ISSUE

In 2014, the National Labor Relations Board (NLRB) issued a rule to significantly shorten the time between the filing of a petition for a union election and the election date. ACEC supports legislative and judicial efforts to overturn this rule.

OVERVIEW

Under the National Labor Relations Act (NLRA), employees generally decide whether or not they want to be represented by a union by participating in a secret ballot election. The election is overseen by the NLRB. The NLRB has typically held 95 percent of elections within eight weeks of a petition being filed, and unions win 60 percent of these elections. Moreover, in 90 percent of cases there is no pre-election litigation, and the election is held pursuant to a consent agreement.

Despite this success, under the 2014 rule, workers have as few as 14 days to consider unionization before the election takes place. Employers are required to provide to union organizers the personal telephone numbers and e-mail addresses of all employees who are eligible to vote in the election within two business days of the election agreement.

These changes limit employer speech and restrict the ability of employees to make fully informed decisions about joining a union. In addition, the law already protects against employer interference with union elections. The NLRA prohibits employers from making threats against employees that support the establishment of a union. If employers engage in this conduct and undermine the opportunity for a fair election, the NLRB can require the employer to bargain with the union, even if the union loses the election.

In 2017, the NLRB issued a request for information asking for public feedback on the 2014 rule. Proposed revisions to the rule may be considered once the NLRB has reviewed comments from stakeholders.