

Get Ready for April 30, 2012

Mark A. Fahleson, Esq.
Rembolt Ludtke LLP

Legal developments relating to the National Labor Relations Act have been coming at a brisk pace under the Obama Administration. The Act, which applies to most private-sector employers regardless of whether the employer is unionized or not, gives employees certain rights as it relates to their ability to organize and join labor organizations and engage in “protected concerted activity.”

The National Labor Relations Board recently announced that it has targeted April 30, 2012, as the effective date for two of its most significant policy changes:

- The deadline for complying with the NLRB’s new posting requirements has been extended to April 30, 2012. This new posting requirement applies to all private-sector employers subject to the National Labor Relations Act, **even non-unionized workplaces**. A copy of the new poster may be found here: <https://www.nlr.gov/poster>. The poster informs employees of their rights under the Act, including their right to unionize and engage in “protected concerted activity.” In addition to physical posting, the new rules require employers to post the notice on an internet or intranet site if personnel rules and policies are customarily posted there, and to post the notices in English and another language if at least 20 percent of the employees speak the other language. The potential consequences for violating these new posting requirements are significant, including unfair labor practice charges and a possible finding that failure to post is evidence of an unlawful motive.

Employment/Labor Law Practice Group

Mark A. Fahleson
mfahleson@remboltlawfirm.com

Tara L. Tesmer
ttesmer@remboltlawfirm.com

Rembolt | Ludtke LLP Attorneys at Law

MAIN OFFICE

1201 Lincoln Mall, Suite 102
Lincoln, NE 68508
Fax: 402 / 475-5087
402 / 475-5100

BRANCH OFFICE

125 South 6th Street
Seward, NE 68434
Fax: 402 / 643-3969
402 / 643-4770

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- On April 30, 2012, the NLRB's new "quickie" election rules go into effect. The new rules eliminate many pre-election rights of employers under the guise of expediting union elections after a representation petition has been filed. The net effect of these new rules is to restrict the ability of employer's to challenge a union organizational drive and to limit the amount of time employers have to educate employees on the real consequences of unionization. The NLRB moved quickly to adopt the new rule before it loses one of its three remaining members at the end of this year. A copy of the final rule, published on December 22, 2011, can be found here:
https://www.nlr.gov/sites/default/files/documents/3240/nfrmfinal_0.pdf

LESSON: Given this increased legal activity, private-sector employers—union and non-union alike—must become knowledgeable about the requirements of the National Labor Relations Act, including these two new policy changes that become effective April 30, 2012. The new posting requirement will likely trigger an increase in the number of unfair labor practice charges filed against non-union employers as employees become better educated on how to use the Act's protections to their advantage. The new quickie election rules will likely mean an increase in union organizing activity given the abbreviated election schedule. Employers would be well advised to consult with their legal counsel to review their policies and practices so as to ensure compliance with the NLRA and the increasingly aggressive NLRB.



Mark Fahleson is a partner with the law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or mfahleson@remboltlawfirm.com. This article is provided for general informational purposes only and should not be construed as legal advice. Those requiring legal advice are encouraged to consult with their attorney.