

Statement of Need and Reasonableness  
Proposed Amendments to 5510.2310

Under the provisions of the existing rule, a union which is defeated and replaced by a rival organization continues to act as exclusive representative until the expiration of any existing collective bargaining agreement. This includes the right to collect dues and fair share fee assessments, as well as the obligation to process grievances on behalf of employees covered by such collective bargaining agreement.

The "contract bar" provisions of part 5510.0510 and part 5510.0300, subpart 15, notwithstanding, this means that employees may face continued dues or fair share fee payments to an employee organization which no longer has the support of a majority of the employees for periods ranging from two to seven months. Likewise, the current rule presumes that employees who have rejected an exclusive representative in favor of another will receive full and fair representation from the defeated organization during this same two to seven month period. A practical view of the situation indicates that these outcomes or presumptions are non consistent with good public policy in this area.

Because comments on this subject area reveal a concern (primarily on the part of employers) over the effect of terminating an existing agreement prior to the scheduled expiration, as is the private sector practice in these circumstances, the proposed rule provides stability of terms and conditions by transferring rights and obligations of the existing contract to the new exclusive representative. This transfer also includes the right and obligation to process grievances, thus resolving the interim representation concern as well.

Lastly, the proposed rule provides a reasonable basis and means for terminating dues and fair share fee rights of the incumbent exclusive representative and establishing such rights for the new exclusive representative.