



Construction Industry Round Table

Regulatory News

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2/11/14 – NLRB Reissues Controversial “Snap-Election” Rulemaking

By a straight party line 3-2 split decision on February 4th, the National Labor Relations Board (NLRB), reissued its controversial proposed amendments for union elections. The notice of proposed rulemaking was published in the Feb. 6 Federal Register (79 Fed. Reg. 7,317), where the NLRB said it “is again proposing the same changes” it included in a 2011 proposal. The earlier attempt was stymied when the U.S. District Court for the District of Columbia held that the amendments were not properly adopted by the board because of a lack of a quorum (*see*, 30 HRR 538, 5/21/12). However, the court did not address the substance of the rulemaking, so the NLRB is coming back with essentially the same proposal, which the majority claims is furthering the goals of the National Labor Relations Act by “modernizing processes, enhancing transparency and eliminating unnecessary litigation and delay.”

Critics of the proposal have roundly denounced the rulemaking as undercutting the very purpose of the Act, and have referred to the amendment as promoting “ambush elections” or “quickie elections” that among other things, deny employees the opportunity to fully understand the ramifications and potential impacts of unionizing . . . all in the name of efficiency and rapid decision-making. Opponents, like Brian Hayes a former NLR Board member, noted that “. . . by administrative fiat in lieu of congressional action, the Board will impose organized labor's much sought-after 'quickie election' option, a procedure under which elections will be held in 10 to 21 days from the filing of the petition. Make no mistake, the principal purpose for this radical manipulation of our election process is to minimize, or rather, to effectively eviscerate an employer's legitimate opportunity to express its views about collective bargaining.” (*See more at:* <http://www.ogletreedeakins.com>).

NLRB's notice allows 60 days for the filing of comments on the proposed rule changes. **Comments must be received at the board by April 7.** Comments may also be filed through <http://www.regulations.gov> (Docket ID No. NLRB-2011-0002); OR be sent by mail and/or hand delivered to: Gary Shinnors, Executive Secretary, National Labor Relations Board, 1099 14th St. N.W., Washington, D.C. 20570.