



A bold voice for transportation workers

March 29, 2011

Support the LaTourette-Costello Amendment to Preserve Fair Union Election Rules

Dear Representative:

When the House considers FAA Reauthorization (H.R. 658) later this week, Reps. Steve LaTourette (R-OH) and Jerry Costello (D-IL) will offer an amendment that will preserve union election rules for aviation and rail workers that allow a majority of those voting to decide the outcome. On behalf of the Transportation Trades Department, AFL-CIO (TTD) and our 32 affiliated unions, I strongly urge you to support this amendment.

Repealing union election rules has nothing to do with the core aviation safety and investment priorities that should be the focus of this legislation. The FAA is currently on its 17th funding extension and continued failure to pass a multi-year, comprehensive bill short-changes an industry and sector of our transportation system that is critical to our economy. Simply put, the repeal provision must be removed so that we can work to ensure swift passage of this critical legislation.

The union election rule repealed by H.R. 658 simply provides workers with a precise choice to vote either for a union, against a union, or abstain from the election and have a voting majority decide the outcome. The new election rule is not “card-check” or EFCA and in fact only brings election procedures for aviation and rail workers in line with election rules for all other private sector employees. If the repeal provision in the bill were to become law, workers who choose not to vote for any reason will be tallied as automatic votes against union representation. The government should never arbitrarily assign a vote that was never cast and a rule that adopts this approach should not be endorsed by Congress.

Supporters of the old rules justify their position by claiming that once a union is voted in under the Railway Labor Act (RLA), it cannot be removed. This is simply not true. Federal courts, including the U.S. Supreme Court, have repeatedly recognized that workers under the RLA have the absolute right to reject union representation. As part of this right, workers can initially reject a union and change or remove representation once it is voted in. The National Mediation Board (NMB) has long established procedures that provide workers with a mechanism to exercise this right. The new rules not only continue this process but also provide workers with the specific ability to vote “no union” on a ballot.

Transportation Trades Department, AFL-CIO

888 16th Street NW / Suite 650 / Washington DC 20006

Tel:202.628.9262 / Fax:202.628.0391 / www.ttd.org

Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



The process the NMB used to adopt this rule was fair, open and allowed all parties an opportunity to comment. The NMB published a Notice of Proposed Rulemaking in the Federal Register on November 3, 2009 that included a detailed explanation of why the Board was considering this change, allowed interested parties 60 days to comment, and provided detailed rationale for offering the proposal. As part of this comment period, the NMB held a public meeting where it heard from 34 members of the public. The final rule included a detailed response to the substantive comments offered and provided a thorough and well-reasoned explanation for the Board's final rule. In the opinion of the District Court judge, the Board "provided a neutral and rational basis" for its rulemaking in a manner "adequate under the APA" and was not "arbitrary and capricious."

Claims that the NMB does not have the authority to make this change and that the governing statute requires a majority of a work group to vote in order to certify an election must be rejected. The RLA does not require the old procedure and gives the Board broad discretion on how it conducts elections. Specifically, the RLA states that "the majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class" This section is silent on how a majority should be determined, and the District Court correctly determined that the NMB is given the authority to conduct elections using any appropriate method for ascertaining voter intent.

The NMB's union election rule is consistent with statute, was considered in an open and transparent process, and makes union election procedures for aviation and rail workers more consistent with democratic norms. For these reasons, please support the LaTourette/Costello amendment when it is offered to the FAA bill. Please contact me directly or TTD Legislative Representative Jeff Pavlak at 202/628-9262 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Wytkind", with a stylized, cursive flourish.

Edward Wytkind
President