

DEC30'09 AM11:37 NMB



December 17, 2009

Ms. Elizabeth Dougherty, Chairman
Mr. Harry Hoglander, Member
Ms. Linda Puchala, Member
National Mediation Board
1301 K. Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

RE: Docket Number C-6964

Dear Chairman Dougherty, Member Hoglander, and Member Puchala,

We, the members of the SkyWest Airlines Pilot Association (SAPA) Representative Board, are writing to express our position on the proposed changes to the representational election procedures.

Our group opposes the proposal and urges you NOT to approve the changes to the Railway Labor Act representation dispute process.

We feel it unfair that while the process to vote in a collective bargaining agent will be modified, the process for removing such an agent will not. We are extremely concerned that if a union were to be installed, it would remain difficult, if not impossible, to remove such an organization from our workplace.

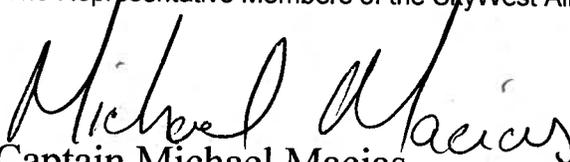
Our pilot group is currently non-union and has voted to remain this way many times over our history, most recently just over 12 months ago. While we are aware that different representational entities could be voted in to replace a collective bargaining agent, the union structure itself could not be easily removed.

We value our organization, and as such, are concerned that the proposed changes could make it impossible for an association such as ours to ever exist after a union is initially voted in to represent our workforce.

We appreciate your time and consideration and respectfully request that you maintain the status quo in regards to the election process for NMB certification votes.

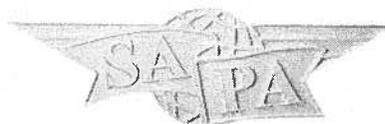
Sincerely,

The Representative Members of the SkyWest Airlines Pilot Association


Captain Michael Macias

President, SkyWest Airlines Pilot Association (SAPA)

(805) 231-5966 Mobile
(805) 383-5588 FAX
Balder2001@verizon.net



SKYWEST AIRLINES PILOT ASSOCIATION



MASSACHUSETTS AFL-CIO

Today's Unions

389 Main Street • Malden, Massachusetts 02148 781-324-8230 • Fax 781-324-8225 • www.massafcio.org

JAN04'10 PM 3:43 NMB

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Robert J. Haynes

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Jen Springer

Richard Stutman

Gary Sullivan

Stephen Uva

C. Daniel Watts

Tom Williams

James Wool

December 28, 2009

Elizabeth Daugherty, Chair
 Harry Hoglander, Member
 Linda Puchala, Member
 National Mediation Board
 1301 K St., NW Suite 250 East
 Washington, DC 20005-7011

Re: Docket Number C-6964 – Proposed Rule Change for Union Representation Elections

Dear Members of the Board,

I am writing in support of the proposed rule change in union election procedures occurring under the Railway Labor Act (RLA), Docket Number C-6964. The current election procedure requiring a union to gain a "yes" vote from a majority of all eligible workers rather than a simple majority of those workers who actually cast a vote is inconsistent with union election procedures for nearly all industries in the United States and is fundamentally undemocratic, as the high threshold required under the RLA in many cases subverts the true will of the majority of workers. In no other type of election that I can think of is a person who chooses not to, or is unable to vote, automatically counted as a "no" vote. In order to ensure a truly democratic election procedure for workers in the railway and airline industries, I urge the National Mediation to support this rule change.

Workers in all U.S. industries already face too high a hurdle in order to join a union due to the harsh anti-union tactics frequently used by employers. There is simply no logical reason why workers in the railway and airline industries should face an even higher hurdle in order to gain union representation than do workers in non-transportation industries. Our nation's labor laws are supposed to exist to facilitate unionization, not to serve as a deterrent to unionization.

The proposed rule change will simply allow workers who go to work each day in the same fashion as nearly all other Americans – but who happen to fall under the Railway Labor Act – the right to join a union through the same democratic process that they use to elect their representatives in government, and that nearly all other workers use to vote on whether to join a union.

I thank you for your consideration in this matter.

Sincerely,

Robert J. Haynes
 President

December 30, 2009

BY FACSIMILE (202) 692 -5085 AND FIRST CLASS MAIL

JAN04'10 PM 3:31 MAR

The Honorable Elizabeth Dougherty
Chairman
National Mediation Board
1301 K Street, NW
Suite 250
Washington, DC 20005

The Honorable Harry Hoglander
Member
National Mediation Board
1301 K Street, NW
Suite 250
Washington, DC 20005

The Honorable Linda Puchala
Member
National Mediation Board
1301 K Street, NW
Suite 250
Washington, DC 20005

Re: Docket Number C-6964
US Airline Pilots Association's Comments

Dear Chairman Dougherty and Members Hoglander and Puchala:

The US Airline Pilots Association ("USAPA") responds herein to the National Mediation Board's November 3, 2009 Notice in the Federal Register ("Notice") soliciting comments on its proposed rule to change its election procedure to a majority of valid ballots cast approach. USAPA also comments briefly herein on Chairman Dougherty's dissent from the Board majority in approving the proposed rule.

First and foremost, the Board majority is to be commended for approving the proposed rule to change its election procedures to allow employees to choose union representation based on a

majority of votes cast. The amendment will finally eliminate the undemocratic practice of counting that allows non-voters to destroy the collective aspirations of a voting majority.

Second, the current Board practice is born of an administrative interpretation clearly at odds with the Railway Labor Act's legislative history, including:

- "Under Section 2, Fourth, of the Railway Labor Act, the National Mediation Board has the power to certify as collective bargaining representative any organization which receives a majority of votes cast at an election despite the fact that less than a majority of those eligible to vote participated in the election." Majority Vote under the Railway Labor Act, 40 Op. Att'y Gen. 541 (1947).
- "[T]he choice of representative of any craft shall be determined by a majority of the employees voting on the question." Sen. Rep. 1065, 73rd Cong. 2d Sess., p. 2.
- Language of Section 2, Fourth, appears to have been taken from a rule of the U.S. Railroad Board, which had held that a majority of ballots cast in an election were sufficient to designate a representative.
- Similarities have been noted between the language of Section 2, Fourth, and Section 9(a) of the National Labor Relations Act ("NLRA"), which certifies collective bargaining representatives on the basis of the majority of ballots cast.
- Statement in the House Committee report on the bill that became the NLRA stated, "the bill is merely an amplification and further clarification of the principles enacted into law by the Railway Labor Act and section 7(a) of the National Industrial Recovery Act, with the addition of enforcement machinery of familiar pattern." 40 Op. Att'y Gen. at 543 n.3 (quoting H. Rep. 1147, 74th Cong. 1st Sess., p.3).
- The plain language of the Act – Congress knows how to phrase a requirement that an election shall be determined by a majority of those eligible to vote rather than by a majority of those voting. For example, under NLRA section 8(a)(3)(ii), as amended, before any union shop agreement may be entered into, the NLRB must certify 'that at least *a majority of the employees eligible* to vote in such election have voted to authorize such labor organization to make such an agreement.'

The Board's historical error clearly cries out for a long overdue correction. While the Board cannot undo the past, it may prevent the further suppression of democratic will by having its proposed rule finally coincide with the Act's true intent.

Finally, USAPA agrees with the Board majority's decision not to Notice for comment any decertification procedure. Such an approach is contrary to the Railway Labor Act's ("RLA")

emphasis on the continuance of the employer's operations and the employer-employee relationship. Indeed, the Board's own precedent weighs heavily against the necessity of creating a new de-certification process. Chamber of Commerce of the United States and the International Brotherhood of Teamsters, 14 NMB 347 (1987) (The Board finds no persuasive evidence or argument that decertification procedures are mandated by the Railway Labor Act).

Accordingly, the Board's proposed rule in the November 3rd Notice to change its election procedure to a majority of valid ballots cast approach should be adopted, and the Board should refuse to consider any comments it may receive that propose any decertification procedure beyond the Board's existing rules for the procedural and substantive grounds set forth above.

Sincerely,



Mike Cleary

President

US Airline Pilots Association

JAN04'10 AM11:29 NMB

Phillip J. Qualy
Legislative Director,
Chairperson

Daniel M. Paradise
Assistant Director

Richard A. Olson
Secretary



Labor and Professional Centre
411 Main Street
St. Paul, MN 55102
Suite 212
651-222-7500(o) 651-222-7828(f)
E-MAIL:
UTUMNLEGBD@VISI.COM

Minnesota Legislative Board

December 29, 2009

The Honorable
Elizabeth Dougherty, Chair ✓
Linda Puchala, Member
Harry Hoglander, Member
National Mediation Board
1301 K Street, NW, Ste 250 East
Washington, DC 20005-7011

RE: Docket Number C-6964: National Mediation Board Amendment to Railway Labor Act.

Dear Honorable Sir and Madam,

On behalf of our 1200 members in the state of Minnesota, I respectfully request that you act in the affirmative and support proposed rules changes to election procedures under the Railway Labor Act.

The change would provide that the outcome of an election is determined by a majority of those voting. Because of the evolution of general circumstance, 75-year-old NMB voting procedures are ripe for change to bring them up to date and consistent with the universal rule as to elections of officers and representatives, which is a majority of those casting ballots. On the railroads of Minnesota, we respect and look forward to upholding these fundamental American principles and responsibilities.

The United Transportation Union Minnesota Legislative Board is vested with the responsibility to protect the safety, welfare, and legislative interests of our membership within the State of Minnesota. Thank you.

With kindest regards,


P. J. Qualy
Minnesota Legislative Director
United Transportation Union

cc: Mr. Michael Futhey, UTU International President
Mr. James Stem, UTU National Legislative Director
UTU Locals, 64, 281, 650, 911, 1000, 1067, 1137, 1175, 1177, 1292, 1614, and 1976.

DEC28'09 PM 2:05:23

December 17, 2009

Ms. Elizabeth Dougherty, Chairman
Mr. Harry Hoglander, Member
Ms. Linda Puchala, Member
National Mediation Board
1301 K. Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

RE. Docket Number C-6964

Dear Chairman Dougherty, Member Hoglander, and Member Puchala,

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Sincerely,

The Representative Members of the SkyWest Airlines Pilot Association

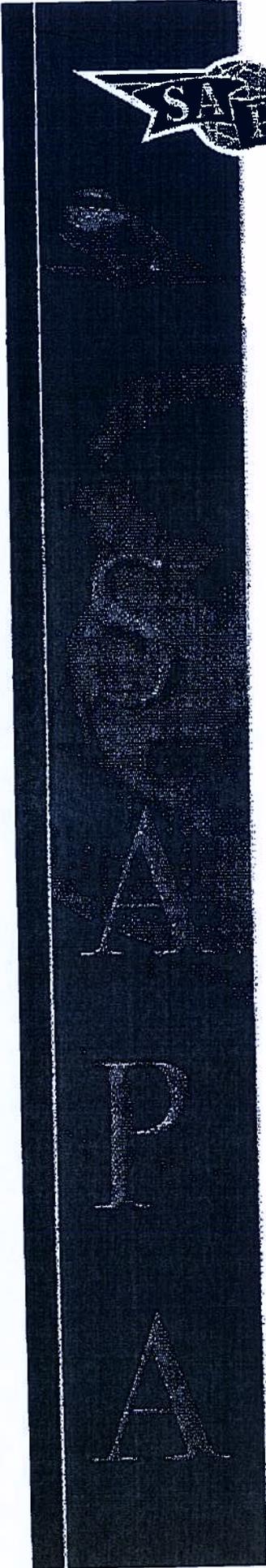
Michael Macias
Captain Michael Macias

President, SkyWest Airlines Pilot Association (SAPA)

(805) 231-5966 Mobile
(805) 383-5588 FAX
Balder2001@vcrizon.net



SKYWEST AIRLINES PILOT ASSOCIATION



DEC28'09 PM 2:05:33



December 28, 2009

SENT VIA E-MAIL [LEGAL@NMB.GOV] AND FACSIMILE [202-692-5085]

Chairman Elizabeth Dougherty
National Mediation Board
1301 K Street, N.W.
Suite 250 East
Washington, D.C. 20005

Member Harry Hoglander
National Mediation Board
1301 K Street, N.W.
Suite 250 East
Washington, D.C. 20005

Member Linda Puchala
National Mediation Board
1301 K Street, N.W.
Suite 250 East
Washington, D.C. 20005

RE: Docket # C-6964 Notice of Proposed Rulemaking (Representation Election Procedure)

Dear Members of the Board:

Regional Air Cargo Carriers Association (RACCA) submits the following comments in response to the Notice of Proposed Rulemaking (NPRM) published on November 3, 2009. RACCA is an organization dedicated to meeting the policy, communications and information needs of on-demand cargo aircraft operators in the United States. Our membership includes more than 50 certificated air carriers, as well as many other companies involved in the service and support of these carriers.

RACCA is opposed to changing the 75-year-old majority rule, requiring that a majority of eligible employees in a craft or class cast ballots for representation before the Board will certify a union as the bargaining representative of a craft or class. In the 75 years that the majority rule has been in place, the Board has consistently held that the majority rule is necessary for labor stability. The Board's NPRM contains no persuasive reasoning for changing the rule at this time. Additionally, the process by which the Board published the NPRM and under which the Board is considering changing the rule is flawed.

Chairman of the Board
Jeanne Cook
BankAir

Secretary/Treasurer
Jeffrey Flaherty
Cape Air/Nantucket Airlines

Directors:

Dave Corey
Air Now

Gary Richards
Ameriflight

William Womick
IBC Airways

Jim Gernek
Air Cargo Carriers

James Thomforde
Wiggins Airways

Noel Rude
Air Taboma

Beth Wood
Westair

Alan Rusinowitz
MARTINAIRE Aviation

Tim Komberec
Empire Airlines

Associate Member Council
Chairman
Terry Hibbler
FlightSafety International

President
Stan Bernstein

V P Technical Affairs
John Hazlet
Ameriflight

Director of Communications
Richard Mills
Empire Airlines

Director of Administration
Jerry Sullivan

Page Two

Since the Board was formed in 1934, the Board has held that a majority of eligible voters in a craft or class must cast ballots for representation in order for a union to be certified as the bargaining representative for that craft or class. From its inception, the Board has dismissed applications where only a minority of eligible voters cast ballots for representation. See e.g. Third Annual Report of the National Mediation Board, pg. 9 (noting that, from June 1936 until June 1937, two representation cases were dismissed because fewer than a majority of eligible voters cast votes for representation); Fifth Annual Report of the National Mediation Board, pg. 11 (noting that, from June 1938 until June 1939, two cases were dismissed because fewer than a majority of eligible voters cast votes for representation). During this 75-year period, the Board has consistently held that the majority rule helps the Board to fulfill its duty under Section 2, Ninth of the Railway Labor Act and promotes stable labor relations. For example, when the majority rule was challenged in 1948, the Board held, "The Board is of the opinion that this duty can more readily be fulfilled and stable relations maintained by carriers' and employees' representatives by a requirement that a majority of eligible employees cast valid ballots in elections conducted under the Act before certifications of employee representatives are issued." Pan American Airways, Inc., 1 NMB 454, 455 (1948). In 1987, the Board stated that labor unions that do not enjoy the support of a majority of employees "cannot be as effective in negotiations as a union selected by a process which assures that a majority of employees desire representation." Chamber of Commerce of the U.S. and the Internat'l Brotherhood of Teamsters, 14 NMB 347, 362 (1987). In 2008, the Board reiterated its stance that the Board's duty under Section 2, Ninth "can be more readily fulfilled and stable labor relations maintained by a requirement that a majority of eligible employees cast valid ballots..." Delta Air Lines, Inc., 35 NMB 129, 131-32 (2008).

The Board's NPRM does not provide any compelling reasoning to change the majority rule. The Board claims that it can fulfill its duty to maintain stable labor relations through mediation. This claim ignores the reality that a union that does not enjoy the support of a majority of employees will not have bargaining power, regardless of whether the Board is mediating negotiations or not.

The Board further claims that the rule change will make elections under the RLA more democratic. The Board states that it is unaware of any democratic elections conducted in the manner of the majority rule election. While it may be true that some political elections and elections held under the National Labor Relations Act result in a win for whichever candidate or union draws the majority of votes cast, it is also true that, under both the American political process and the NLRA, constituents have an opportunity to vote out a political candidate or union if they are displeased with their representation. Thus, unless a formal decertification process is added to the Board's election procedure, any analogies to political elections and to the NLRA are not relevant because a fundamental key to those election processes is that the majority has the ability to vote the politician or union out.

In addition to the flaws in the reasoning behind the NPRM, the process under which the Board is proceeding is in violation of the Board's past precedent. The

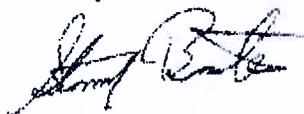
Page Three

Board has repeatedly held that, prior to any change to the majority rule, the Board would hold "a full, evidentiary hearing with witnesses subject to cross-examination..." Chamber of Commerce of the U.S. and the Internat'l Brotherhood of Teamsters, 13 NMB 90, 94 (1986). See also Delta Air Lines, Inc., 35 NMB 129 (2008) (finding that the Board would not make a change to the majority rule without first engaging in a process similar to the one used in Chamber of Commerce of the U.S. and the Internat'l Brotherhood of Teamsters). The Board has not held a full evidentiary hearing on the issue, nor has it subjected any witnesses to direct or cross-examination. Instead, the Board held a one-day "open meeting" during which participants read statements regarding their position on the NPRM. No participants were subjected to examination of any kind during the open meeting.

The process used to draft and publish the NPRM was similarly flawed. The Board failed to consult Chairman Elizabeth Dougherty during the drafting and finalizing of the NPRM. Instead, Chairman Dougherty was presented a "final" version of the NPRM and told that it would be published on that same day. Chairman Dougherty was also told that she could not publish a dissent in the Federal Register. After continued requests, Chairman Dougherty was told that she could publish a dissent, but that she had only one and one-half hours to complete it. Chairman Dougherty's dissent was then edited by the other two members of the Board, and she was informed that she could not include any discussion of the procedure flaws in the preparation of the NPRM in her dissent.

We appreciate the opportunity to provide comments on the NPRM.

Sincerely,



Stan Bernstein, President



*Association of Professional
Flight Attendants*
Representing the Flight Attendants of American Airlines

December 28, 2009

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, NW., Ste. 250E
Washington, DC 20005

**RE: Docket No. C-6964
NMB-2009-0007/9
Representation Election Procedure
Notice of Proposed Rulemaking; Published Nov. 3, 2009**

Dear Chairman Dougherty and Members Hoglander and Puchala:

The Association of Professional Flight Attendants (“APFA”) is the exclusive collective bargaining representative for American Airlines’ nearly 18,000 U.S.-based flight attendants, making it the largest independent flight attendant union in the world. Serving in that capacity since 1977, APFA has consistently sought to promote stable labor-management relations and ensure fair wages and working conditions in the industry through coalition-building with sister unions and actively collaborating with stakeholders in the policymaking and legislative arenas. While the APFA has not sought to expand its membership base beyond flight attendants employed by American Airlines and American Eagle, it remains committed to strengthening the air and rail industries through strong, democratically-sound labor organizing.

On November 3, 2009, the National Mediation Board (“NMB” or “the Board”) published a Notice of Proposed Rulemaking (“NPRM”) that would change certain features of the Board’s representation election procedures. Under current practices, the NMB will certify a bargaining representative only if a majority of all employees eligible to vote cast ballots for a labor organization. The current ballot is such that employees cannot vote “no union.” Instead, every eligible employee who does not vote, for whatever reason, is counted as a “no union” vote. Under the proposed rule, certification would issue to a union receiving a majority of valid votes cast, with the proposed ballot allowing an employee to vote “no union.”

The Board sought comments to its November 3, 2009 NPRM within 60 days, with a resulting deadline of January 4, 2010. Because the APFA firmly believes that its industry is stronger when workers are able to efficiently unionize, it strongly endorses the proposed rule and is pleased to offer the following additional comments for the Board's consideration:

1. The Proposed Rule Renders the Board's Investigative Process More Revealing of True Employee Choice In Accordance with Democratic Principles

The APFA strongly agrees with the NMB that the proposed change is both warranted and desirable. The current rule distorts the democratic process and injects an unjustified bias against union representation. Even more, the historic rationales and assumptions informing the current rule have become obsolete.

The current rule effectively lumps together three theoretically distinct groups of eligible non-voters, counting all of them similarly as votes against representation: (1) those actively voting against union representation; (2) those lacking knowledge of the vote; and (3) those apathetic to the election. Treating these three groups the same defeats the investigative purpose of the Railway Labor Act. The statute requires that these non-voter categories be accounted for differently. In elections garnering less than 50% participation, the current rule makes it impossible to ascertain how many non-votes were attributable to each. This muddies both the pursuit and the assessment of the Board's statutorily mandated duty to investigate representational disputes in order to simply identify who represents the employees of a given craft or class. 45 U.S.C. 152, Ninth.

As the Board points out, eligible non-voters apathetic to the election should not be aggregated with "no votes." Non-voters in this category no less properly acquiesce to the expressed will of the *actual* voting majority. *Virginian Railway*, 300 U.S. at 560. Simply put, individuals should be entitled to abstain without skewing the election results. In addition, assigning non-votes to any given side contravenes democratic principles because it dilutes the value of individual participation. As the Board concludes, the proposed rule will "ensur[e] that each employee vote, whether for or against representation, will be regarded with equal weight." F.R. 56752.

The APFA agrees with the NMB that the current election procedures – which are skewed against representation – can and should be replaced with the traditional democratic model provided by the proposed rule.

2. The Proposed Rule Responsibly Responds to and Harnesses the Revolutionary Technological Innovations of the Past Decade

A critical assumption underlying the Board's historic rejection of simple majority voting is that a substantial portion of a given craft or class could be inadequately informed about organizing efforts and thus a minority faction could in theory force its representational choice on an entire craft or class. That assumption, however, should not inform the election procedures any longer. Technological innovations that simply did not exist a decade ago have effectively depleted the ranks of employees in category 2 – those who do not vote because they are unaware of the election or lack sufficient information.

Communication technologies make it possible for workers to have ready access to up-to-the minute information from a variety of sources including web sites, e-mail, Twitter, Facebook, blogs, mobile text messaging and browsing.¹ The APFA, for example, keeps an updated public web site as well as its own Facebook and Twitter groups. The recent laptop revolution, in particular, means that employees whose travel schedules would in the past have kept them away from such available information now have it at their immediate disposal. Those without laptops now have the same information available to them through mobile smartphone browsing. Nearly ubiquitous WiFi coverage in airports and hotels ensures that air and rail workers are indeed uniquely equipped to access all possible information about organizing efforts in their respective crafts and classes.

Jobs in the airline and railroad industries require high proficiency in computers and other electronic interfaces. Flight attendants, for example, must operate the computerized scheduling software and utilize the carrier's online block bidding system for their work schedules. Thus a key rationale for the current election procedures, that an informed minority will overwhelm an oblivious majority, is rendered obsolete by the technological revolution in communications that have been made over the past decade which are particularly available to and used by workforces in the rail and airline industries. Indeed, the only plausible reason that people do not vote today is apathy, not lack of information.

¹ U.S. Census Bureau, *Internet Use Triples in Decade, Census Bureau Reports* (June 3, 2009)

The proposed rule will thus accomplish the investigative purpose of the act far better than the current election procedures. The intent of the eligible voters will no longer be obscured by an inability to distinguish the actual opponents of representation from other non-participants. Technology has eliminated the category of the uninformed leaving the apathetic as the only other group. By having the majority of those voting determine the outcome of an election, the Board can conclude each investigation knowing with certainty that the apathetic had no more say in the results than they wanted and that the opponents and supporters of unionization alone decided the representational status of their craft or class.

3. The NPRM Reaches the Correct Conclusion Regarding the NMB's Full Discretion Over Election Procedures

APFA also agrees with the NMB's legal conclusion that its proposed rule is well within the Board's broad statutory authority over representation election procedures. The Railway Labor Act ("RLA") charges the Board with complete oversight over elections, allowing the Board to carry out a secret ballot election or "utilize any other appropriate method of ascertaining the names of [the] duly designated and authorized representatives." 45 U.S.C. § 152, Ninth.

The APFA commends the NMB for its thorough analysis and explanation of the applicable legal precedent and its reasoned interpretation of the RLA. The APFA therefore strongly disagrees with Chairman Dougherty's puzzling suggestion that "a serious question exists as to whether the NMB even has the statutory authority to make this reversal." 74 F.R. 56753. The NMB majority has correctly concluded that the proposed rulemaking is well within its broad discretion.

The APFA values the opportunity to provide comments to the NMB regarding its proposed rulemaking and fully endorses the rule's implementation. Should you have any questions or require additional clarification, please contact me by telephone at (800) 395-2732, Ext. 8201 or by e-mail apfa-president@apfa.org.

Respectfully Submitted,



Laura Glading
President
APFA

Communications
Workers of America
AFL-CIO, CLC

501 Third Street, N.W.
Washington, D.C. 20001-2797
202/434-1213 Fax: 202/434-1219

Mary K. O'Melveny
General Counsel

December 24, 2009

Via Email and U.S. Mail

Mary Johnson, General Counsel
National Mediation Board
1301 K Street, NW
Suite 250E
Washington, D.C. 20005

Re: **Notice of Proposed Rule-Making, Docket No. C-6964
29 CFR Parts 1202 and 1206**

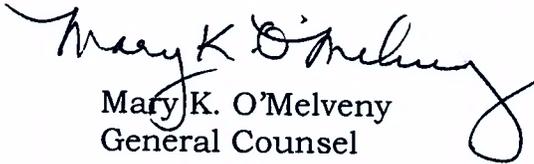
Dear Ms. Johnson:

Enclosed please find Comments from the Communications Workers of America, AFL-CIO on the rule change being proposed by the National Mediation Board to permit a majority of valid ballots cast in an NMB-supervised election to determine the craft or class representative.

CWA strongly supports the proposed change, as set forth in the attached materials.

Please feel free to contact me if you have questions about CWA's Comments or if further information is deemed appropriate or necessary.

Sincerely,


Mary K. O'Melveny
General Counsel

MKOM/kpm
Enclosure

cc: Larry Cohen, President

NATIONAL MEDIATION BOARD
WASHINGTON, D.C.

-----X
)
In the Matter of the)
)
Proposed Rule-Making)
)
29 C.F.R. Parts 1202 and 1206)
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-----X

Docket No. C-6964

**COMMENTS OF COMMUNICATIONS WORKERS OF AMERICA,
AFL-CIO IN SUPPORT OF PROPOSED RULE-MAKING**

Mary K. O'Melveny
General Counsel
Communications Workers of
America, AFL-CIO
501 3rd Street, N.W., Suite 800
Washington, D.C. 20001-2797
202-434-1213

Introduction

The Communications Workers of America, AFL-CIO (“CWA” or “the Union”), represents over 600,000 workers in the United States and Canada who are employed in the telecommunications, airlines, manufacturing, media and other industries and in the public and private sector. CWA submits these comments on the voting rule change proposed by the National Mediation Board (“NMB”), as set forth in the NPRM published on November 3, 2009 in the *Federal Register*, 74 Fed. Reg. at 56750. The proposed changes would amend the election process previously utilized by the NMB, implementing the Railway Labor Act, 45 U.S.C. §151, *et seq.* (“RLA” or “the Act”), “to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class representative.” CWA strongly endorses the proposed new rule.

The Association of Flight Attendants (AFA-CWA) has been a Sector of CWA since 2004. AFA-CWA represents over 55,000 flight attendants working for numerous carriers around the world.¹ AFA has represented flight attendants at Northwest Airlines for over 60 years and is currently fighting to obtain strong negotiated benefits for thousands of additional flight attendants as a result of the merger of Northwest Airlines and Delta. CWA also represents

¹ AFA-CWA has submitted separate comments on the proposed rule change. CWA endorses and incorporates those comments. CWA also supports the comments submitted at the December 7, 2009 Open Meeting by Carmen Parcelli on behalf of the AFL-CIO Transportation Trades Department.

approximately 4,800 Customer Service Representatives at US Airways.² These employees work at US Airways gates, ticket counters and reservation centers. In addition, CWA has been and is currently involved in organizing efforts at Piedmont Airlines, American Airlines and American Eagle. The Piedmont employees work as Customer Service Representatives at gates, ticket counters and reservation centers and also do “below the wing” work at various airports on the east coast. There are approximately 3,000 Piedmont workers involved in the CWA campaign. At American and American Eagle, CWA’s organizing campaign involves approximately 7,000 Customer Service Representatives at gates, reservation centers and ticket counters across the country. As discussed more particularly below, CWA’s longstanding representational efforts on behalf of these airline employees has been greatly hindered by the NMB’s use of the current rules which contradict the democratic principles that govern the election process in other industries, as well as those determining the nation’s political process.

The Current Rule Does Not Serve the Statutory Intent of Enabling Covered Employees to Organize and Select a Union Representative without Interference, Influence or Coercion

The Railway Labor Act was intended to grant covered employees a meaningful opportunity to organize and select a representative of their choice, free of “interference, influence or coercion” which could “corrupt or override the

² There are approximately 9,000 union-represented Customer Service Representatives at US Airways. CWA’s representation covers US Airways Customer Service Representatives working east of the Mississippi River; Customer Service Representatives located west of the Mississippi are represented by the International Brotherhood of Teamsters (IBT) and work at the US Airways subsidiary America West. See *In re Airline Customer Service Employees Association, IBT-CWA*, Case No. R-7085, 33 NMB No. 31 (April 20, 2006); *US Airways/America West Airlines*, 33 NMB 151 (2006).

will” of the employees on the matter of union representation. *Texas & N.O.R.R. Co. v. Brotherhood of Ry. & S.S. Clerks*, 281 U.S. 548, 553 (1930) (“Freedom of choice in the selection of representatives on each side of the dispute is the essential foundation of the statutory scheme”). The NMB is mandated by the RLA to ensure that employees in any craft or class are able to designate a representative without carrier interference or other improper conduct. The statute grants broad discretion to the agency to determine the manner of fair election that will ensure such a result. See 45 U.S.C. § 152, Ninth (NMB may utilize secret ballot election or “any other appropriate method” that ensures that the employees’ choice of representatives is honored); 45 U.S.C., §152, Fourth (“majority of any craft or class of employees shall have the right to determine who shall be the representative”). The current NMB “super majority” rule is neither mentioned in nor mandated by the Act.

The NMB’s current rule has allowed the agency to count a failure to vote as a “no” vote, rather than adhere to the settled practice utilized for political elections at the federal, state and local levels, as well as for employee representation elections before other administrative agencies such as the National Labor Relations Board (NLRB), which counts only those votes affirmatively cast. The NMB’s present anti-democratic process has no counterpart in any other electoral setting in the United States where those who elect not to vote “are presumed to assent to the expressed will of the majority of those voting.” *Virginian Railway Company v. System Federation No. 40*, 300 U.S. 515, 560 (1937)(confirming NMB’s broad discretion to determine rules for

elections under the RLA).³ Yet, in order for a union to be successful in a representation campaign under the NMB's current rules, it must win the votes of more than fifty percent (50%) of all eligible voters in the craft or class, including those who may be on leave or otherwise difficult or impossible to locate, rather than 50% plus one of the people who actually want to cast ballots in the election. Thus, under the existing rules, an eligible voter who decides not to vote, does not know about the election at all or cannot vote for a variety of reasons that may or may not be intentional, is treated as a vote against union representation. This unfair process demeans the right to vote and denies to covered employees the free choice guaranteed by the Act.

Rather than encouraging voter turnout where the election winner truly reflects the majority of those who have voted "yes" or "no," after both sides have been able to effectively and fairly present their arguments for or against union representation, the NMB's unprecedented rule creates a "super majority requirement." This, in turn, creates strong carrier incentives to take actions that undermine the concept of democratic elections. First, the existing rule encourages the creation by employers of inflated and inaccurate lists of "eligible" voters which then require the petitioning union to spend precious time and assets locating individuals who may have no stake in the election issues and challenging incorrect and misleading information. Second, the rule encourages carriers to dissuade their employees from voting and to support

³ As observed in the December 1, 2009 letter to the NMB from certain members of Congress, if the NMB's current rule treating non-voters as "no" votes was applied to those running for national offices, "thousands of elected federal, state and local officials would never hold public office" because low voter turnout often falls below 50% of the eligible electorate.

ballot destruction and vote suppression rather than election participation which in turn undermines the perception of the agency as a fair or neutral authority.⁴ Third, the rule encourages carrier conduct that intimidates prospective voters. It is evident that a rule which fundamentally demeans the value of democratic elections and creates skepticism about the election process is harmful to the agency's ability to effectively carry out its statutory duties and should not be continued.

CWA's Experiences with the NMB's Existing Rule Underscore the Need for Change and the Urgency of Establishing a Truly Democratic Election and Certification Process

CWA respectfully submits that its experiences trying to obtain union representation for employees at US Airways, American/American Eagle and Piedmont Airlines provides important examples of why the proposed rule should be adopted. As described more fully below, CWA encountered numerous obstacles under the existing super majority rule that unfairly deprived workers at those carriers of the free choice guaranteed by the RLA. The proposed rule will better serve the interests of the agency in overseeing a truly fair process for determining whether airline employees desire union representation. The proposed change will also eliminate the current rule's incentives to employer vote suppression, manipulation of voting lists and other anti-democratic tactics.

⁴ As carefully documented in research by Dr. Kate Bronfenbrenner, Director of Labor Education Research at the Cornell School of Industrial and Labor Relations, voter turnout in a typical election conducted under the auspices of the National Labor Relations Board is approximately 88%, while voter turnout in NMB-conducted elections tends to typically fall below 50%. See Statement of Dr. Bronfenbrenner submitted at NMB Open Meeting, December 7, 2009.

A. US Airways

Passenger service employees at US Airways began organizing with CWA in June, 1995, seeking wage increases (a wage freeze had been in effect for over three years), job protections and an end to relentless pension and other benefits cuts. CWA filed a petition with the NMB seeking a representation election in April, 1996. A mail ballot election was conducted between December, 1996 and January, 1997. CWA came within 447 votes of satisfying the NMB's "super majority" rule that required votes from 50% plus one of an estimated 10,000-member "eligible" voter pool. Had the rule now proposed been in effect for that first election, CWA would have easily been certified as the winner.

The US Airways election results also reflected the consequence of serious voter suppression efforts by the carrier which were documented in extensive objections filed by CWA in February, 1997. In June, 1997, the NMB upheld CWA's objections and ordered a re-run election. *In re Application of CWA (US Airways)*, Case No. R-6435, 24 NMB 354 (June 19, 1997). Rather than comply with the NMB order establishing ground rules for the re-run election, US Airways filed a lawsuit claiming that its First Amendment rights had been "chilled" by the NMB's ruling. The carrier then brought further legal proceedings to try to prevent the re-run election from taking place. Eventually, however, a re-run election was conducted between August and September, 1997 and 55% of the 8,772 employees then deemed eligible to vote did so. CWA was certified as the bargaining agent in October, 1997.

While contract negotiations were underway, in May, 1999, the United States Court of Appeals for the District of Columbia Circuit invalidated the re-run election, holding that NMB's order had improperly "chilled" the carrier's First Amendment right to aggressively argue against union representation. *US Airways, Inc. v. National Mediation Board*, 177 F.3d 161 (D.C. Cir. 1999).⁵ Despite the overwhelming support demonstrated by the second vote, US Airways refused to abide by the election results, forcing CWA to request an expedited second re-run election; US Airways then filed "objections" which further delayed the election process until mid-July. *See In re Communications Workers of America (US Airways)*, Case No. R-6435, 26 NMB No. 63 (June 25, 1999). On August 20, 1999 CWA was again certified as the election winner with 5,254 votes out of an eligibility pool of 7,806 (67% vote for union representation). A first contract was finally reached in November and ratified in December, 1999, more than four years after US Airways' customer service workers first sought union representation and a full three years after the first election which CWA would have won, had it been conducted in the democratic tradition of political or workplace elections in every other arena. In short, had the NMB followed the rule now proposed when workers at US Airways first sought union representation at work, years of effort and costly legal proceedings and re-run elections would have been completely unnecessary.

⁵ The appeals court did not overturn the NMB's findings that the carrier had unlawfully interfered with its employees' free choice opportunities in the election, nor did it modify the NMB's order notifying US Airways' employees that the carrier had "interfered with and coerced the employees' choice of a representative." 177 F.3d at 987 and 988, n.1.

B. American Airlines/American Eagle

CWA's organizing efforts for Customer Service employees at American Airlines began in 1997. After CWA filed a petition for representation with the NMB, American produced an "eligibility" list which included hundreds of individuals who had worked at locations closed many years before, many of whom had agreed to severance packages, others of whom were on "furlough" but not likely to ever return to the closed locations and still others of whom were listed at addresses that had not been accurate for many years.⁶ The padded American eligibility lists meant that CWA was forced to spend hundreds of hours trying to locate the individuals whose names appeared on the list. Many of these individuals turned out to have elected severance payments when their offices were closed rather than remain on potential "recall" status. Thus, they were improperly listed as "eligible" voters, even though American was uniquely in a position to know their correct status. Others on the so-called eligibility list had long since moved on to jobs at different airlines or to other non-airline positions and thus had no interest of any kind in voting in the upcoming election at American. Others on the list were never located at all, despite repeated efforts to do so on the part of CWA representatives. Despite this obvious evidence of disqualification and/or disinterest, the existing NMB rules allowed each of these non-voting individuals to be counted as a "no" vote against CWA's representation petition.

⁶ Many of the "furloughed" employees had worked at reservation centers and other locations that were closed almost ten years before the creation of the "eligibility" list.

Eventually, after CWA produced evidence to the NMB that hundreds of people listed as “eligible” to vote had no furlough recall rights of any kind, the carrier agreed to remove these names from the eligibility list. However, the time and resources that CWA was forced to expend trying to locate these individuals and to verify their eligibility took away from crucial time available to explain the benefits of union representation to potential voters who had a real stake in the election’s outcome. If the NMB’s proposed election rule had been in effect during the 1998 American election, these crucial hours wasted trying to determine whether the carrier had properly categorized eligible voters would not have been necessary. And, having created the erroneously inflated eligibility list – which immediately served the purpose of suppressing the voting impact of currently employed workers -- American had no motivation or need to verify the information it contained or to independently try to argue the merits of union representation to those workers. When the election was held, CWA failed to obtain 50% plus one of the 17,000 workers on the eligibility list, gaining “only” 45% of those votes. Had the new rules been in effect, however, CWA would likely have won, assuming voter turnout of less than 90% of eligible voters.⁷

CWA encountered other significant problems related to carrier misconduct that contributed to its 1998 election loss, including blatant captive

⁷ On September 13, 2001, ballots were counted in CWA’s representation petition for passenger service employees at American Eagle. CWA received 1,104 votes out of a potential voter pool of 2,962. Despite the fact that the voting period encompassed the September 11, 2001 attacks on the World Trade Center and Pentagon and the grounding and disruption of air traffic during this period of national emergency, the NMB refused to allow additional time for voting and rejected CWA’s efforts to obtain a new election.

audience meetings and an aggressive ballot destruction campaign at airport terminals which intimidated many employees who had been supportive of the union at the time the petition was initially filed with the NMB.⁸ Any election process which encourages potential voters to destroy ballots rather than exercise their right to express their views at the ballot box or polling place is, on its face, inconsistent with democratic ideals. Any process which relieves one side from the obligation to present cogent arguments in favor of its position, allowing it to win instead by simply arguing against casting votes at all, while burdening the other side with having to verify inflated and inaccurate ballot lists and at the same time trying to present arguments in favor of union representation is deeply flawed. Even more significantly, such a process undermines respect for the overall legitimacy of the agency's authority and integrity in creating a fair election certification process. As the agency charged with the important role of determining employee representation choices in such a key industry, the NMB's proposed rule correctly seeks a process which does not produce such an anti-democratic result.

C. Piedmont Airlines

CWA filed a petition to represent Fleet and Passenger Service employees working at Piedmont gates and ramps throughout the country in November,

⁸ For example, American set up tables at the Dallas, Texas airport, one of the largest locations in the country, and pressed employees to bring their ballots to be publicly shredded at the company's table. When a ballot was shredded, a company representative rang a bell which could be heard throughout the nearby area. Company literature stressed that workers should decline to participate in the election, rather than trying to argue its case for voting "no," because ballot destruction was the most effective option available under the NMB's existing voting rules. Company-prepared videos actually urged employees to tear up the NMB's ballots, with demonstrations of someone ripping the actual ballot in half.

2007. The NMB scheduled an election using telephone and internet voting to take place on February 19, 2008. The initial "eligibility" list prepared by the carrier in mid-December, 2007 included 2,787 individuals. In early January, 2008, after CWA learned that many of those on the initial list were not eligible to vote, Piedmont submitted a list of 78 "status changes" reflecting that 31 employees had resigned, 37 had been terminated, eight had become managers and two others were no longer members of the craft or class sought to be represented. As CWA's investigation and efforts to locate people on the list continued, it turned out that Piedmont had included numerous others who were not eligible to vote -- supervisors, former employees, employees on lengthy disability leaves, individuals working in positions not covered by the proposed unit and even the names of individuals who had died. CWA continually brought these status change issues to the NMB at various points prior to the election but eventually was unable to challenge a sufficient number to impact the election's outcome. After reviewing some of the CWA challenges, the NMB investigator agreed that additional individuals on the list included office and clerical workers who were not in the craft or class, individuals who had been on disability leave for more than two years and were ineligible under Piedmont's own policies, more individuals promoted to management positions and at least one who had resigned from the company. On February 12, 2008, the NMB investigator ordered 25 more names removed from the carrier's list; other names of ineligible voters, however, were not removed because the NMB

refused to change the list within seven days before the ballot count.⁹ In total, CWA was able to provide evidence before the election that 169 individuals listed were not eligible to vote. After the election, the Union learned that 43 additional individuals had become ineligible to vote *before the election occurred*. These improperly included individuals had absolutely no stake in the outcome of the election, yet their votes were counted as “no” votes against CWA’s petition for representation.

Another problem exacerbated by the NMB’s super majority rule is that individuals who never receive ballots due to faulty addresses or other factors, including individuals who would like to vote “yes” for union representation, are nonetheless counted as “no” votes. At Piedmont, the carrier’s eligibility list included a number of individuals who were serving in the armed forces in Iraq and Afghanistan who were impossible to reach by regular mailing methods in the short mailing/balloting time frame involved in that election. Although the company was aware that these individuals were no longer located within U.S. borders due to their military service, it did not change the addresses on the list used to determine the voting pool and did not notify CWA or the NMB that these potential voters were serving overseas and would not likely receive mail ballots or voting information in time to vote. The current rule encouraged the

⁹ The perversity of the existing rule is exemplified by Piedmont’s “passive” conduct in the face of CWA’s ongoing presentation of evidence that the carrier had listed individuals who were not eligible to vote; although Piedmont alone had access to its employee personnel records, it did nothing to address obvious problems. Fifty seven (57%) of the status changes were first raised by CWA and then “confirmed” by the carrier when confronted with CWA’s evidence. Essentially, the company simply watched the clock run out and did nothing affirmatively to ensure that the voting pool was accurate. And the NMB declined to use its statutory authority to investigate the carriers books to verify the accuracy of the proffered list. See RLA Section 2, Ninth, 45 U.S.C. § 152, Ninth; Section 12.3, NMB Representation Manual.

carrier's inaction because those lost votes were counted by the NMB as votes *against* union representation.

CWA came within 60 votes of the 50% plus one super-majority required by the NMB rules in the February, 2008 Piedmont election (1,228 votes out of 2,574 or 47.7% of those "eligible" to cast votes.)¹⁰ The NMB declined to order a re-run of the election despite these well-documented problems.¹¹

Conclusion

Many commentators have noted that the original justification for the current rule was a perceived danger posed by "company unions" to stable labor-management relations within the industry and that such a danger no longer exists.¹² Today, one need only read the business section of any newspaper to see that carriers are not promoting unions of any kind; instead, they are aggressively anti-union and they are aided in that motivation by the existing NMB rules which are overwhelmingly stacked in their favor. Moreover,

¹⁰ Had the NMB not counted as "no" votes the failure to vote by members of the military who did not receive ballots as well as by employees who requested but never received duplicate ballot instructions, CWA would likely have won the election.

¹¹ CWA's prior representation efforts at Piedmont were also compromised by the NMB's rigid adherence to its super majority rule. Between September and October, 2003, an election involving fleet and passenger service employees was held under NMB auspices. Of 1,121 voters listed as eligible, 469 cast votes seeking representation by CWA. CWA filed challenges to the carrier's conduct, including allegations of captive audience meetings and inaccurate employer statements about the voting process. Ultimately, the NMB found that the laboratory conditions required by the RLA for a fair election were not tainted. *See In the Matter of the Application of CWA*, Case No. R-6954, 31 NMB 257 (February 25, 2004).

¹² *See, e.g.*, Statement submitted by IBT Rail Conference Director and Vice President John Murphy at NMB Open Meeting, December 7, 2009.

the nature of the industry itself has been dramatically transformed in recent years.¹³

The proposed rule allows a simple majority of those employees who decide to vote to have their desire for union representation acknowledged and respected. This is the rule at the heart of our democratic system. It is essential to the RLA's goal of furthering cooperative labor-management relations because it ensures that the wishes of voting employees are respected. Our political system does not require a "super-majority" before we install Presidents, members of Congress or other key public servants to represent our citizens. School boards, judges, mayors and others in public life serve all even though they are frequently elected by a small minority of eligible voters. There is no basis for imposing a stricter standard on workers who happen to work in industries governed by the RLA.

As exemplified by CWA's experiences summarized above, the current NMB rule not only allows carriers to hide behind the "super majority" requirement, but encourages them to do so in an environment that undermines confidence in the electoral process and discourages informed participation by the very workers whose interests are supposed to be the focus of NMB protection. The proposed rule, by contrast, will ensure that airline industry employees are able to exercise meaningful electoral choice using a process that

¹³ The changes to the airline industry have been dramatic and draconian. De-regulation, bankruptcy, mergers and other major market-shaping events have eliminated many stable, longstanding collective bargaining relationships which functioned well for years without bitter election contests. The current situation involving Northwest and Delta flight attendants is but one example of such changes.

mirrors every other election opportunity with which they are familiar. Employees who want union representation will not be forced to overcome any obstacles to that goal other than opposing points of view. Unions and their supporters will no longer have to try to locate and/or persuade individuals who, for reasons beyond the reach of effective advocacy, have no interest in participating in the electoral process at all. Representation elections in RLA-covered industries will no longer be determined by non-engaged and disinterested individuals. The new rule will stabilize management-labor relations within the airline industry and will provide each side with the level playing field that we expect in every other aspect of our democratic process.

CWA respectfully urges the NMB to formally adopt the proposed voting rule change so that thousands of RLA-covered employees can enjoy the same right of self-determination on the job as workers in other industries enjoy and to which they are entitled in making crucial governance decisions in every other aspect of their lives.

* * * * *



INDEPENDENT PILOTS ASSOCIATION

December 16, 2009

DEC17'09 AM10:30 NMB

Elizabeth Dougherty, Chairman
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W., Suite 250 East
Washington, DC 20005-7011

Re: Proposed NMB Rule Change For Union Representation Elections-
Docket No. C-6964

Dear NMB Members:

The Independent Pilots Association (IPA) has reviewed the National Mediation Board's (NMB's) proposed rule change with respect to representation election procedures. The IPA is the certified collective bargaining representative of the 2,800 professional airline pilots who fly for United Parcel Service.

The IPA strongly supports the NMB's proposed policy change. The reason we support the change is clearly outlined by the Board majority in the Federal Register published on November 3, 2009. The Board's attempt to bring the NMB election process in line with industry developments, and to align this process with the way workers in the industry are accustomed to expressing their views, provides a strong rationale for the proposed change.

The Board is correct that free choice is typically expressed in our industry and in society on the basis of valid votes cast in an election. Our own Union officer elections are conducted in such a manner. The Board is correct to state that "nonvoting can be a conscious choice and assigning those who choose not to vote a role in the determining the outcome of an

National Mediation Board
December 16, 2009
Page 2

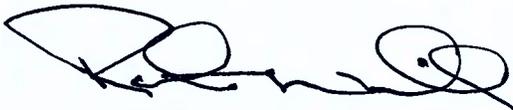
election is a type of compulsory voting not practiced in our democratic system.” We agree.

Under the existing election procedure, there is no opportunity for an employee to vote “no” or cast a ballot against representation. Abstaining from voting—which could be for any number of reasons depending on the individual involved—is, in all cases, currently counted by the Board as a vote against representation. In order to give Section 2, Fourth of the Railway Labor Act (RLA) its full meaning, we agree that the current Board policy, adopted for administrative reasons, should change.

We do not, however, agree with or accept Chairman Dougherty’s contention that such a change would necessarily need to be extended to other contexts such as decertification. We believe that the Board can address any such change, if at all, based on the unique facts of those circumstances. The IPA will reserve, until such time that there is actually a proposal dealing with possible other electoral procedure changes, our comments with regard to the merits of any such proposal(s).

In the meantime, we reiterate our strong support for the Board’s proposed change outlined on November 3, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert M. Miller", with a stylized flourish at the end.

Robert M. Miller,
IPA President

cc: CAPA

AMERICA WORKS BEST
WHEN WE SAY . . .



PENNSYLVANIA AFL-CIO

WILLIAM M. GEORGE
President

RICHARD W. BLOOMINGDALE
Secretary-Treasurer

December 15, 2009

DEC23'09 PM 1:36 NMB

National Mediation Board
1301 K Street NW, Suite 250 East
Washington, DC 20005-7011

Dear National Mediation Board Members:

As Officers of the Pennsylvania AFL-CIO, we write to you to express the Pennsylvania AFL-CIO's full support for the proposed change in the National Mediation Board (NMB) policy, regarding the allowance of a majority of workers who cast ballots to determine the outcome of union representation elections in the Airlines and Railroad Industries.

Current policy mandates that if less than fifty percent plus 1 (50% +1) of the eligible workforce participates in the election, a union will not be certified regardless of the percentage of votes it receives from the participants. Furthermore, current policy counts an absence of voting as a no vote. This current policy is an unfair and un-democratic way of performing elections. If this unfair method of elections were used for voting in the general election of Pennsylvania, all of the recently elected State Appellate Judges and Local Officials this past November would not have qualified for office, with the states voter turnout around 12%.

This bad policy can and does in some instances lead to bad behavior. The current election process leads airline and railroad management to suppress employee votes in sponsored elections.

Please consider the proposal in amending the election rules of the Railway Labor Act. Workers of the airlines and railroads should not be treated in a less fair manner than workers of any other industry, nor should their election process create a more stringent standard than any other election process in this County.

Sincerely,

William M. George, President
Richard W. Bloomingdale, Secretary-Treasurer

/jav/UFCW-1776

**BAKERY, CONFECTIONERY, TOBACCO WORKERS AND GRAIN MILLERS UNION
LOCAL 114**

7931 NE Halsey Street, Suite #205 • Portland, Oregon 97213
Phone 503-256-1177 • Fax 503-256-8551 • 1-800-442-8281

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December 23, 2009

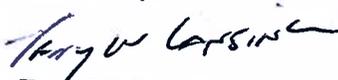
National Mediation Board
1301 K Street – Suite 250 E
Washington, D.C. 20005-7011

Re: Docket Number C-6964

Dear Board Members:

I am writing this letter on behalf of our BCTGM Local 114. Our organization wants to be on record in support of the proposed amendment to the Railway Labor Act rules to provide that, in cases of representation disputes, a majority of ballots cast will determine the craft or class of representation. The current rule of counting non-voters as "no" votes unless a participation threshold is achieved, is truly undemocratic, and takes away the right of employees to freely choose representation, non-representation, or simply not to participate.

Yours truly,



Terry W. Lansing
Secretary Treasurer
BCTGM Local 114

Cc: BCTGM Local 114 Executive Board; BCTGM International Union; Northwest Oregon Labor Council



DEC23'09 PM 1:24 NMB

united transportation union

December 15,2009

The National Mediation Board
1301 K. Street N.W.
Suite 250 East
Washington, D.C. 20005
Docket Clerk: NMB Docket 6964

Dear National Mediation Board members,

It is our wishes and by unanimous vote of those present at our Nov. 18, 2009 Lodge meeting, that the proposed change in the computation of votes for the purpose of union representation elections. Be updated to conform to all modern time election standards. "Only the majority of votes cast will decide the outcome of any election"

Respectfully submitted,
Brian L. Hunstad
Legislative Representative
UTU Local 1177
1605 S.E. 9th st.
Willmar, Mn. 56201



West Virginia AFL-CIO

Kenneth M. Perdue, PRESIDENT

Larry K. Matheney, SECRETARY-TREASURER

501 Leon Sullivan Way • Charleston, West Virginia 25301 • Phone: (304) 344-3557
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PAT MARONEY
GENERAL COUNSEL

December 22, 2009

DEC28'09 PM 1:35 NMB

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N. W.
Suite 250 east
Washington, D.C. 20005-7011

RE: **Proposed NMB Rule Change For Union Representation Elections –
Docket No. C-6964**

Dear NMB Members:

I write to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries. The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus, under the current rule, if fewer than fifty percent of the workforce participates in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority votes cast determine the outcome regardless of the number of voters that participated in the election.

The NMB's policy first applied in 1934, more than seven decades ago, which may have been born of concerns concerning communications with employees in distant locations, is no longer valid in the modern era. With today's multiple means of electric and telephonic communications, and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century.

Respectfully,

Kenneth M. Perdue
President



One Voice, One Agenda, One Movement!

"OUR MISSION IS TO BE A POWERFUL, EFFECTIVE ADVOCATE FOR ALL WORKING FAMILIES IN WEST VIRGINIA"



UNITED ASSOCIATION

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Letters should
be confined to
one subject

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6313 Nancy Ridge Dr., San Diego, California 92121
(858) 554-0586 fax: (858) 554-0591
Subject: www.unionpipepros.org

DEC23'09 PM 3:59 NMB

William P. Hite
General President

Patrick R. Perno
General Secretary-Treasurer

Stephen F. Kelly
Assistant General President

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1900 - 2009*

December 18, 2009

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, NW, Suite 250 East
Washington, DC 20005-7011

Re: Representation Election Procedure; Proposed Rule; Docket No. C-6964

Dear Chairman Dougherty and Members Hoglander and Puchala:

On behalf of the 2 million members of the California Labor Federation, I write in support of the National Mediation Board's (NMB) Notice of Proposed Rulemaking (NPRM), which would allow a majority of voting employees to prevail in a union election under the Railway Labor Act (RLA).

The current NMB election procedures, which treat non-participating voters as opponents of forming a union, do not meet the standards governing elections throughout this country. The Board's proposal to allow workers to vote "yes" or "no" and have a majority of those voting prevail is a far more appropriate balloting process when using an election to determine employees interest in forming a union.

The Board's existing election procedures place aviation and rail employees in an unfair position that favors employers in union elections. Aviation and rail workers make this nation's transportation system work and move millions of Americans around the country and the world daily. They deserve the same rights that other workers in this country have to form a union for job security, health care and better wages.

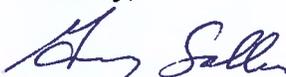
Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
December 18, 2009
Page 2

DEC23'09 PM 3:59 NMB

The RLA provides the NMB with broad authority to address this problem – an authority affirmed by the Supreme Court – and in no way mandates the voting procedures currently in use. The Board is free to amend its election standards, as indeed it has previously. Allowing a majority of voting employees to choose union representation is not only entirely consistent with the statute, but we believe it enables the NMB to better carry out the Act's intention of determining the question of unionization on the basis of majority employee will.

We urge adoption of the NMB's NPRM that will count "yes" votes as "yes," and "no" votes as "no," and unknowns as unknown as recognize the majority of those casting ballots. The NPRM will enable the NMB to more fully realize its mission and will provide a fair and appropriate process for employees in the airline and rail industries who utilize election procedures to determine whether to unionize.

Sincerely,



Gary Sallis
Organizer

GS/sh
enclosure
Opeiu-537
Afl/cio



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AFL ■ CIO

BOB TACKETT
Executive Secretary-Treasurer

December 16, 2009

DEC17'09 PM 3:12 NMB

National Mediation Board
1301 K Street N.W., Suite 250 East
Washington, D.C. 20005-7011

RE: Docket Number C-6964

Dear Board Members:

The Northwest Oregon Labor Council, AFL-CIO, by board action taken on December 14, 2009, would like to go on record supporting the proposed amendment to the Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class of representation.

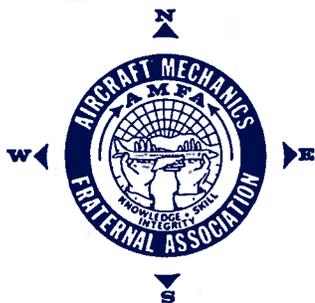
We concur with other union brothers and sisters that to be truly democratic, employees must have a choice to vote for union representation, against union representation, or not to vote at all. The time is now to bring fairness and equal opportunity to all working men and women within the transportation industry.

Thank you for your consideration.

Sincerely,


Bob Tackett
Executive Secretary-Treasurer
Northwest Oregon Labor Council, AFL-CIO

BT/jd
opeiu#11afl-cio



AIRCRAFT MECHANICS FRATERNAL ASSOCIATION

National Office: 14001 E. Iliff Avenue, Suite 217 • Aurora, CO 80014
Tel.: 303 752-AMFA (2632) • Fax: 303 362-7736

November 20, 2009

BY FACSIMILE (202) 692-5085 AND FIRST CLASS MAIL

The Honorable Elizabeth Dougherty
Chairman
National Mediation Board
1301 K Street NW, Suite 250E
Washington, DC 20005

The Honorable Harry Hoglander
Member
National Mediation Board
1301 K Street NW, Suite 250E
Washington, DC 20005

The Honorable Linda Puchala
Member
National Mediation Board
1301 K Street NW, Suite 250E
Washington, DC 20005

Re: Docket Number C-6964
Proposed rule with request for comments

Dear Chairman Dougherty and Members Hoglander and Puchala:

These comments are submitted by the Aircraft Mechanics Fraternal Association ("AMFA") in response to the November 3, 2009 Federal Register Notice regarding the National Mediation Board's Representation Election Procedure in the above-referenced docket number.

AMFA endorses the Board proposed amendment to its election rules to provide that, in representation disputes, a majority of votes cast will determine the craft or class representative. The proposed change will insure a more reliable measure of employee sentiment in representation disputes by providing employees with clear choices in representation matters. The Board's current election procedure is indeed at odds with basic principles of democratic elections.

Workers governed by the RLA are subject to a discriminatory standard of organizing. In the struggle to obtain a collective voice, they are subject to obstacles that the employees in no other private industry are required to overcome, including:

- Limiting organization to carrier-wide bargaining units;
- Limiting organization to bargaining units (crafts or classes) as defined by the NMB instead of bargaining units that are responsive to the interests of workers as they define them; and,

- The absence of any administrative agency process that affords an employee protection from retaliation for engaging in organizing activity.

These are daunting obstacles. Obstacles that prevent workers from exercising their right to organize. Obstacles that will persist regardless of whether the Board ultimately adopts the proposed amendment.

But, the greatest of the discriminatory impediments to organization is the historical anomaly of demanding that labor unions obtain the votes of a majority of eligible voters rather than a majority of votes cast.

Not only is this requirement not applied to private industries outside those governed by the RLA, but it has been rejected by the laws of our republic as anti-democratic. At no level of government do we permit the outcome of an election to be determined by nonvoters. We agree that it is well past time to cease the practice of allowing a government agency to “substitute its opinion for that of the employee and register the lack of a vote as a ‘no’ vote.”

Democracy demands participation with the outcome decided by those who actually cast their ballots. Abstention must be accepted – as it is in any other American political context – as signifying neutrality and a willingness to abide by the votes of those who affirmatively exercise their franchise.

The Board has the obligation to effectuate employee rights of self-organization where a representation dispute exists. Adopting the proposed change to the Board’s election procedures would realize both this critical Board obligation and our Nation’s democracy in practice.

Sincerely,



Louie Key
National Director



RHODE ISLAND AFL-CIO

194 Smith Street, Providence, Rhode Island 02908-4914
Telephone: (401) 751-7100 Fax: (401) 331-8533
Website: www.riaf1-cio.org E-mail: riafcio@aol.com

November 18, 2009

NOV23'09 PM 3:23 NMB

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**Re: Proposed National Mediation Board Rule Change For
Union Representation Elections- Docket No. C-6964**

Dear National Mediation Board Members:

We write to you on behalf of the more than 80,000 members of the Rhode Island AFL-CIO to register our strong support for a change in the current election procedures of the National Mediation Board (NMB) which treats non-voters as if they had voted "no." The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. The policy as it stands now rewards airline and railroad management for suppressing their own employees' participation in NMB-sponsored elections. This is unfair and stands in stark contrast to the rules applied in our democratic system. Elections across our country are based on recognizing the choice of a majority of voters who participate in the election, regardless of their numbers. Non-votes are not counted as favoring one outcome over the other—nor should that be the case with the NMB.

We appreciate your consideration of our position.

Respectfully,

George H. Nee
President

Maureen Martin
Secretary-Treasurer



Communications Workers of America Minnesota State Council

NOV 16 2009 4:22 PM

MEMBERS

CWA Local 7200
(Mpls & Suburbs)

CWA Local 7201
(St. Paul & Suburbs)

CWA Local 7202
(Iron Range Cities)

CWA Local 7203
(Rochester Area,
Fairbault, Owatonna,
Austin, Albert Lea,
Southwestern MN)

CWA Local 7205
(Willmar Area)

CWA Local 7206
(Winona Area)

CWA Local 7212
(St. Cloud, Sauk Centre,
Little Falls, Brainerd)

CWA Local 7214
(Duluth, Bemidji,
Northeastern MN, &
Pine City Area)

CWA Local 7219
(Wadena, Fergus Falls,
Detroit Lks, Park Rapids)

CWA Local 7250
(MN, IA, NE, ND, SD)

CWA Local 7270
(Burnsville, Apple Valley,
& parts of Southern MN)

CWA Local 7272
(Erskine & NW MN,
Thief River Falls, Roseau,
Warroad & Crookston)

CWA-TNG Local 37002
(Minnesota)

CWA-NABET Local 57411
(Minneapolis & St. Paul)

IUE-CWA Local 1140
(Minneapolis)

November 16, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, N.W.
Suite 250 East
Washington, D.C. 20005-7011

Re: Proposed NMB Rule Change For Union Representation Election
Docket No.C-6964

Dear NMB Members:

I am writing on behalf of the Communications Workers of America (CWA) Minnesota State Council to strongly support the proposed National Mediation Board's (NMB) rule change to allow a majority of workers who cast ballots to determine the outcome of union representation in the airline and railroad industries. The current rule allowing those not voting in NMB union representation elections to be counted as a "no vote" is outdated and unfair. All other industries and trades elections for union representation are determined by a majority of those voting. Our democratic elections to elect our members of Congress and Senate are also determined by a simple majority of those voting.

Perhaps when the current method of voting was adopted in 1934 there was concern with the means of communications. We have come a long way since in our methods of communication and availability to become informed as well as vote.

For the reasons stated above the CWA Minnesota State Council thanks the NMB for proposing this policy change and strongly recommends its adoption as rule.

Sincerely,

Tim Lovaasen, President

3521 East Lake Street, Minneapolis, Minnesota 55406
(HALL 612.722.7200 FAX 612.722.1274)



INDUSTRIAL LABOR COUNCIL of MINNESOTA

NOV19'09 PM 4:22 NMB

November 16, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, N.W.
Suite 250 East
Washington, D.C. 20005-7011

Re: Proposed NMB Rule Change For Union Representation Election
Docket No.C-6964

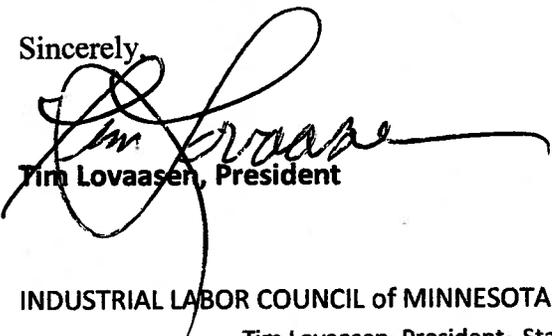
Dear NMB Members:

I am writing on behalf of the Communications Workers of America (CWA) Minnesota State Council to strongly support the proposed National Mediation Board's (NMB) rule change to allow a majority of workers who cast ballots to determine the outcome of union representation in the airline and railroad industries. The current rule allowing those not voting in NMB union representation elections to be counted as a "no vote" is outdated and unfair. All other industries and trades elections for union representation are determined by a majority of those voting. Our democratic elections to elect our members of Congress and Senate are also determined by a simple majority of those voting.

Perhaps when the current method of voting was adopted in 1934 there was concern with the means of communications. We have come a long way since in our methods of communication and availability to become informed as well as vote.

For the reasons stated above the CWA Minnesota State Council thanks the NMB for proposing this policy change and strongly recommends it adoption as rule.

Sincerely,


Tim Lovaasen, President

INDUSTRIAL LABOR COUNCIL of MINNESOTA 1010 Hwy. 96, Vadnais Heights, MN 55127 Phone 651-207-1713
Tim Lovaasen, President Stan Daniels, Vice President Julie Anderson, Secretary/Treasurer



NOV30'09 PM 3:54 NMB

November 24, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street NW, Suite 250 East
Washington, D.C. 20005-7011

Re: Docket No. C-6964 – Proposed NMB Rule Change For Union Representation Elections

Dear Members of the National Mediation:

The Saint Paul Regional Labor Federation, AFL-CIO represents over 100 affiliated local unions and over 50,000 union households in the east metro area. We support our affiliate unions in all aspects of their work—from organizing to contract fights to political action.

On behalf of the Saint Paul Regional Labor Federation, I am writing to register my strong support for changing current election procedures of the National Mediation Board (NMB) to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries.

The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus, under the current rule, if less than fifty percent of the workforce participates in the election, non-voters are counted as “no votes” and union representation is lost regardless of the number of employees who actually voted in favor of the union.

These current election procedures encourage and reward airline and railroad management for suppressing their employees' participation in an NMB-sponsored election because not voting is the same as voting no. This is unfair and stands in contrast to the rules applied in our democratic system in general elections where a majority of votes cast determine the outcome regardless of the number of voters that participated.

While the NMB's policy many have served a purpose when it was first applied in 1934, today with electronic communications and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation. The NMB's policy should be updated to be more democratic and reflect the reality that noting voting is as much a decision as being able to vote yes or no for union representation.

I appreciate your consideration of my view and that of the over 100 affiliated local unions of the Saint Paul Regional Labor Federation, AFL-CIO.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Kasper". The signature is written in a cursive style with a large, sweeping initial "R".

Robert Kasper
President



Ken Zeller
President

Joe Breedlove
Secretary-Treasurer

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November 23, 2009 Mail: inaflcio@inaflcio.org

www.inaflcio.org

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

NOV 30 '09 PM 4:09 AM

Re: Proposed NMB Rule Change For Union Representation Elections-
Docket No. Docket No. C-6964

Dear NMB Members:

I write to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries.

The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus, under the current rule, if fewer than fifty percent of the workforce participants in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employee's participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority of votes cast determine the outcome regardless of the number of voters that participated in the election.

The NMB's policy first applied in 1934, more than seven decades ago, which may have been born of concerns concerning communications with employees in distant locations, is no longer valid in the modern era. With today's multiple means of electronic and telephonic communications and the NMB's own electronic voting system, a super majority vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century.

Respectfully,

Kenneth J. Zeller, President
KJZ/pdk/opeiu#1/aflcio





TEXAS AFL-CIO

1106 LAVACA

512/477-6195

FAX 477-2962

P.O. BOX 12727 AUSTIN, TEXAS 78711

BECKY MOELLER
President

PAUL R. BROWN
Secretary-Treasurer

Nov. 23, 2009

National Mediation Board
1301 K Street NW, Suite 250 East
Washington, DC 20005-7011
Reference: Docket # C-6964

NOV30'09 PM 4:12 NMB

Dear Board Members:

On behalf of the Texas AFL-CIO, a state labor federation representing more than 200,000 union affiliates, we want to place on the record of Docket #C-6964 our strong support for the rules change that has been proposed by the National Mediation Board with regard to the ability of workers covered by the Railway Labor Act to gain the right to collective bargaining.

Time and again, we have observed elections in which a large majority of workers supports unionization and collective bargaining, only to be thwarted by the requirement that they obtain a majority of all eligible workers in the proposed bargaining unit.

The current requirement is not democracy as we know it in the U.S., nor is it reasonable. In fact, it exalts the role of non-participants to a higher level than the role of workers who go to the trouble to cast their votes. We cannot think of another situation within labor law in which non-voters are essentially counted as "no" votes and we would point out that if such a rule were applied to ordinary political elections, there would be precious few officeholders anywhere.

While workers in the industries covered by the Railway Labor Act still face the task of organizing far-flung bargaining units across the nation, the proposed rule change at least elevates them to the same footing as workers covered by the National Labor Relations Act with regard to the right to form a union. Moreover, we believe the general intent of the Railway Labor Act has always been the same as that of the NLRA – to encourage collective bargaining in the U.S.

Unions are the best way yet devised for workers to gain dignity in the workplace, but they are also a means of building strong relationships between management and workers. We congratulate the National Mediation Board on the proposed rules change in Docket #C-6964 and we urge the board to adopt the rule as soon as possible.

Sincerely,

Becky Moeller
President

BM:lf
Opeiu 298/afl-cio

(517) 487-5966
FAX (517) 487-5213



Michigan State AFL-CIO

419 Washington Square South, Suite 200 • Lansing, Michigan 48933-2138

MARK T. GAFFNEY, *President*

TINA ABBOTT, *Secretary-Treasurer*

November 19, 2009

NOV 30 '09 PM 3:42 NMB

National Mediation Board
1301 "K" Street, N.W.
Suite 250 East
Washington, D. C. 20005-7011

Re: Proposed National Mediation
Board Rule Change
Docket Number C-6964

Greetings,

Please be advised that the Michigan State AFL-CIO supports the National Mediation Board's proposed rule change for union representation in elections; furthermore, we support the proposal to amend the Railway Labor Act rules to provide that in representation disputes, a majority of valid ballots cast will determine the craft or class of representation.

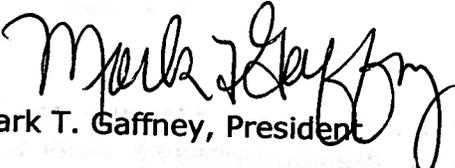
We also support the National Mediation Board's belief that this change, to its election procedure, will provide a more reliable measure/indicator of employee sentiment in representation disputes and provide employees with clear choices in representation matters.

We feel that the current National Mediation Board's election process is inherently undemocratic, as well as unreliable in determining whether workers want union representation. To be truly democratic, employees **must** have a choice to vote for union representation, against union representation or not to vote at all. This is exactly how other union elections are conducted in this country.

It is time to bring fairness and equal opportunity to **all** working men and woman within the transportation industry.

Sincerely,

MICHIGAN STATE AFL-CIO


Mark T. Gaffney, President

pf:opeiu459afcio

cc: Air Transport District 143:
Stephen M. Gordon, President/Dir Gen Chair
Lisa Stager, Legislative Director

HARRIS COUNTY AFL-CIO COUNCIL

AFFILIATE OF THE A.F. of L. - C.I.O.

2506 SUTHERLAND • (713) 923-9473 • Fax (713) 923-5010
HOUSTON, TEXAS 77023-5305

November 30, 2009

National Mediation Board
1301 K Street NW, Suite 250 East
Washington, DC 20005-7011

DEC07'09 AM 9:09 AM

Re: **Proposed changes in the Railway Labor Act – Docket Number C-6964**

To Whom It May Concern:

I am writing in regards to the proposed rule change in **Docket Number C-6964** regarding the Railway Labor Act elections. I am in **FAVOR** of this proposed change in the rule because it will bring real democracy to Railway Labor Act Elections.

Please incorporate my position in **FAVOR** of this rule change into the record.

Thank you for your attention in this matter.

Sincerely yours,



Richard C. Shaw
Secretary-Treasurer
RCS:rcs





**SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION
LOCAL #18 - WISCONSIN
AFL-CIO**



5425 WEST VLIET STREET
MILWAUKEE, WI 53208-2118

Telephone: (414) 778-1100 • Toll Free (In United States) 1-800-242-5822 • Fax: (414) 778-0987

December 2, 2009

Linda Puchala, Member
National Mediation Board
1301 K Street N. W. Suite 250 East
Washington DC 20005-7011

DEC07'09 AM 9:09 NMB

Re: Proposed NMB Rule Change For Union Representation Elections-Docket No. C-6964

Dear NMB Member:

I write to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries. The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus, under the current rule, if less than fifty percent of the workforce participates in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority of votes cast determine the outcome regardless of the number of voters that participated in the election.

The NMB's policy first applied in 1934, more than seven decades ago, which may have been born of concerns concerning communications with employees in distant locations, is no longer valid in the modern era. With today's multiple means of electronic and telephonic communications, and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century.

Respectfully,

Patrick C. Landgraf
President/Business Manager
Local #18

PCL/je
opeiu #9, afl-cio



**SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION
LOCAL #18 - WISCONSIN
AFL-CIO**



5425 WEST VLIET STREET
MILWAUKEE, WI 53208-2118

Telephone: (414) 778-1100 • Toll Free (In United States) 1-800-242-5822 • Fax: (414) 778-0987

December 2, 2009

Harry Hoaglander, Member
National Mediation Board
1301 K Street N. W. Suite 250 East
Washington DC 20005-7011

DEC07'09 AM 3:11 NMB

Re: Proposed NMB Rule Change For Union Representation Elections-Docket No. C-6964

Dear NMB Member:

I write to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries. The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus, under the current rule, if less than fifty percent of the workforce participates in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority of votes cast determine the outcome regardless of the number of voters that participated in the election.

The NMB's policy first applied in 1934, more than seven decades ago, which may have been born of concerns concerning communications with employees in distant locations, is no longer valid in the modern era. With today's multiple means of electronic and telephonic communications, and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century.

Respectfully,

Patrick C. Landgraf
President/Business Manager
Local #18

PCL/je
opeiu #9, afl-cio



NORTH CAROLINA STATE A.F.L.-C.I.O.

James Andrews
President

MaryBe McMillan
Secretary-Treasurer

Post Office Box 10805 • Raleigh, North Carolina 27605
Phone (919) 833-6678 • FAX (919) 828-2102
E-mail: info@afclionc.org

DEC07'09 AM 9:11 NMB

Executive Board

Calvin Griffin
USW

David Cox
AFGE

Richard O'Brien
IAFF

Randy Fulk
BCTGM

Henry Loftis
IUOE

Eddie Davidson
NALC

Bob Riggins
UAW

Tony McKinnon
APWU

Dianne Jackson
AFT

Theodore McNeal
IAMAW

Scott Thrower
IBEW

Brenda Scotland
GMP

Michael Gravinese
AFGE

Edward Drescher
UA

John C Bullock
ATU

John Bethel
BCTGM

William Mills
IBEW

Darryl Jackson
USW

Craig Schadewald
NALC

Will Cashion
IAMAW

Larry Sorrells
APWU

David Anders
IAFF

Gene Holleman
UAW

Laura Gordon
Central Labor Councils

Betty Zimmerman
Constituency Groups

Glenda Talley
AFA-CWA

Larry Murray
USW

Barbara McKoy
UNITE HERE

Jack Cipriani
IBT

Lewis Dishmon
UNITE HERE

Richard Westbrook
UTU

November 23, 2009

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N. W.
Suite 250 East
Washington, D.C. 20005-7011

Re: Proposed NMB Rule Change For Union Representation Elections -
Docket No. C-6964

Dear NMB Members:

I write to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries. The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus, under the current rule, if fewer than fifty percent of the workforce participates in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority of votes cast determine the outcome regardless of the number of voters that participated in the election.

The NMB's policy first applied in 1934, more than seven decades ago, which may have been born of concerns concerning communications with employees in distant locations, is no longer valid in the modern era. With today's multiple means of electronic and telephonic communications, and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century.

Respectfully,

James Andrews, President

MaryBe McMillan, Secretary-Treasurer

B. R. Williams

From: B. R. Williams [brw@ila28.com]
Sent: Tuesday, December 01, 2009 12:17 PM
To: legal@nmb.gov
Cc: beckymoeller@texasafcio.org; paulbrown@texasafcio.org; Shawtrek@aol.com
Subject: Docket # C-6964

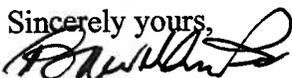
National Mediation Board
1301 K Street NW, Suite 250 East
Washington, DC 20005-7011

DEC03'09 PM 4:03 NMB

TO WHOM THIS MAY CONCERN:

This is regards to the proposed rule change in the Railway Labor Act – Docket # C6964 elections. I am in FAVOR of theis proposed change in the rule because it will bring real democracy to the Railway Labor Act Elections.

Please place my comments and statement of being in FAVOR of this change into the record.

Sincerely yours,

B. R. Williams, Sr.
Vice-President
Texas AFL-CIO



November 30, 2009

DEC03'09 PM 4:15 NMB

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

**RE: Proposed NMB Rule Change for Union Representation Elections
Docket No. C-6964**

Dear NMB Members:

This letter comes to you for the purpose of addressing my support for a change in the National Mediation Board's policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries. As you know, the NMB is alone among governmental agencies in this requirement of an airline or railroad in order to win union representation. Thus, under the current rule, if less than fifty percent of the workforce participates in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority of votes cast determine the outcome regardless of the number of voters that participated in the election.

The NMB's policy first applied in 1934, more than seven decades ago, which may have been born of concerns concerning communications with employees in distant locations, is no longer valid in the modern era. With today's multiple means of electronic and telephonic communications, and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Lawrence G. Sandoval', is written over a faint, larger version of the same signature.

Lawrence G. Sandoval
CWA Representative

cc: Tim Lovaasen

LGS:eh



(517) 487-5966
FAX (517) 487-5213



Michigan State AFL-CIO

419 Washington Square South, Suite 200 • Lansing, Michigan 48933-2138

MARK T. GAFFNEY, *President*

TINA ABBOTT, *Secretary-Treasurer*

November 19, 2009

National Mediation Board
1301 "K" Street, N.W.
Suite 250 East
Washington, D. C. 20005-7011

DEC07'09 PM 4:51 AM

Re: Proposed National Mediation
Board Rule Change
Docket Number C-6964

Greetings,

Please be advised that the Michigan State AFL-CIO supports the National Mediation Board's proposed rule change for union representation in elections; furthermore, we support the proposal to amend the Railway Labor Act rules to provide that in representation disputes, a majority of valid ballots cast will determine the craft or class of representation.

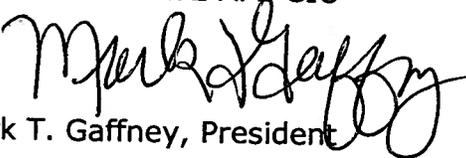
We also support the National Mediation Board's belief that this change, to its election procedure, will provide a more reliable measure/indicator of employee sentiment in representation disputes and provide employees with clear choices in representation matters.

We feel that the current National Mediation Board's election process is inherently undemocratic, as well as unreliable in determining whether workers want union representation. To be truly democratic, employees **must** have a choice to vote for union representation, against union representation or not to vote at all. This is exactly how other union elections are conducted in this country.

It is time to bring fairness and equal opportunity to **all** working men and woman within the transportation industry.

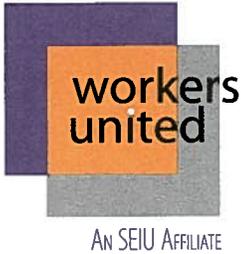
Sincerely,

MICHIGAN STATE AFL-CIO


Mark T. Gaffney, President

pf:opeiu459afcio

cc: Air Transport District 143:
Stephen M. Gordon, President/Dir Gen Chair
Lisa Stager, Legislative Director



Chicago and Midwest Regional Joint Board
Local 122
Wisconsin State Council

744 North 4th Street, #626
Milwaukee, WI 53203
Phone: (414) 271-0290
Fax: (414) 271-2241

515

DEC 07 '08 PM 4:35 AM

*Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N. W.
Suite 250 East
Washington, D. C. 20005-7011*

**RE: Proposed NMB Rule Change For Union Representation Elections-
Docket No. C-6964**

Dear NMB Members,

I write to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as in the case in all other industries.

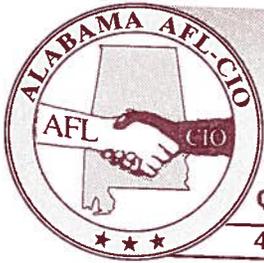
The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus under the current rule, if fewer than fifty percent of the workforce participates in the election, non-voters are counted as "no votes" and the union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority of votes cast determine the outcome regardless of the number of voters that participate in the election.

The NMB's policy first applied in 1934, more than seven decades ago, which may have been born of concerns concerning communications with in distant locations, is no longer valid in the modern era. With today's multiple means of electronic and telephonic communications and the NMB's own electronic voting system, a "super majority" vote is no longer necessary to insure broad participation and the Board's policy should be updated to become more democratic in meeting the needs and realities of the 21st Century.

Respectfully,

Sam Gallo
Assistant Wisconsin State Director
Workers United, Local #122
Milwaukee, WI

Cc: file



Alabama AFL-CIO

435 South McDonough St. • Montgomery, AL 36104 • Telephone: (334) 834-1061 • Fax: (334) 834-1065

STEWART BURKHALTER
President

AL HENLEY
Secretary-Treasurer

December 2, 2009

DEC07'09 PM 4:32 NMB

Elizabeth Daugherty, Chair
Harry Hoaglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street N.W.
Suite 250 East
Washington, D.C. 20005-7011

Re: **Proposed NMB Rule Change for Union Representation Elections -
Docket No. C-6964**

Dear NMB Members:

I write to register my strong support for a change in the National Mediation Board's ("NMB") policy to allow a majority of workers who cast ballots to determine the outcome of union representation elections in the airline and railroad industries as is the case in all other industries. The NMB is alone among governmental agencies in requiring that a union obtain a majority vote of all those employed in a system-wide craft or class of an airline or railroad in order to win union representation. Thus, under the current rule, if fewer than fifty percent of the workforce participates in the election, non-voters are counted as "no votes" and union representation is lost regardless of the number of employees who actually voted in favor of the union. Thus, airline and railroad management are rewarded for suppressing their own employees' participation in an NMB-sponsored election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections where a majority of votes cast determine the outcome regardless of the number of voters that participated in the election.

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Respectfully,


C. A. Henley
Secretary/Treasurer

lr/opeiu-2001

David J. Tomassoni, Chair
Economic Development Budget Division

Senator - District 5
St. Louis County

DEC07'09 PM 4:33 AM



Senate

State of Minnesota

December 2, 2009

National Mediation Board
1301 K Street NW, Suite 250 East
Washington, D.C. 20005-7011

RE: Docket Number C-6964

To Whom it May Concern:

I write to strongly support the National Mediation Board in their efforts to amend its Railway Labor Act rules as they relate to union representation elections to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class of representation.

The NMB is alone among governmental agencies in requiring an employee participation threshold in airline and railroad elections in order to win union representation. Under the current rule, if less than 50 percent plus 1 (50% + 1) of the eligible workforce participates in the election, a union will not be certified regardless of the percentage of votes it receives from participants.

Employees who do not vote, for whatever reason, are counted as "no votes" and union representative is lost regardless of the number of employees who actually voted in favor of union representation. Thus, airline and railroad management are rewarded for suppressing employees participation in a National Mediation Board election. This is unfair and stands in contrast to the rules applied in our democratic system in America's general elections wherein a majority of votes cast determine the outcome regardless of the number of voters that participated in the election.

Again, I urge that the National Mediation Board adopt this necessary rule change so as to provide a voting system that is fair to all working men and women.

Sincerely,



David J. Tomassoni
State Senator

DT:lb



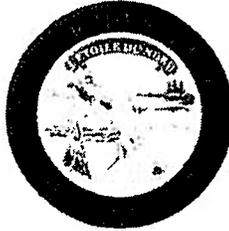
Recycled Paper
10% Post-
Consumer Fiber

317 State Capitol • Saint Paul, MN 55155-1606 • 651-296-8017 • Fax: 651-225-7579
E-Mail: sen.david.tomassoni@senate.mn



Frank Hornstein
State Representative

District 60B
Hennepin County



Minnesota House of Representatives

COMMITTEES: TRANSPORTATION AND TRANSIT POLICY AND OVERSIGHT DIVISION (CHAIR)
TRANSPORTATION FINANCE DIVISION
STATE AND LOCAL GOVERNMENT OPERATIONS REFORM, TECHNOLOGY AND ELECTIONS
LOCAL GOVERNMENT DIVISION

December 2, 2009

National Mediation Board
1301 K Street NW, Suite 250 East
Washington, DC 20005-7011

Dear National Mediation Board Members:

I write today in support of the effort to amend the Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class of representation. The current system is unfavorable to union representation and therefore, anti-worker, and furthermore, by counting those who do not vote as a "no-vote" is undemocratic.

Throughout modern history, we have witnessed various union-busting tactics aimed at protecting profits rather than the hard working people who dedicate their lives to their jobs. The current practice through the Railway Labor Act is the antithesis of the democracy we work hard to protect and rewards voter suppression.

I am writing on behalf of the International Association of Machinists and Aerospace Workers AFL-CIO in support of their work to bring fairness and equal opportunity to ALL working men and women within the transportation industry.

I support the rule change and urge the National Mediation Board to do the same.

Sincerely,

A handwritten signature in black ink that reads "Frank Hornstein".

Frank Hornstein
State Representative



Tom Anzelc
State Representative

District 3A
Itasca, Koochiching and
Lake of the Woods Counties



Minnesota House of Representatives

COMMITTEES - COMMERCE AND LABOR
ENVIRONMENT AND NATURAL RESOURCES FINANCE DIVISION
K-12 FINANCE DIVISION

December 2, 2009

National Mediation Board
1301 K Street NW, Suite 250 East
Washington, DC 20005-7011

Dear National Mediation Board Members:

I write today in support of the effort to amend the Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class of representation. The current system is unfavorable to union representation and therefore, anti-worker, and furthermore, by counting those who do not vote as a "no-vote" by proxy is undemocratic.

Throughout modern history, we have witnessed various union-busting tactics aimed at protecting profits rather than the hard working people who dedicate their lives to their jobs. The current practice through the Railway Labor Act is the antithesis of the democracy we work hard to protect and rewards voter suppression.

I am writing on behalf of the International Association of Machinists and Aerospace Workers AFL-CIO in support of their work to bring fairness and equal opportunity to ALL working men and women within the transportation industry.

I support the rule change and urge the National Mediation Board to do the same.

Sincerely,

A handwritten signature in black ink that reads "Tom Anzelc".

Tom Anzelc
State Representative

