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# Polite President Or Political Deal? Trump Renominates Pro-Union Mark Gaston Pearce To NLRB

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This week, President Donald Trump renominated former chairman and member of the National Labor Relations Board (NLRB) Mark Gaston Pearce to a third term. Pearce, who served as chairman of the NLRB from 2011 to the change in administrations in January 2017, is a former union lawyer appointed by former President Barack Obama in 2010. Trump, who appointed two pro-management board members within the last year in Marvin Kaplan and Bill Emanuel, may have been swayed by tradition.

Board members serve staggered five-year terms, and vacancies on the five-member board are appointed by the president. The board, however, has a longstanding tradition of remaining ideologically balanced. The president is expected to establish a 3-2 majority in his party's favor, but reserve the other two seats for the minority party. On the other hand, the president, not normally known for abiding by tradition and playing by the rules, may have decided on the nomination as part of a deal with Senate Democrats, according to some reports.

Pearce, who has been in a bit of hot water before with the [NLRB's inspector general](#), was the target of numerous pro-management and free market [advocacy groups who claimed](#) his pro-union bias was a disservice to the board and general public. For example, the groups cited a Wall Street Journal report finding that the NLRB headed by Pearce overturned more than 4,000 years of combined board precedent in more than 90 cases.

Regardless of the reasons for the renomination, the fact is that Mark Gaston Pearce will remain on the board until at least 2023. While a pro-management majority is still in place, the renomination is not trivial. The board must have a three member quorum to issue binding decisions, and in fact it does issue many three-member decisions. This means that a two-member majority

consisting of Pearce and fellow Obama-appointee Lauren McFerran could still result in pro-union decisions from time to time. But employers can rest assured that important labor relations policy decisions will still be controlled by the pro-management majority.