



A bold voice for transportation workers

April 5, 2013

Vote No on H.R. 1120

Dear Representative:

On behalf of the Transportation Trades Department, AFL-CIO, I urge you to vote against H.R. 1120 – legislation that will essentially shut down the National Labor Relations Board (NLRB). This bill improperly involves Congress in the judicial review of the President’s recess appointment powers and in the process prevents the NLRB from fulfilling its statutory mandate to “protect the legitimate rights of both employees and employers in their relations affecting commerce.”

H.R. 1120, by the author’s own admission, is designed to support a recent Court of Appeals decision (*Noel Canning*) that calls into question the validity of President Obama’s recess appointments to the NLRB. The court would limit recess appointments to those made only in the recess between sessions of Congress and only for those vacancies that become open during the recess. Under the reasoning in *Noel Canning*, the President of the United States, for example, could not use the recess appointment clause to fill a vacancy during an August recess no matter when the vacancy occurred. This narrow reading of the recess appointment clause is contrary to the common and recent use of the provision by presidents of both parties and is inconsistent with a 11th Circuit case upholding the recess appointment of Judge William Pryor made by President George W. Bush. Other cases challenging the NLRB recess appointments are pending in other circuits and it is likely that these cases will produce results contrary to the decision in *Noel Canning*.

At best, it remains an open question whether *Noel Canning’s* unprecedented interpretation of the recess appointment clause will stand. Instead of waiting for the Supreme Court to settle the matter, H.R. 1120 steps in and prevents the Board from implementing or enforcing any decision, vote or other action that requires a quorum. Even if all three current NLRB members participate or even agree on a course of action, H.R. 1120 would prevent the Board from acting. While one can disagree with a specific rule or action of the NLRB, prohibiting the agency from conducting business at all, based on an action that has nothing to do with a Board decision, exposes the true motive behind this legislation.

While the NLRB enforces the rights of workers to form unions and bargain collectively, it also protects businesses and the public by providing for the orderly resolution of labor-management disputes and protects the free flow of commerce. H.R. 1120 would remove these protections and even reaches back to retroactively apply the prohibition against Board action to January 4, 2012. H.R. 1120 deprives both labor and business of remedies under the law, undermines the basic rights of workers and creates a level of uncertainty and confusion in labor relations that is unacceptable.

I urge you to vote against H.R. 1120 when it is brought to the House floor.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', written over a white background.

Edward Wytkind
President

Transportation Trades Department, AFL-CIO

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