
Trapped in a union: Trump administration works to change the rules for rail and airline workers

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President Trump's appointed National Mediation Board is taking aim at practices that have until now been permitted under the Railway Labor Act.

The NMB has proposed a welcome rule change to the process that railroad and airline employees must go through should the employees want to decertify their Labor Union. The proposed rule change shows that the Trump Administration is committed to bringing "Freedom of Association" to the American worker.

Decertification of an unwanted union is nearly impossible for employees to achieve under the RLA under any circumstances. But the existing "Straw Man" procedure goes even further, making the process confusing and intimidating.

The Railway Labor Act of 1926 was created to give railroad employees the right to engage in collective bargaining while simultaneously ensuring that America's commerce would not be disrupted by work stoppages. Airlines were also added to the RLA in 1935. The RLA is not to be confused with the National Labor Relations Act, or NLRA, the law that oversees most other industries.

Both Acts are intended to give employees rights to join or refrain from joining a labor union. There are similarities between them, but there are differences as well. For example; Right-to-Work does not exist under the RLA, so employees of railroads and airlines that are unionized are obligated to pay union dues or agency fees, even if they reside and work in right-to-work states.

Another trap under the RLA is that the decertification process is much harder. Under the RLA, the employees of a given class — pilots, perhaps, or baggage handlers — cannot just petition for a decertification election, the way most workers can under the NLRA. Instead, an RLA employee must actually run against his union on the ballot just to force an election. He becomes a "Straw Man," running to represent his fellow workers. The Straw Man must then get more than 50 percent of his or her fellow employees to sign the petition. Once the Straw Man achieves the 50 percent mark, he or she has the right to apply for an election with the NMB.

But here's the catch: Should the NMB grant the Straw Man's application for an election, the Straw Man doesn't actually try to win. He must instead get fellow employees to ignore his name on the ballot and choose the "No Representation" option instead.

NMB Chairwoman Kyle Fortson and Member Gerald Fauth have recognized that this process is unacceptable. It is confusing and lends itself to misinterpretation and distrust. The Straw Man process also makes a target out of whichever frontline employee agrees to become the Straw Man. Instead of forcing the union to stand on its own record and justifying its position, it can instead redirect its hostilities toward the Straw Man and the company.

Unionization in America is down to an all-time low of 6.4 percent in the private sector, including both NLRA and RLA jurisdiction. If we look at unionization of Railroads and Airlines alone, they are way above all other industries in unionization percentage, with railroads at 82 percent and airlines around 70 percent. This is largely because the RLA traps workers in unions they would not choose to join if given the opportunity.

Another part of this rule change has to do with how often an election can take place. The current rule states that if unions win the election, they are protected from facing another election for two years. But if the union is decertified, then it can try again in just one year. The proposed rule will change will make the waiting period consistent with both scenarios.

Few people in America understand how labor laws in our country work. The NMB's proposed rule change will finally this one part of the process clean and understandable for the employees of America's railroads and airlines.

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