

The Trump Presidency And The NLRB: Change May Come Slowly

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Though candidate Donald Trump promised swift reversal of Obama administration initiatives, President-elect Trump may find that change will have to come slowly at the NLRB. One area where the new president could have an immediate impact is with the composition of the Board, which consists of five members with staggered terms. Currently, there are two open seats and the majority are Democrats who have been zealously pro-union throughout the Obama administration:

- Former union lawyer Mark Gaston Pearce, a Democrat, was named chairman of the NLRB by President Obama on Aug. 27, 2011. His current term – his second -- expires on Aug. 27, 2018.
- Lauren McFerran, also a Democrat, was sworn in on Dec. 17, 2014, for a five-year term which ends on Dec. 16, 2019.
- Philip Miscimarra, the lone remaining Republican, was sworn in on Aug. 7, 2013, for a term that expires on Dec. 16, 2017.

Thus, the new president could immediately appoint two new Republicans to the NLRB and immediately sway the majority to a more pro-business 3-2 split in favor of the Republicans. Even with that new majority, however, the Board cannot willy-nilly overturn the precedents of the last eight years but must wait to rule on a case-by-case basis as new matters are appealed to the full Board.

Complicating that process will be the continued presence of NLRB General Counsel Richard Griffin, who is the former general counsel of the International Union of Operating Engineers and by all accounts has been an activist general counsel. Griffin supervises the Board's field offices and has exclusive authority over the issuance of unfair labor practice complaints. His four-year term will expire on Nov. 4, 2017. He can, and it seems likely that he will, fill out the balance of his term for no other reason than to block President-elect Trump from electing a more business friendly general counsel.

All week, our [BT Currents Employment](#) and [BT Labor Relations](#) blogs are examining the possible impact the new administration might have on labor and employment law issues. Keep an eye out later this week in our BT Currents blog for a more in depth look into the traditional labor issues that may be subject to change at the NLRB under a Trump administration.