

MURTHA MEANS MORE INFORMATION



LABOR AND EMPLOYMENT NEWS

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“Ambush Election Rules” are Back - Take Steps Now to be Prepared

Last week the National Labor Relations Board (“NLRB”) revived a regulatory proposal designed to make it easier for Unions to organize workers. The proposed regulations do not differ from the amendments the Board tried to adopt in 2011, but which a federal court blocked for procedural reasons.

Under the proposed amendments, once a petition for an election of a union to represent employees is filed with the NLRB, the process would proceed extremely quickly. The proposed changes set hearings for seven days after service of the notice of hearing; require that employee email addresses and phone numbers (if available) be included on voter lists supplied by the employer to the union; and reduce the time for filing the voter lists from seven to two work days.

The proposed changes would also put off litigation over the eligibility of certain voters that involve less than 20% of the bargaining unit until after the election; require the parties to state their positions no later than the start of the pre-election hearing; eliminate pre-election appeals to the Board, and consolidate such appeals with appeals of issues concerning the conduct of the election into a single post-election appeal procedure. They would also end the practice of delaying elections to permit time for pre-election appeals; and give the Board discretion whether to hear and decide election appeals.

The result of these changes, if adopted, would be that employers faced with a petition for a union election would have to act immediately. Because there will be essentially no time for an employer to evaluate these issues after a petition is filed, employers should take time now to determine how they would respond to a petition and to set up a detailed process to be followed in the event a petition is filed.

Action Steps: Employers should review policies related to organizational issues, they should clearly identify which employees are supervisors under the National Labor Relations Act and figure out which employees would form an appropriate bargaining unit and which would not. Employers should also identify individuals (and provide contact information) who have responsibilities in the event of an organizing campaign.

Please contact Hugh Murray at hmurray@murthalaw.com, 860.240.6077 or Michael Harrington at mharrington@murthalaw.com, 860.240.6049 to get more information.

If you have any questions about the issues addressed here, or any other matters involving Labor and Employment issues, please feel free to contact:

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