

ALERTS AND UPDATES

NLRB Postpones Implementation Date for New Notice-posting Rule

October 13, 2011

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The National Labor Relations Board (NLRB or the "Board") announced in a [press release](#) on October 5, 2011, that it has postponed the implementation date for its new notice-posting rule by more than two months. According to the Board's press release, the deadline has been extended to allow for education and outreach to employers, focusing particularly on small and medium-sized businesses. The new effective date of the rule is [January 31, 2012](#).

The Board issued a Final Rule on August 22, 2011, that will require all employers subject to the National Labor Relations Act (the "Act") to post a notice informing their employees of their right to engage in union and other protected concerted activity as of the effective date of the Final Rule. (See *Duane Morris Alert*, "[NLRB Issues Final Rule Requiring All Employers Subject to National Labor Relations Act to Post Notice of Employee Rights to Engage in Union Activity](#).") The original effective date in the Final Rule was November 14, 2011. Employers now do not need to comply with the Final Rule until more than two months after that date.

Since the Board issued the Final Rule, several legal challenges to it have been brought that seek to have the Final Rule declared unlawful and to enjoin the Board from implementing and enforcing it. If those legal challenges are successful, the requirement to post the notice will not come into effect. On October 6, 2011, a bill was introduced in the U.S. Senate that would prohibit the Board from implementing the Final Rule. Similar legislation was introduced in the U.S. House of Representatives in September. While the Board claims that the postponement of the effective date of the Final Rule is related to education and outreach to employers, some commentators have speculated that the legal challenges to the rule and the introduction of legislation in Congress could be the actual motivating reason for the Board's pushing back the effective date more than two months.

In order to proactively counter the potential effects of the Board's notice-posting requirement, employers should consider conducting supervisory training to maintain union-free workplaces in advance of the Final Rule's effective date. Employers should also review their human resources policies to ensure they are up to date and consistent with the latest pronouncements from the NLRB.

For Further Information

If you have any questions about this *Alert*, please contact any of the [attorneys](#) in our [Employment, Labor, Benefits and Immigration Practice Group](#) or the attorney in the firm with whom you are regularly in contact.

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