

## NLRB Under Fire for Alleged Overreaching

9/14/2011 Louis C. Rabaut

The National Labor Relations Board has been very active in promoting a number of pro-union initiatives, prompting critics to accuse the Board of being more concerned with unions than with employees. Now the Board is facing both legal and legislative challenges.

The National Association of Manufacturers recently sued the NLRB in U.S. District Court in Washington, D.C. The lawsuit seeks to block a rule requiring employers to post notices informing workers of their right to join a union. The trade group claims the NLRB lacks the legal authority to mandate the posting, which, if the challenge is unsuccessful, will affect most private-sector companies in the U.S. and will go into effect on Nov. 14, 2011.

In another high-profile matter, the NLRB filed unfair labor practice charges against the Boeing Company for expanding its 787 Dreamliner aircraft production capacity outside of the state of Washington, which is heavily unionized. Boeing instead invested in a new assembly plant in South Carolina, a Right-to-Work state. Boeing claims that none of the approximately 1,000 jobs it created in South Carolina were at the expense of jobs in Washington. But the NLRB alleges that Boeing's action was a "transfer" of some "union" work to South Carolina.

The U.S. House of Representatives will now consider a bill to limit the NLRB's authority to veto a private employer's decision on where to locate its employees. The proposed law, H.R. 2587, is called the Protecting Jobs from Government Interference Act. It would amend the National Labor Relations Act to prevent the NLRB from ordering an employer to restore any operations, rescind any relocation or transfer, or make an investment at a particular plant, facility or location.

These two matters highlight a growing battle between the NLRB and pro-business groups over the NLRB's power to regulate certain business activities.

If you have questions about the NLRB or NLRB compliance, please contact Warner Norcross & Judd attorney Lou Rabaut (616.752.2147 or [lrabaut@wnj.com](mailto:lrabaut@wnj.com)) or any other member of Warner's Labor and Employment Group.