

Aviation Group Client Update

Date: May 15, 2012

Contact: Lisa A. Harig, Partner
Washington DC Office
lhurig@mklawdc.com
+1 703 247 5487

NMB PROPOSES CHANGES TO RULES FOR HANDLING REPRESENTATION DISPUTES

Today, the National Mediation Board (NMB) proposed changes to its existing rules for handling representation disputes to incorporate language added to the Railway Labor Act (RLA) by the FAA Modernization and Reform Act of 2012 (the “Act”). Specific changes pertain to run-off elections, showing of interest for representation elections, and NMB’s rulemaking proceedings.

Prior to the Act, NMB aggregated all votes cast for representation, including write-in votes. Once a run-off election was authorized, the election was between two individuals or organizations that received the highest number of votes. Now, RLA amendments require that NMB no longer aggregate votes and that any run-off election will be between the two ballot options that receive the most votes. This can include the “no” option. In addition, NMB will be required to arrange for a second election when no ballot option receives a majority of ballots cast.

For purposes of invoking NMB’s services to investigate a representation dispute among carriers, a proposed fifty percent showing of interest is required to support an application requesting an organization or individual be certified as the representative of any craft or class of employees. The proposed fifty percent threshold also extends to the showing of interest of intervening individuals and NMB’s merger procedures.

NMB seeks comment regarding the effect of the amended statutory language as it pertains to NMB’s policies and practices. Comments are due on or before **July 16, 2012**. If you have any questions regarding the proposed changes or require assistance preparing or submitting comments, please contact our office.

* * * * *

McBreen & Kopko’s Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors’ rights.