

Congress of the United States
Washington, DC 20515

April 20, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Pelosi and Minority Leader McCarthy,

As we continue to consider ways to respond to the unprecedented crisis caused by COVID-19, we respectfully request that the next legislative package include funding and a directive to the National Labor Relations Board (NLRB) for the purpose of developing a system and procedures to conduct union representation elections electronically.

Four weeks ago, the NLRB took the extraordinary action of halting all union representation elections in response to COVID-19. Rather than using mail-in ballots or a more modern approach like telephone or internet voting, the NLRB chose to suspend the rights of workers everywhere.¹ While we cannot speak to why the NLRB reversed its initial position of using mail-in ballots, the reason it did not use more modern voting techniques is quite simple: it does not have any.

The NLRB, via an appropriations rider, has been restricted from using funds to “issue any new administrative directive or regulation that would provide employees any means of voting through any electronic means in an election to determine a representative for the purposes of collective bargaining.”² Given the current constraints on workers’ ability to exercise their rights during this pandemic, there is a legitimate need for accommodating the rights of workers and protecting NLRB employees during union representation elections. Put simply, the NLRB must have safe, efficient, and flexible processes at its disposal to administer the law it is charged with enforcing.

Electronic voting in union representation elections has well-established precedent. The National Mediation Board (NMB) has conducted telephonic voting since 2002 and internet voting since 2007 in the railway and airline industries. Today, according to the NMB, “[m]ost elections are conducted by Telephone Electronic Voting (TEV) and Internet Voting.”³ Providing this requested funding, coupled with a directive to adopt the NMB election system or one similar

¹ “Labor Board Suspends All Union Elections Indefinitely” Bloomberg Law, March 19, 2020. Available at: <https://news.bloomberglaw.com/daily-labor-report/labor-board-suspends-all-union-elections-indefinitely>

² See, Further Consolidated Appropriations Act, Pub. L. No. 116-94, § 407

³ See, “National Mediation Board Voting FAQ” available at: https://nmb.gov/NMB_Application/index.php/overview-faq/

in functionality, would bring the NLRB into the 21st century and align it with the more modern systems used to conduct elections under the Railway Labor Act.

In times of crisis, it is the responsibility of good government to find ways to adapt to ensure that the rights of its constituents are protected. Workers' rights to organize and bargain collectively with their employer are always important, but especially so when subjects like adequate health care benefits, access to protective equipment, and pandemic safety protocols, are - quite literally - matters of life and death.

Thank you for your attention to this matter. In this time of great uncertainty, it is crucial that we act in a bipartisan manner to take the necessary steps to ensure that workers across the country are effectively protected.

Sincerely,



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Member of Congress



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