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Rep. George Miller (D-CA) Opening Statement

WASHINGTON, D.C. – Below are the prepared remarks of U.S. Rep. George Miller (D-CA), the senior Democrat on the House Committee on Education and the Workforce for the hearing on the National Labor Relations Board’s proposal on procedures regarding union representation elections.

Today’s hearing is about an NLRB proposal for a fairer workplace election process.

The proposal is a modest one. It closes a few loopholes that have allowed some parties to either unnecessarily delay elections or undermine them entirely. And it brings some procedures into the 21st century.

Before the hearing gets into attacks against workers and their unions, we should examine why this proposal was needed. Many union elections are uncontested. However, current rules provide multiple opportunities for bad actors to purposefully delay or stop an election.

These delays intensify workplace conflict. They provide opportunities for unfair labor practices, like threatening or firing workers, in order to undermine workers’ freedom of choice. The proposal would simply reduce these opportunities for delay by modernizing procedures, increasing transparency and reducing wasteful litigation.

Specifically, the rule allows parties to file petitions and other documents electronically. Americans can file their tax returns electronically and email their elected representatives in an instant. With electronic filing, the NLRB should at least be allowed to join the late 20th century.

The rule would also ensure the timely exchange of information so that all parties understand the process and are able to resolve any issues early on. It would reduce unscrupulous employers’ ability to delay elections just for the sake of delay. Finally, it would provide for a more timely delivery of voter lists as well as their phone numbers and emails.

All of these improvements are modest.

The rule does not change the wildly unfair imbalance in employee access. A union might get a phone number and an email address a few days before the election under this new rule. But access to workers will otherwise remain slanted in favor of employers.

Unions have very restricted access to workers. They are not entitled to enter the property where workers assemble every day: the workplace. And workers themselves continue to be restricted to campaigning at non-work times in non-work areas.

Meanwhile, employers still have complete access to their employees. They can campaign 24 hours a day, on work time, in work areas. They can conduct captive audience meetings with workers. And, they can legally fire workers for not attending these meetings.

In reality, the anti-union campaign does not start on the date of the election petition. It often starts from the date of hire, with employee handbooks and orientation videos urging a “union-free workplace.”

None of this is changed by the proposed rule. Nothing in this proposal affects what employers can say to a worker or when. And nothing in this proposal changes the election itself. But what the proposal does begin to do is drawn down the ability of those who simply want to derail an election.

Let’s not kid ourselves: The claim that this proposal will result in management’s inability to make their case to workers is laughable. What critics are really saying is this: This proposal takes away a long-time unionbusting tactic – using frivolous litigation to delay an election for months and even years.

It’s a unionbuster’s first principle: time is on your side. With delay, you wear down workers with fear and intimidation, show them how futile their efforts are as every move gets tied up in litigation, and force them to give up.

This proposal limits that weapon. No more delay for delay’s sake.

Let’s be frank. A great deal of money is made by making a proposal like this one controversial. And a great deal of money is made by frightening employers into fearing these changes.

Today’s hearing speaks to the power of the special interests: Any proposal for a slight improvement in workers’ rights will result in public outcry and partisan hearings.

Letting workers vote when they ask for a vote should be a no-brainer. If workers want an election, they should get an election. They shouldn’t be met with fear, intimidation or delay for the sake of delay.

I look forward to the witnesses’ testimony.

<http://democrats.edworkforce.house.gov>