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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510–6300

June 30, 2011

Hon. Wilma Liebman
Chairman
National Labor Relations Board
1099 14th St, NW
Washington, DC 20570-1000

Re: Request for delay of public hearing and extension of time to file comments

Dear Chairman Liebman:

We respectfully request that the National Labor Relations Board ("the Board") delay the public hearing scheduled for July 18, 2011 related to the Board's Notice of Proposed Rulemaking ("NPRM") on pre and post-election procedures under the National Labor Relations Act ("NLRA") published in the Federal Register on June 22, 2011. We also request that the Board grant a 90 day extension for the public to file comments in regards to the NPRM. Allowing more time for all stakeholders to prepare public testimony and comments for this proposed rule is essential to ensure an open and transparent rulemaking process.

The current scheduling for the sole public hearing on this rulemaking does not provide sufficient time for stakeholders to determine if they will participate and prepare testimony. The Board announced on Monday, June 27 that interested stakeholders must notify the Board by Friday, July 1 of their intent to speak at the public hearing. This time period is unreasonable and without justification. Interested stakeholders will require more time to become aware of and familiar with the proposed regulation and to prepare for the public hearing. The time-frame you have established will prevent the views of stakeholders who were not aware of this rulemaking before it was announced from being heard.

Notwithstanding the request to delay the public hearing, we also request an extension of time to file comments on the NPRM. Currently, comments are due on Aug. 22. These proposals involve highly complex issues that require stakeholders to spend time analyzing the effect these proposals have. Limiting the time in which stakeholders can submit comments for such a complicated and irregular rulemaking and then providing stakeholders with less than five days to decide whether to participate in the public hearing is simply inappropriate.

Such a condensed timeline is also unparalleled among similarly significant rulemaking proposals from other federal agencies in recent years. The Board has not justified the need for an expedited comment period. At a June 24 congressional staff briefing, an NLRB attorney stated that a 60-day comment period was appropriate because amending election procedure is a fairly routine practice of the Board. Yet, you have stated publically that the NPRM is "controversial." We believe that, due to the significant legal questions involved and the controversial nature of the proposal, stakeholders should have more than minimal time to decide whether to participate in public hearings and to prepare comments for submission. If you have any questions, please contact Frank Macchiarola, Staff Director for the Senate HELP Committee, at (202) 224-6770.

Sincerely,

Senator Michael B. Enzi
Ranking Member, Committee on Health, Education, Labor and Pensions (HELP)

Senator Orrin G. Hatch
Ranking Member, Committee on Finance

Senator Johnny Isakson
Ranking Member, HELP Subcommittee on Employment and Workplace Safety