



Airline Legal Alert: Status of NMB's Attempt to Change 75-Year-Old Majority Rule

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On September 2, 2009, the Transportation Trades Department (TTD), AFL-CIO, petitioned the National Mediation Board (NMB) to change the 75-year-old majority rule, which requires a majority of eligible voters in a craft or class to cast ballots for representation before the NMB will certify a union as the bargaining representative for that craft or class. The TTD's petition asked the NMB to replace the majority rule with a rule that would allow a union to be certified if a majority of the employees who cast ballots voted for union representation. On November 3, 2009, two members of the NMB submitted a Notice of Proposed Rulemaking (NPRM) to the Federal Register. The NPRM stated that the NMB intended to change the majority rule to a minority rule. On December 7, 2009, the NMB held an "open meeting" with interested parties to discuss the rule change. During the "open meeting," speeches were given by both proponents and opponents of the NPRM. The Board members did not ask any questions of the meeting participants. No sworn testimony was taken from the participants, nor were any of the participants subject to cross-examination.

Under the procedure that the Board is following, the Board must consider all comments made at the "open meeting" as well as any written comments submitted to the Board. A number of airline and railroad industry associations, such as Air Transport Association, Regional Airline Association, Air Industrial Relations Conference, National Railway Labor Conference and the US Chamber of Commerce, intend to file written comments attacking both the process that the Board is using as well as the legality and wisdom of changing the 75-year-old rule. Additionally, other industry associations, such as the National Air Carrier Association, Regional Air Cargo Carrier Association, Air Carrier Association of America, Cargo Airline Association, National Air Transportation Association, and the National Right to Work Committee will likely file comments with the Board. A number of individual air carriers and railroads have also stated that they will file comments with the Board.

Written comments must be filed with the Board by January 4, 2010. Comments may be submitted on the NMB's website, by facsimile, or by mail to the NMB. The NMB's website, <http://www.nmb.gov/>, contains pertinent information for the filing of comments.