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Labor and Employment Alert: NLRB to Vote on Election Process Rule

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CLIENT ALERT | 11.21.2011

The NLRB announced yesterday that it will hold a public meeting on November 30, 2011. At the meeting, the three remaining NLRB members will discuss and vote on the so-called "quickie election" rule that the NLRB proposed in June 2011. As previously discussed on this [Vorys on Labor blog](#), the changes in the proposed rule range from permitting electronic filing of certain documents (hardly the most controversial measure in the proposal) to limitations on a party's right to litigate certain voter eligibility and other issues at the outset of the representation election process.

According to the NLRB's announcement, Chairman Pearce will propose issuing a final rule that is limited to "several provisions designed to reduce unnecessary litigation." Which specific provisions in the proposed rule those might be are unclear from the announcement. The limitations on so-called "unnecessary" litigation, however, are the more controversial proposals in the rule.

The NLRB's action comes the day after the U.S. House of Representatives took action to move a bill designed to forestall parts of the proposed rule to the full House for a vote. [H.R. 3094](#) (pdf), entitled the "Workforce Democracy and Fairness Act," cleared the House Rules Committee on November 17. That bill would amend the NLRA to provide, among other things, that there must be a minimum of 35 days between the filing of an election petition and the holding of an election.

Although the NLRB's announcement does not reference H.R. 3094, it does acknowledge the possible loss of the NLRB's third member at the end of the year. If the NLRB drops to two members (Member Becker's recess appointment expires at the end of this year), it will be unable to issue decisions or new regulations, as the [Supreme Court ruled](#) in 2010.

Labor professionals wishing to attend the NLRB's meeting must contact the agency via e-mail. Those attending, however, will not be permitted to participate. The hearing will also be webcast.