

# Post-Election Labor Update

What To Expect In  
2017 (And Beyond)

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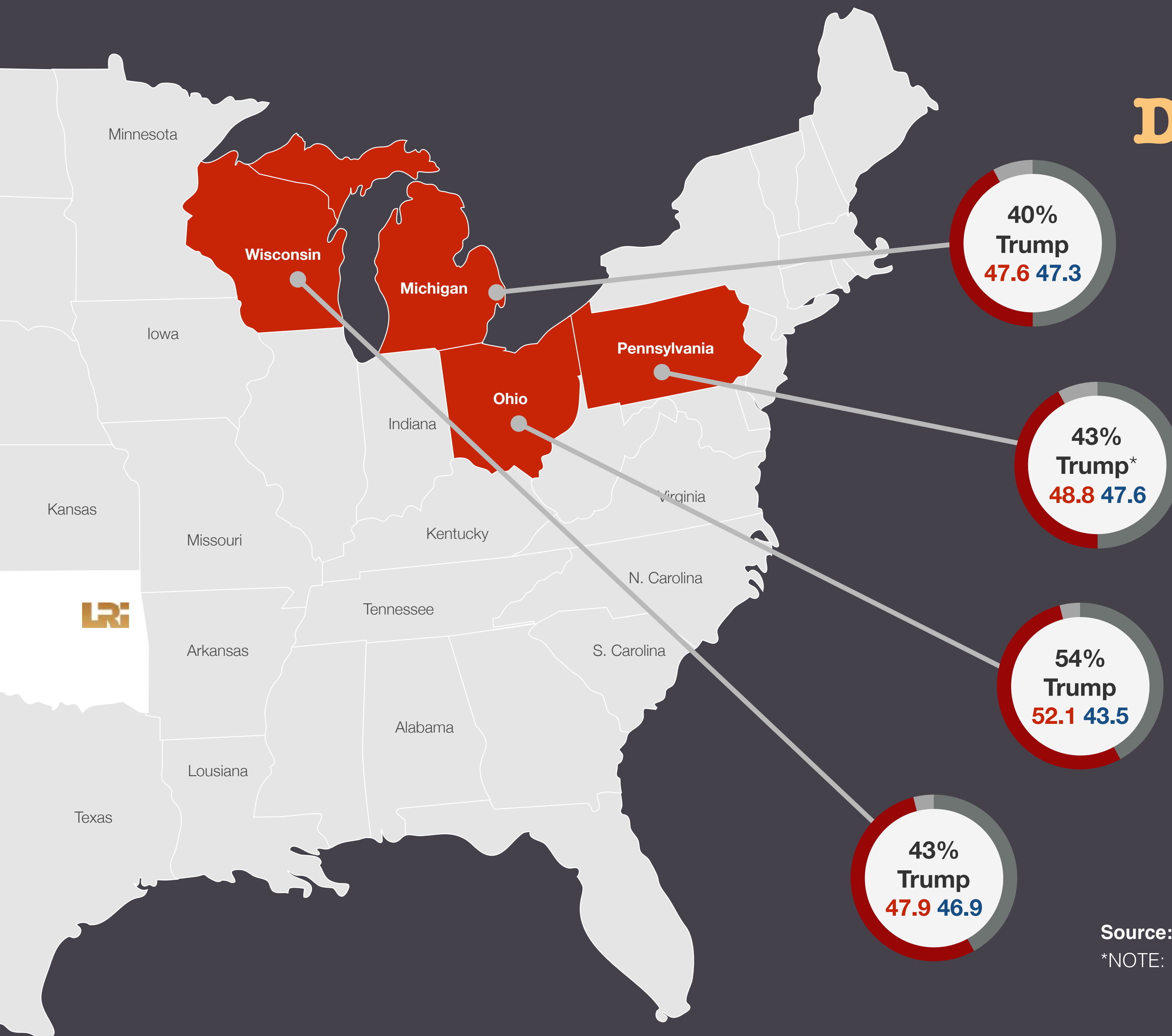
# My Original Presentation

- EFCA 2017 (card check, mandatory first contract arbitration)
- *Weingarten* rights for non-union employees
- Equal time, equal access rule making
- “Member’s Only” minority represented bargaining units rule making
- Expansion of handbook restrictions
- Expansion of social media restrictions
- Expansion of *Purple Communications* to social media
- Additional restrictions on strike replacement workers
- Reduced election timelines under “ambush election” rule making
- Persuader rule
- Blacklisting rule, strong-arming settlements under threat of PR battle
- Expansion of joint employer rulings
- Increased use of 10(j) injunctions
- Etc. ...

# Today's Presentation



# Did Union Members Elect Trump?



- Trump flipped “Blue Wall” States PA, OH, WI, MI
- Exit polls: Trump won 43% of union households (Clinton only 51%)
- Trump **4% better** than Romney 2012
- Clinton **9% worse** than Obama 2012

Source: CNN Exit polls

\*NOTE: National average - No exit poll data on union households in PA

# Key Questions

**HOW SOON TILL NLRB  
SEATS CONFIRMED?**

**WILL "3-VOTES TO  
OVERTURN" HOLD?**

**WILL GC  
CONTINUE EXPANSIVE  
VIEW OF ACT?**

**HOW SOON TILL  
DOL SECRETARY  
CONFIRMED?**

# NLRB

PEARCE



EXPIRES 8/27/2018

MISCIMARRA



EXPIRES 12/16/2017

MCFARREN



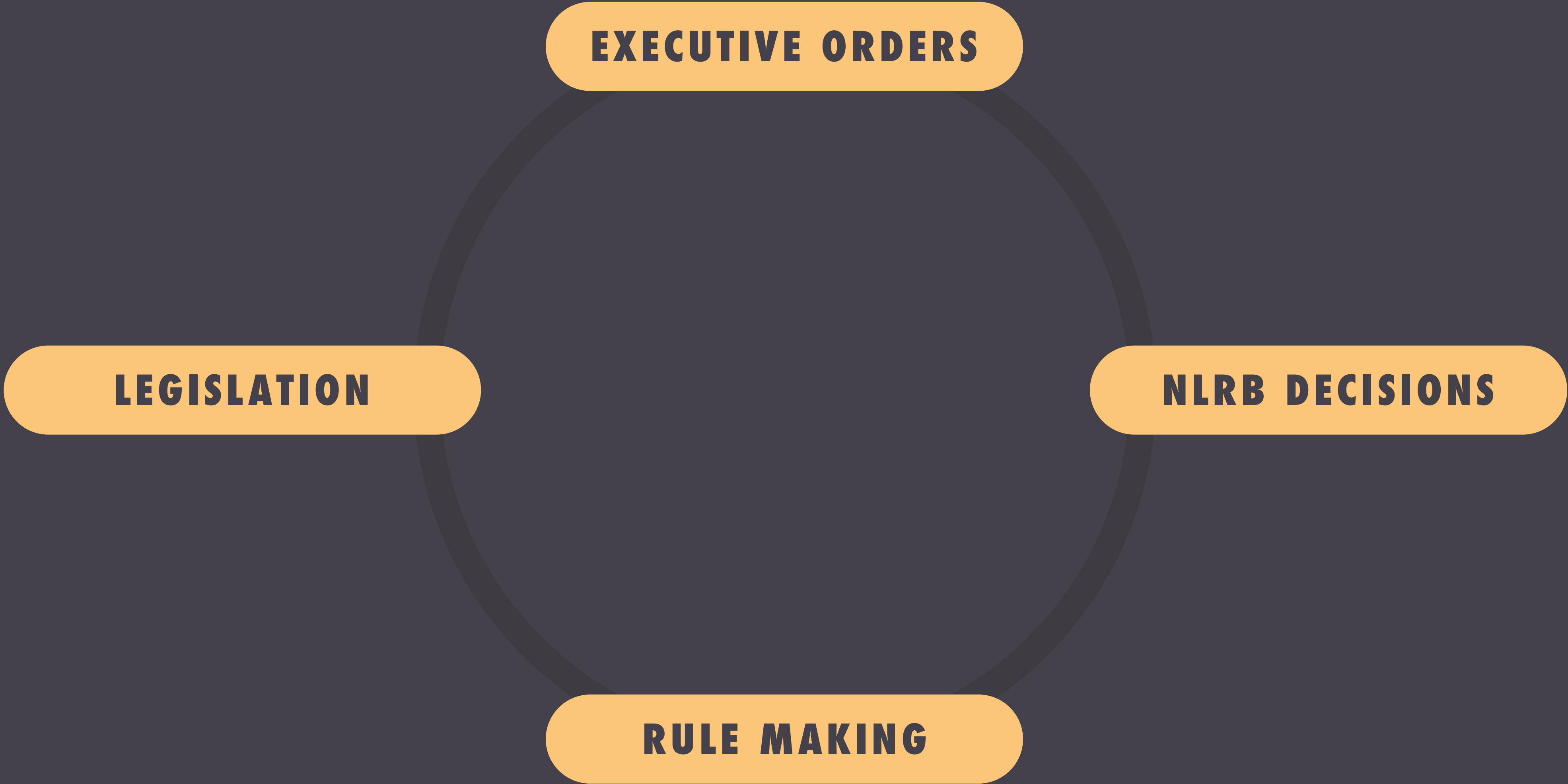
EXPIRES 12/16/2019



GRIFFIN



EXPIRES 11/4/2017



## EXECUTIVE ORDERS

**Easiest To Reverse (Trump Just Signs New EO)**  
**Easiest For Next POTUS To Reverse**  
**Only Covers Government Contractors**

- **E013495 - NON-DISPLACEMENT (SUCCESSOR EMPLOYERS)**
- **E013496 - LABOR LAW POSTING**
- **E013673 - FAIR PAY & SAFE WORKPLACES (BLACKLISTING)**
- **E013665 - NON-RETALIATION FOR PAY DISCLOSURE**
- **E013494 - ECONOMY IN CONTRACTING (NO PERSUADER PAYMENTS)**
- **E013706 - PAID LEAVE**



# Requires Republican Majority 2 Appointments, New Chairman

## EXECUTIVE ORDERS

- **BFI-MCDONALD'S JOINT EMPLOYER (IN DC CIRCUIT NOW)**
- **CLASS ACTION WAIVERS (DR HORTON, E&Y, EPIC - SCOTUS?)**
- **SPECIALTY HEALTHCARE (MACY'S, VOLKSWAGEN)**
- **CLASSIFICATION OF INDEPENDENT CONTRACTORS (PACIFIC 9)**
- **WITHDRAWAL OF RECOGNITION (GC MEMO)**

- **HIRING PERMANENT REPLACEMENTS (PIEDMONT GARDENS)**
- **SOCIAL MEDIA (OMNI COMMERCIAL LIGHTING)**
- **RECORDINGS (WHOLE FOODS)**
- **HANDBOOKS - CIVIL TREATMENT (BEAUMONT HOSPITALS, ET AL)**
- **SIT DOWN STRIKES (WALMART)**
- **SUCCESSORSHIP (NEXEO, CREATIVE VISIONS)**

## NLRB DECISIONS

# Requires New Secretary Of Labor New NLRB Chairman

EXECUTIVE ORDERS

- **CONGRESSIONAL REVIEW ACT?**
  - 60-DAY LIMIT
  - AMEND CRA?
- **PERSUADER RULE (ENJOINED)**
  - TX, MN, AR CASES
  - 12/9 SUMMARY JUDGMENT?
  - NEW DOL STOPS APPEALS?
- **BLACKLISTING RULE (ENJOINED)**
  - DOL HASN'T APPEALED YET
  - HAS UNTIL CHRISTMAS TO APPEAL
- **AMBUSH ELECTION RULE**
  - LITIGATION OVER
  - ISSUE NEW RULE? (APA PROCESS)
  - ADMINISTRATIVE OPTIONS
- **OTHER RULE MAKING**
  - OVERTIME
  - OSHA INSPECTIONS
  - SILICA, EEO-1, RECORD KEEPING, WORKPLACE WELLNESS PROGRAMS, ETC.

LEGISLATION

NLRB DECISIONS

**RULE MAKING**

# Requires Passage In House And Senate 60 Votes (Or Revised Cloture Rule)

## LEGISLATION

EXECUTIVE ORDERS

- REMEMBER LESSONS FROM EFCA - GOING FOR TOO MUCH CAN MEAN GETTING NOTHING

- EMPLOYEE RIGHTS ACT

- NATIONAL RIGHT TO WORK ACT

- SALTING

- TRIBAL SOVEREIGNTY

- REPRESENTATION

FAIRNESS, WORKPLACE DEMOCRACY FAIRNESS (SPECIALTY HEALTHCARE, AMBUSH)

- EMPLOYEE PRIVACY PROTECTION

- NLRA REFORM ACT (EXPAND BOARD, DISTRICT COURT REVIEW, 1 YR LIMIT)

NLRB DECISIONS

- PROTECTING LOCAL BUSINESS OPPORTUNITY (BFI)

- PORTS, PLUS ACT (MARITIME SHIPPING)

- RAISE ACT

- PROJECT LABOR AGREEMENTS

- FREEDOM FROM UNION VIOLENCE

# Other Key Issues

