

Change favors airline unions; Industry plans to file suit over decision; National Mediation Board measure alters how votes are counted

By: Kelly Yamanouchi; Staff
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A change in union election rules issued by a federal labor board Monday could make it easier for two major unions to win representation rights at Delta Air Lines, long the industry's least-unionized carrier.

But an airline industry group, with Delta's support, said it plans a legal challenge to the change, saying it would "lead to more labor discord."

The National Mediation Board, which oversees labor issues at airlines and railroads, issued the formal rule change after months of discussion. It will take effect next month.

The new rule requires that unions win a majority of votes only from those workers who actually cast ballots in union elections, rather than from a majority of all workers eligible to vote. In most cases that would reduce the number of votes needed for a union to win, since under current rules workers who don't vote are effectively counted as a "no."

The NMB said the change "will provide a more reliable measure/indicator of employee sentiment in representation disputes and provide employees with clear choices in representation matters."

"This change levels a playing field that has been uneven for far too long," said Ed Wytkind, president of the Transportation Trades Department of the AFL-CIO, a federation of unions that includes the Association of Flight Attendants and International Association of Machinists.

The change is most significant for Atlanta-based Delta, where pilots are the only large group of workers who are unionized.

However, Delta faces representation votes among other workers because of its merger with heavily unionized Northwest Airlines in 2008. While flight attendants and many ground workers at Northwest were unionized, those from Delta were nonunion. Those groups must vote to determine whether they will be union-represented, although elections have been delayed as the rule change remained pending.

The Association of Flight Attendants on Monday said it plans to file for an election once the new voting guidelines are in place. Delta has about 20,000 flight attendants, including about 6,000 from Northwest.

The AFA, in two votes at Delta prior to the merger, fell well short of the required majorities under current rules.

The International Association of Machinists is organizing among ground employees, including some 30,000 ramp workers and customer service agents, about 10,000 of them from Northwest. A Machinists union spokesman said a filing for election is pending the integration of employee groups from Delta and Northwest.

Delta spokeswoman Gina Laughlin said the company was disappointed but not surprised by the NMB's rule change.

The Air Transport Association, a major airline industry group, said it expects to file a suit in the next few days in federal court in Washington to try to block the change.

"We continue to believe the National Mediation Board does not have legal authority to implement this rule, one that undoubtedly will lead to more labor discord," the ATA said in a written statement.

Laughlin said Delta will support the ATA lawsuit. AirTran Airways --- whose pilots, flight attendants and mechanics are already unionized --- is also among ATA members that plan to participate in the suit.

Jerrold Glass, president of F&H Solutions Group and a labor relations consultant who often represents airlines, said he believes Delta stands an "excellent" chance of keeping groups of employees nonunion even if the rule change survives. Delta has "proven over time that they can operate in a nonunion environment" and still treat employees well, Glass said.

In addition to the two failed drives among flight attendants, Delta ramp workers also voted down unionization in 2000.

The proposal to change the rule followed a shift in the makeup of the three-member NMB. It now includes two former labor union leaders, including one nominated by the Obama administration.

NMB Chairwoman Elizabeth Dougherty, the member without labor ties, issued a written dissent and cited the board's duty to maintain stability in the air and rail industries.

Airlines and railroads, as two of the nation's key transportation modes, are governed by different labor rules than other industries.

Dougherty also wrote that some believe the change is intertwined with elections at Delta, contributing to the perception that the board is "acting out of political motivation."

Sen. Johnny Isakson (R-Ga.) said he believes the NMB lacks authority to make the change without congressional authorization. He said he will try to counter the move through the Congressional Review Act, which allows Congress to disapprove regulations by enacting a joint resolution.