NLRB To Propose Sweeping New Union Rules

Sam Hananel, Associated Press

WASHINGTON (AP) — Labor regulators are set to propose sweeping new rules Tuesday that would dramatically speed up the time frame for union elections, a move that could make it easier for struggling unions to organize new members, and cut the time businesses have to mount anti-union campaigns.

A copy of the planned rules, to be announced by the National Labor Relations Board, was obtained by The Associated Press. The proposal is expected to irritate Republicans and business groups who have complained about the board's pro-labor actions.

Most labor elections currently take place within 45-60 days after a union gathers enough signatures to file a petition, a time many companies use to discourage workers from unionizing. The new plan could cut that time by days or even weeks — depending on the case — by simplifying procedures, deferring litigation and setting shorter deadlines for hearings and filings.

But it does not impose a specific deadline for elections, as many labor leaders had hoped for. Canada, for example, requires such elections to take place in as little as 5 to 10 days.

The plan would "better insure that employees' votes may be recorded accurately, efficiently and speedily," said the board's majority, led 3-1 by Democrats.

Passage would be a victory for labor unions that have long complained about employers using procedural delays and litigation to hold up elections and intimidate workers. Some employers hire so-called "union busting" consulting firms to produce videotapes, draft talking points or create brochures to deter unionizing.

Lynn Rhinehart, general counsel of the AFL-CIO, has called current union election procedures "a very cumbersome process that gets bogged down in litigation."

"If the board is going to try to address some of the reasons for delay in the election process, that would be a positive thing," she said in an interview before the proposed rule was announced. "Delay in the process has been a perennial problem."

The board's lone Republican, Brian Hayes, issued a vigorous dissent, saying the proposal would result in the type of "quickie elections" union leaders have long sought. Hayes claimed elections could be held in as little as 10 to 21 days from the filing of a petition, giving employers less of a chance to make their case.

"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," Hayes wrote.

The board will take 75 days to review comments and replies before making a decision on whether the rule should become final.

Union membership has steadily declined from its peak of about 20 percent in the 1980s to just to 11.9 percent of all workers, and just 6.9 percent of the private sector. Many members blame increasingly aggressive anti-union tactics, but they have tried without success to beef up federal penalties for what they say are growing instances of intimidation and threats against workers.

Labor leaders made a major push in 2009 for Congress to pass so-called "card check" legislation that would have increased penalties for such violations and made it easier for unions to organize workers by signing cards instead of holding secret-ballot elections. But the measure failed to garner a filibuster-proof majority in the Senate. Since then, labor has pinned its hopes for a revival on action at the NLRB, the Labor Department and other sympathetic administrative agencies.

The board has not disappointed. It has cracked down on businesses that fire employees during union organizing drives and proposed rules that would require all business to display posters explaining union rights. In perhaps the most prominent case, the NRLB's acting general counsel filed a controversial lawsuit earlier this year that accused Boeing Co. of retaliating against union workers in Washington state by placing a new assembly line for the Dreamliner 787 in South Carolina, a right-to-work state.

The proposed rule to be announced Tuesday could be another step in helping unions halt the membership decline and organize more workers. It would:

— Allow electronic filing of petitions and other documents to speed up processing.

— Set pre-election hearings to begin 7 days after a petition is filed.

— Defer litigation of eligibility issues involving less than 20 percent of the bargaining unit until after the election.

— Eliminate pre-election appeals of rulings by an NLRB regional director.

— Reduce from 7 to 2 days the time for an employer to provide an electronic list of eligible voters.

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