

The National Labor Relations Board – How the NLRB Affects the Labor Environment

Monday, July 29th 2024 – IBEW Local 270

We had a lively and informative evening with Derek Guy (IBEW) and James Taylor (Martenson-Hasbrook & Simon, LLP) talking about the National Labor Relations Board. The NLRB was established to administer the National Labor Relations Act, passed in 1935, to provide both union and non-union employees at private-sector workplaces with better working conditions. The National Labor Relations Act covers all non-governmental employers, even if they are “at will” companies. Employees working in any private sector companies can file unfair labor practice complaints with the NLRB at no cost to themselves. The NLRB also has rules for union organizing (on both sides) and rules once a union is voted into a company.

The Board consists of 5 people appointed by the President and confirmed by the Senate, and usually consists of a 3/2 split in favor of the President’s political leanings. The General Counsel (also appointed by POTUS) is independent from the Board and holds surprisingly outsized influence over the priorities and policies of the Board. When President Biden was inaugurated, the sitting NLRB General Counsel was so anti-labor he was asked to resign – making him the first General Counsel ever fired. There are also regional offices that handle routine unfair labor practices and union elections. As a side-note, the Secretary of Labor is also appointed by the President; however, is not tied to the NLRB in any way.



During the presentations we learned that both the corporations opposing unions and the unions themselves were guilty of “sticking it to other guy” in the past. Now, employers know that the labor force working at the company is important for the company to thrive, and it is better to have a stable workforce than angry employees. Mr. Taylor told us that once labor organizing begins it is just a matter of time before some union is voted in, and the company can injure itself by doing dirty tricks with that process.

Mr. Guy told us that unions were also guilty of dirty tricks in the past, with slow downs, abandoning machinery, damaging property, etc. Those dirty tricks of the past still haunt the reputations of unions in ways they are still working to repair. In modern times, both the unions and the companies know that having union rules makes for a more stable workforce and a level playing field for bidding jobs.



However, even with the benefits of cooperation, our speakers shared examples of conflict. Mr Taylor told the story of a steel plant here in Tennessee that was being organized, and the population had not been in a union previously. The company thwarted the union effort by telling the workers that the wage gains the union was promising would be eaten up (and more) by their dues and higher costs. Mr. Guy related the situation at McKay's Books – the workers voted in a union at one store, but the company is dragging its feet on negotiating the contract. Perfectly legal under NLRB rules. Meanwhile, the store that did not unionize got wage increases.

There are sticky problems the NLRB is currently working to resolve, such as issues around “joint employer.” A joint employer is where an employee is paid by one entity but works under the rules, supervision, and disciplinary actions of another entity. A common example is a staffing agency that directly employs workers they then assign to work for their clients.

James Taylor, is a law partner at the Atlanta firm of Martenson-Hasbrook & Simon, LLP. James's practice focuses on regulatory issues related to federal contractors, and state and municipal affirmative action cases. James has extensive knowledge as to regulatory practices of the National Labor Relations Board. His work involves assisting companies with wage and hour disputes, general employment law, contract negotiations, the preparation of collective bargaining agreements, and negotiations with unions.



Derek Guy is a Union Organizer for the IBEW (International Brotherhood of Electrical Workers) and knows first-hand the pivotal role unions play in today's labor environment. Derek has been in Washington D.C. as part of a very productive labor delegation meeting with President Biden.

In addition to his work with IBEW, Mr. Guy is a long-term and active member of the Oak Ridge community. With his wife, Regina, they have three school aged children, are active community volunteers, and attend ORUUC.