please contact our Labor & Employment attorneys.

*This labor law update has been provided for information of clients and friends of McAfee & Taft. It does not provide legal advice, and it is not intended to create a lawyer-client relationship. Readers should not act upon the information in this newsletter without seeking professional counsel.*

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