



February 14, 2011

TLPA Opposes NLRB Notice of Proposed Rulemaking

On February 10, TLPA President Robert McBride and the Executive Committee met and decided to notify all TLPA members operating in the U.S. of TLPA's opposition to the new National Labor Relations Board (NLRB) Notice of Proposed Rulemaking. The proposed rulemaking would require almost all private sector employers in the U.S. to post a biased notice informing employees of their rights – including the right to join a union and bargain collectively. The full text of NLRB proposed rule can be found on the Internet at: http://www.nlr.gov/About_Us/news_room/Notice_for_Rulemaking/2010-32019_PI.pdf

Comments Due Now

Comments are due on or before February 22, 2011. If you oppose this new proposed federal mandate, then you may want to file a comment of opposition. The hope would be that due to overwhelming opposition from the business community, the NLRB would revise or withdraw the proposal.

Basics of the Proposal

- The rule would require all employers covered by the National Labor Relations Act to post the notice, even if their employees are not represented by a union.
- Employers that regularly communicate with employees via e-mail or electronic means would have to post the notice electronically in addition to the physical posting.
- Failure to post the notice would be considered an unfair labor practice by the Board.

Points Being Made in Opposition

- The proposed notice is not a fair explanation of rights because it fails to inform employees of their right to:
 - Decertify or withdraw from third-party union representation
 - Seek relief from a union's failure to represent employees fairly
 - Object to payment of union dues or fees for political purposes
- The rule proposes unfair penalties including finding a failure to post to be an unfair labor practice and suspending the statute of limitations for filing an unfair labor practice charge.
- According to NLRB Member, Brian E. Hayes, "...the Board lacks the statutory authority to promulgate or enforce the type of rule which the petitions contemplated and which the proposed rule makes explicit."
- For a copy of the best comment we have seen filed so far, the Michigan Chamber of Commerce, see the link available on the TLPA home page of our web site at www.tlpa.org.

NLRB Information in Support of Their Proposal

- NLRB press release: http://www.nlr.gov/shared_files/Press%20Releases/2010/R-2806.pdf
- NLRB fact sheet: http://www.nlr.gov/About_Us/news_room/Notice_for_Rulemaking/rulefactsheet7.pdf

How and Where to File Your Comments

- Internet—Federal eRulemaking Portal. Electronic comments may be submitted at <http://www.regulations.gov>. To locate the proposed rule, search "documents open for comment" and use key words such as "National Labor Relations Board" or "Notification of Employee Rights under the National Labor Relations Act" to find documents accepting comments. Follow the instructions for submitting comments.
- Delivery—Comments should be sent to: Lester A. Heltzer, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Washington, DC 20570. Because of security precautions, the Board continues to experience delays in mail delivery. You should take this into consideration when preparing to meet the deadline for submitting comments. The Board encourages electronic filing.
- Please send TLPA a copy of your comments by email (alagasse@tlpa.org), fax (301-984-5703) or by mail (TLPA, 3200 Tower Oaks Blvd. Suite 220, Rockville, MD 20852).