



Unions Improve Win Rate, But Number of NLRB Elections Declines

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A review of National Labor Relations Board (“NLRB”) election data for 2009 reveals a mixed bag for employers and unions, alike. Over the course of 2009, Unions won 68.5 percent of representation elections supervised by the National Labor Relations Board (“NLRB”). According to the research division of the Bureau of National Affairs, this represents the highest win rate since 1984 when BNA began to track such data, and an increase from 66.9 percent in 2008. Unions have won more than 50 percent of all representation elections each year over the past thirteen years, a fact which would seem to undermine unions’ claimed need for “card check” to “level” the playing field in the representation process.

While on the surface unions’ improved success at the polls would appear to be heartening news for unions (and disheartening news for employers), the number of representation elections in 2009 dropped to the lowest level on record, according to BNA. The NLRB conducted 1,293 elections (886 of which were won by unions) in 2009, down from 1,612 (1,079 of which were won by unions) in 2008. By comparison, the NLRB conducted more than 4,000 elections in 1985.

Moreover, the number of eligible voters in the elections also decreased from 105,678 in 2008 to 73,777 in 2009. In 2009, unions organized 49,040 workers through NLRB elections, down from 69,987 in 2008. So, while Unions were more successful when they got to the polls, their overall success rate in elections continued its downward trend. It should be noted that the NLRB’s data does not reflect the entire extent of union organizing. Many unions, particularly those long-embedded in certain industries and companies, organize through neutrality and card-check recognition agreements and other methods.

As Union membership continues to ebb, we can be certain that they will continue aggressively to pursue new members and will continue to pursue legislation such as the Employee Free Choice Act (“EFCA”) designed to facilitate their organizing efforts. Employers must remain vigilant to ward off re-invigorated organizing attempts. We have provided extensive union-free management training over the years to numerous employers in a variety of industries across the region, and we would be happy to assist your organization in the development of appropriate countermeasures to the latest organizing tactics.

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