

# Construction Industry Workplace Law Update – Winter 2021

By Brian P. Lundgren, Sarah J. Millsap, Amy L. Peck, Timothy J. Ryan, Kristina H. Vaquera &

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## Meet the Authors



**Brian P. Lundgren**

Principal  
206-626-6424  
Brian.Lundgren@jacksonlewis.com



**Sarah J. Millsap**

Principal and Office Litigation  
Manager  
402-391-1991  
Sarah.Millsap@jacksonlewis.com



**Amy L. Peck**

### Project Labor Agreements Coming to an Infrastructure Project Near You

Construction contractors and subcontractors that do not typically have exposure to project labor agreements (PLAs) should expect to see them as a result of the new [Infrastructure Investment and Jobs Act \(IIJA\)](#), which became law on November 15, 2021.

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### Avoiding Immigration-Related Litigation in the Current Labor Market

According to the U.S. Bureau of Labor Statistics, the number of unfilled job openings increased by over three million in the last year. The construction industry has been particularly hard hit by labor shortages, causing many employers to turn to alternative hiring sources, including recruitment and hiring of foreign nationals. This can be a consistent and reliable source of labor in an otherwise difficult market.

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### Understanding the Multiemployer Pension Plan Construction Industry Exemption

The Multiemployer Pension Plan Amendments Act (MPPAA), the Employee Retirement Income Security Act's (ERISA) progeny, can create significant unexpected liabilities for companies that have agreed to collective bargaining agreements (CBAs) requiring participation in and contributions to multiemployer-defined benefit pension funds (often referred to as Taft-Hartley Funds). However, a special exemption is available to employers in the construction industry.

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### 2022: The Year for Construction Employers to Get Employment Law Compliance Done

With the start of a new year, there is no better time to take on employment law compliance. For many companies in the construction industry, HR issues often get pushed to the back burner, sometimes due to small HR departments with limited resources, or the looming nature of construction costs and deadlines. Whatever the reason, delaying compliance can create real risks in the employment law arena.

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### Labor Board to Revisit Standard for Determining Appropriate Unit for Bargaining

The National Labor Relations Board (NLRB) has announced that it is considering adopting a more union-friendly approach in determining the appropriate voting unit when a union petitions for an election. [American Steel Construction Inc. and Iron Workers Local 25](#), 370 NLRB No. 41 (Dec. 7, 2021). The NLRB's eventual rule could have a significant impact on union organizing in the construction industry.

Principal  
402-391-1991  
Amy.Peck@jacksonlewis.com



## Timothy J. Ryan

(Tim)  
Principal  
(616) 940-0240  
Timothy.Ryan@jacksonlewis.com



## Kristina H. Vaquera

Office Managing Principal and  
Office Litigation Manager  
(757) 648-1448  
Kristina.Vaquera@jacksonlewis.com

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