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# N.L.R.B. Rules Would Streamline Unionizing

By STEVEN GREENHOUSE

In a move that pleased labor unions, the [National Labor Relations Board](#) proposed new rules on Tuesday to speed up unionization elections. The labor board wants to tighten up the process by ensuring that employers, employees and unions receive needed information sooner and by delaying litigation over many voter-eligibility issues until after workers vote on whether to unionize.

The [labor board's news release](#) and [fact sheet](#) did not explain how much the election process might be shortened as a result of the proposed regulations. But according to the board, the median amount of time from the filing of a petition for an election to the actual balloting was 38 days in 2008. The average time was 57 days.

Unions have long complained that it takes too many weeks after the petition is filed for a secret-ballot election to be held. They say the process gives management too much time to mount an antiunion campaign with videos and one-on-one sessions with workers.

American companies have repeatedly opposed any effort to shorten the period from petition to vote, saying it would become harder for managers to tell workers about the disadvantages of unionizing and to ensure that workers get both sides of the story.

The board said its proposed rules "are intended to reduce unnecessary litigation, streamline pre- and

postelection procedures and facilitate the use of electronic communications and document filing.” N.L.R.B. officials said they were not mandating any specific timetable for an election.

The public will have 75 days to comment on the proposed rules, which may then be revised.

The A.F.L.-C.I.O. applauded the proposed rules. “Our current system has become a broken, bureaucratic maze that stalls and stymies workers’ choices,” said Richard Trumka, the labor federation’s president. “With the proposal of these new standards, the board is taking a modest step to remove roadblocks and reduce necessary and costly litigation — and that’s good news for employers as well as employees.”

But the United States Chamber of Commerce criticized the move as a gift to organized labor. “This is another, not-so-cleverly-disguised effort to restrict the ability of employers to express their views during an election campaign, to inform employees of the pros and cons of unionization,” said Randel K. Johnson, the chamber’s senior vice president for labor matters.

Representative John Kline, Republican of Minnesota and chairman of the House Education and the Workforce Committee, also slammed the proposal. “Big Labor has found faithful friends on the Obama N.L.R.B., who are working hard to ‘fix’ a process that isn’t broken,” he said. The committee’s senior Democrat, Representative George Miller of California, defended the proposal, saying the current election process was broken and vulnerable to manipulation and delay.

“Ideologues will undoubtedly criticize and scaremonger over this modest, commonsense proposal,” he said. “In reality, the proposal will reduce costly litigation for all parties and reduce unnecessary conflict in the workplace.”

The board — which usually makes policy by issuing written rulings that resolve labor disputes — said that engaging in rule-making to revamp procedures has been a board tradition throughout its 75-year history. “It is fair to predict that the new proposals will be controversial,” the board’s chairwoman, Wilma B. Liebman, said in a statement. “That controversy is unfortunate, but it is not a good reason

for the board to abandon its responsibilities.”

The board’s most recent annual report says 1,619 unionization elections were held in fiscal year 2009, with unions winning 63.8 percent of them. Business groups say such a high winning percentage refutes labor’s claims that the process is unfair. But union officials assert that if the election process were not so skewed and unfair, that percentage would be far higher and they would be pushing to hold many more elections, perhaps helping to reverse labor’s decline.

In an article about the N.L.R.B., Samuel Estreicher, a law professor at New York University, noted that unions considered the time between petition and election a problem “because employee interest in collective representation can wane and dissipate simply by the passage of time.”

In one important specific change, the labor board will seek to avoid election delays by deferring a common form of litigation in which companies argue that some employees should not vote because they should be considered supervisors. Challenges to voter eligibility can delay elections for several weeks. Under the proposed regulations, such litigation would generally be deferred until after the election.

In a move that board officials say will make it easier for employees, employers and unions, the labor board proposes to allow petitions and other election documents to be filed electronically. Under federal rules, signatures of at least 30 percent of a workplace’s employees are needed to petition for a unionization election.

In another proposal that companies are likely to criticize because it makes campaigning easier for unions, the board would require employers to provide a voter list of all employees in electronic form sooner than now required, and also require it to contain phone numbers and e-mail addresses.

The board’s news release noted that one of its four members, Brian Hayes, the only Republican, dissented from the proposed rulemaking.

Generally, the labor board seeks to arrange a hearing within a week or two after a petition is filed. The

board, in another proposal likely to upset employers, would bar the parties from later litigating issues other than the ones raised at the hearing, unless they are voter-eligibility issues.

Under current procedures, elections are routinely delayed 25 to 30 days to allow parties to have the board in Washington review a regional director's rulings on an election even though such requests are rarely filed or granted. The proposed regulations would eliminate the pre-election request for review as well as what the board calls "this unnecessary waiting period."



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