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Plan to Ease Way for Unions

Labor Board Proposes Speeding Up Organizing Votes; Employers, GOP Cry Foul

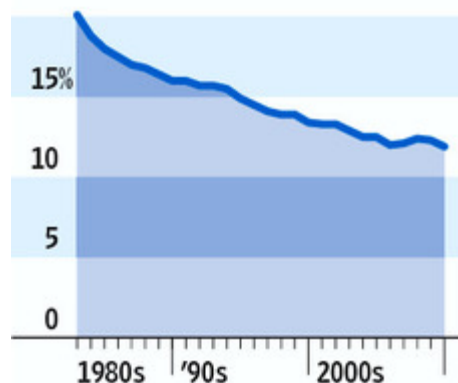
By MELANIE TROTTMAN And KRIS MAHER

The National Labor Relations Board Tuesday proposed the most sweeping changes to the federal rules governing union organizing elections since 1947, giving a boost to unions that have long called for the agency to give employers less time to fight representation votes.

The NLRB's proposals would likely compress the time between a formal call for a vote by workers on whether to join a union, and the election itself. It is the latest in a series of actions by the board and other agencies controlled by Obama administration appointees that respond to labor leaders' calls for more union friendly federal labor policies.

The Organized

Percentage of employed workers who are in a union



Source: Labor Dept.

The rules governing organizing are the focus of a power struggle between unions and employers after decades of declining union membership. Only 6.9% of private sector workers belonged to unions in 2010, and just 11.9% of all U.S. workers, according to the Labor Department. In 1983, unions represented 20.1% of all workers.

"This is another not so cleverly disguised effort to restrict the ability of employers to express their views during an election campaign," said Randy Johnson, the U.S. Chamber of Commerce's senior vice president of labor, immigration and employee benefits.

Some companies say cutting the lead time before an election would make it harder for them to build a case for opposing a union, because union campaigns often begin months earlier without an employer's knowledge.

Unions praised the proposal, although Richard Trumka, president of the AFL-CIO, called the board's step a "modest" one that doesn't address

"many of the fundamental problems with our labor laws."

Unions failed during the years when Democrats had control of Congress to win passage of a remake of union organizing rules known as the Employee Free Choice Act. Since Democrats lost control of the House in 2010, union leaders have stepped up pressure on the Obama administration to use its rule-making powers to achieve some of the same goals as the EFCA.

More

• [NLRB Proposals: Reactions](#)

The NLRB said its proposed changes aim to curb unnecessary litigation; streamline procedures before and after elections; and

enable the use of electronic communications, such as requiring employers to give union organizers access to electronic files containing workers' addresses and email addresses when available.

Even with more favorable rules, unions could face challenges winning contested elections at a time when even union officials say many workers are more concerned about their own job security. Unions have tried and failed for years to organize workers at Wal-Mart Stores Inc., Target Corp. and the U.S. operations of big foreign-owned auto makers, among others.

The Union Agenda

Unions were counting on advancing their priorities after the election of President Obama. A scorecard on their progress:

Passage of Employee Free Choice Act to ease union organizing. **Failed in Senate.**

Getting former union lawyer Craig Becker on the NLRB. **Accomplished through recess appointment.**

Making it easier for airline and railroad workers to unionize. **Approved by the National Mediation Board.**

Enabling airport screeners to unionize and collectively bargain. **Authorized by Transportation Security Administration.**

On Friday, the United Food and Commercial Workers union lost an election 85-137 at a Target store in Valley Stream, N.Y. The union immediately accused the company of illegally intimidating workers.

"The team members rejected the union," said Target spokeswoman Molly Snyder. "We are pleased that we are going to be able to work directly with our team members and continue to make Target as great a place as it can be."

"Target believes that we have followed all of the laws and regulations of the National Labor Relations Act," Ms. Snyder added. She said the company "doesn't have anything to share at this point" about the changes proposed by the NLRB.

A Wal-Mart spokesman said the company didn't have a reaction "at this time" to the proposed NLRB rules changes.

The International Association of Machinists and the Association of Flight Attendants lost elections last year involving 50,000 Delta Air Lines Inc. workers. Since then, the National Mediation Board, which oversees elections in the airline industry, opened investigations into allegations that the company unfairly pressured workers to vote against the unions. The NLRB rule changes wouldn't affect the airline industry, whose labor relations are governed by the mediation board.

NLRB Chairman Wilma Liebman, in a statement Tuesday, predicted the proposals would be controversial, and business groups and Republican lawmakers quickly proved her right.

Rep. John Kline (R., Minn.), chairman of the House Education and the Workforce Committee, urged the board to scrap what he called a reckless and job-destroying agenda.

Brett McMahon, vice president for business development at Miller & Long, a privately held, nonunionized construction company in Bethesda, Md., said the NLRB's proposal "provides a totally unfair advantage to labor and it deprives employees of a full set of information." Mr. McMahon, whose company employs about 1,100 people, said the NLRB proposal, combined with a Labor Department proposal Monday to require employers to disclose more information about labor consultants they hire, is "a two-fold attack" on employers.

Republican lawmakers were already attacking the NLRB for its decision in April to accuse aircraft giant Boeing Co. of illegally building a 787 Dreamliner production line at a new nonunion plant in South Carolina, a state where unions are weak, instead of in Washington state where union employees are already building such planes.

Unions reacted positively to the NLRB's proposal. "At a time when corporations have lawyers and lobbyists speaking for them on Capitol Hill, it's a good thing when a federal agency wants to allow working people to have a say," said Mary Kay Henry, president of the Service Employees International Union.

The NLRB's Democratic majority has the votes to adopt the rules. Ms. Liebman said the board would approach the process with "open minds" and has invited public comment. There will be a public meeting on July 18th and 19th about the proposal.

Union organizing efforts often take years. In 2008, the UFCW won an election to organize 5,000 workers at a Smithfield Foods Inc.'s hog-slaughtering plant in Tar Heel, N.C., after a campaign that consumed 15 years. The union lost a 1997 vote, spurring seven years of litigation. In 2006, the U.S. Court of Appeals for the District of Columbia ruled that the company had threatened workers and ordered it to reinstate four union supporters the court found were illegally fired.

The cost of organizing efforts has led unions to seek fewer votes. Last year, unions won 1,036, or 66%, of 1,571 elections conducted by the NLRB, according to the agency. In 1990, unions called for 3,536 elections and won 1,773, or 50%.

The NLRB said it couldn't calculate how much shorter the time could be between when a union files a petition for an election and the election itself. The median time is now 38 days.

Michael Lotito, a partner in San Francisco at law firm Jackson Lewis LLP who advises employers, said the lead time could be shaved to between 19 and 23 days under the proposal.

The power struggle between employers and unions promises to be a factor in the 2012 elections. Unions were significant contributors to President Barack Obama's 2008 election campaign and played a crucial role in drumming up votes for him and congressional Democrats.

In the 2010 election cycle, labor unions overall contributed \$73.4 million to federal candidates, parties and outside groups, down from \$74.55 million in the 2008 cycle, according to the Center for Responsive Politics' calculations of the 20 biggest union contributors at the time. In both cycles, at least 90% of the unions' party-related contributions were to Democrats. Unions also spend money on political efforts not directly tied to a candidate.

Unions are heading into the 2012 election cycle facing moves in several states to curtail collective-bargaining rights. Labor leaders have turned to the Obama administration for help, and warned that union members would withhold campaign contributions for Democrats who don't support the union cause.

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