

BYLAW AMENDMENT - PROPOSAL 1

Amend Section 5.4 (a) and (b) ~ Dues
Submitted by NECA Executive Committee

WHEREAS, the costs related to providing basic support services for membership increase each year; and,

WHEREAS, the previous increase in basic member dues was effective January 1, 1994; and,

WHEREAS, the Financial Future Task Force during their analysis of all revenue sources considered the current dues amounts and recommended a \$100 increase in two steps.

THEREFORE, be it resolved that Bylaw Section 5.4 be amended as follows.

Current Language

Section 5.4. Dues Amounts.

(a) Members located in the United States shall pay one hundred and fifty (150) dollars dues annually plus specified monthly service charges. (See “c” below)

(b) Members located outside of the United States shall pay two hundred (200) dollars dues annually.

Proposed Language

Section 5.4. Dues Amounts.

To be Effective January 1, 2011

(a) Members located in the United States shall pay ~~one~~ two hundred ~~and fifty~~ (~~150~~200) dollars dues annually plus specified monthly service charges. (See “c” below)

(b) Members located outside of the United States shall pay two hundred and fifty (~~200~~250) dollars dues annually.

To be Effective January 1, 2012

(a) Members located in the United States shall pay ~~one~~ two hundred and fifty (~~150~~250) dollars dues annually plus specified monthly service charges. (See “c” below)

(b) Members located outside of the United States shall pay ~~two~~ three hundred (~~200~~300) dollars dues annually.

Comment from NECA National Office:

In response to the decline in revenue in early 2009, the Executive Committee adopted a revised budget for the remainder of the year. The 2010 budget was prepared assuming a similar amount of revenue. During the budget consideration process the Executive Committee supported the appointment of a task force to examine NECA’s revenue sources and suggest changes to existing sources and/or development of new sources. One of the recommendations of the task force was to propose an increase to the annual dues. The task force recommendation was accepted by the Executive Committee and, as a result, this proposal was submitted.

This amendment is recommended **FOR** adoption.

BYLAW AMENDMENT - PROPOSAL 2

Amend Section 3.4 ~ Objects and Purposes
Submitted by the Central Texas Chapter

Current Language

Section 3.4.

Promoting harmonious labor-management relations and the orderly settlement of labor disputes through the Council on Industrial Relations and other appropriate means.

Proposed Language

Section 3.4.

Promoting harmonious labor-management relations and the orderly settlement of labor disputes through the Council on Industrial Relations and other appropriate means, which chapters and/or contractors deem appropriate. No member serving on CIR, on behalf of this association, will impose any permissive subjects of bargaining on any chapter or independent contractor that does not voluntarily agree to include such non-mandatory subjects of bargaining under law.

Comment from Sponsor:

Permissive subjects of bargaining under the *National Labor Relations Act*, as determined by the National Labor Relations Board and federal courts from time to time, may be objected to by either party at any time during bargaining and cannot be insisted upon to impasse, by either party, in negotiations. Moreover, such permissive subjects of bargaining may be unilaterally removed by either party upon termination of an agreement containing these subjects of bargaining. Any decision by an arbiter that includes these items over the objection of either party, may be set aside by a federal court as unenforceable as contrary to national labor policy. Knowing that permissive subjects of bargaining may be removed in federal court, why would the National Electrical Contractors Association and their fellow member contractors continue to impose these items on Employers?

Please note that the National Joint Adjustment Board (NJAB) for the Sheet Metal Industry and other trade councils, have long since ceased imposing these permissive subjects of bargaining on parties who oppose them. For some reason, NECA and the IBEW have not progressed. We would like for you to consider this as a viable change to our National Bylaws.

Comment from NECA National Office:

NECA recommends against this Amendment to bar the CIR from considering so-called permissive subjects of bargaining. There are several reasons for this position. First, there is no consistent agreement in every case by the National Labor Relations Board (NLRB) or the Courts regarding which subjects are permissive and which are mandatory. Although the law broadly establishes “mandatory” subjects of bargaining, it contains no list of “permissive” subjects. These have been developed by the NLRB and the courts. While some permissive subjects are well established, other subjects may be considered permissive or mandatory depending on the facts. Some have claimed that certain subjects are permissive without any reasonable basis to support that contention. But, in many cases there is no set legal precedent establishing that a

specific subject is permissive or mandatory. A claim by one party that a subject is permissive should not serve to exclude that subject from consideration by the CIR. However, the CIR will continue to consider those arguments, as it currently does. Second, permissive subjects are in no way unlawful and the test on whether negotiating a permissive subject becomes unlawful is complex and not an issue that the CIR or any arbitration panel regularly deals with or is equipped to consider. Third, there are certain subjects of bargaining such as Receiving Trusts and Administrative Maintenance Funds that are clearly permissive which are regularly and rather routinely requested by NECA Chapters.

NECA believes it is preferable to allow the CIR to consider these issues on their merits and not to establish a blanket roadblock banning their consideration. The CIR considers each case on a case-by-case basis. Barring all “alleged” permissive subjects of bargaining from being considered by the CIR will create unusual legal complications in an arbitration process that has been successful over the years because it is able to avoid most legal issues that create procedural impediments to the consideration of a dispute on its merits. Only by maintaining this balance will the CIR be able to act in a flexible manner serving the best interests of the Industry as a whole.

This amendment is **NOT** recommended for adoption.

ORDINARY PROPOSAL 1

Replace Standing Policy 2 on National Legislation

Submitted by NECA Government Affairs Committee and Executive Committee

WHEREAS, the Board of Governors is the ultimate governing body for NECA and has the authority to formulate the association's policies; and,

WHEREAS, the Government Affairs Committee is charged with bringing to the attention of the industry national legislation that may impact the industry, subject to the approval of the Executive Committee; and,

WHEREAS, the existing policy does not address federal regulation or political action; and,

WHEREAS, the process prescribed in the existing policy is too cumbersome to be practical when decisions on proposed legislation need to be made in a timely manner.

THEREFORE, be it resolved that the National Electrical Contractors Association adopt the following policy as a replacement for the existing Standing Policy 2.

Proposed Standing Policy 2 National Legislation, Federal Regulation and Political Action

The National Electrical Contractors Association affirms its belief in the American system of free enterprise and the growth of the United States economy and the advancement of the electrical construction industry.

To the extent that legislation or proposed legislation or the administration thereof impacts the industry, NECA will:

- (a) bring such matters to the attention of the membership for it to take action for the protection of its rights and interests;
- (b) take an active part by informing the respective branches of the government as to the views and interests of the industry;
- (c) assess collaborating with other elements of the construction industry and business community;
- (d) keep the industry and the public informed of the effect of the actions and attitudes of the legislators and executive officials with respect to such legislation or the administration thereof; and,
- (e) encourage membership involvement in developing and supporting qualified candidates for federal elective office in order to maintain a favorable legislative environment.

The Government Affairs Committee is responsible for reviewing legislative and regulatory positions at its annual meeting and throughout the year; the Committee reports any new positions or recommended changes on legislative positions to the Executive Committee. The Executive Committee affirms, rejects, or revises the Government Affairs Committee recommendation and includes these positions along with the other existing position in the annual report to the Board of Governors for review at the annual convention. While the Board of Governors and Executive Committee will exercise oversight over all policy and legislative matters, the Government Affairs Committee will be responsible for the tactics and response strategies employed to support, defeat, or amend legislation and regulatory policy.

Existing Standing Policy 2 National Legislation

National Electrical Contractors Association affirms its belief in the American system of free enterprise and the protection of the rights of individuals, minorities and the States.

To the extent that any proposed legislation may threaten the American system of competitive private enterprise or the rights or civil liberties of individuals, minorities or States, NECA should bring such matters to the attention of the industry for it to take such action as it may see fit for the protection of its rights and interests.

Proposed or prospective Federal legislation which has a direct and substantial effect upon the electrical contracting industry shall be reviewed by the Government Affairs Committee at its annual meeting and the Committee shall make appropriate recommendation on each item of such legislation to the Executive Committee and the Board of Governors for their information and consideration. In those instances where the element of time or other consideration precludes such review and recommendation, the President may, at his discretion, as prescribed by Article 8.6 (d) of the Bylaws, conduct a mail ballot on such legislation. In any event, the staff of the Government Affairs Service shall apprise the industry of all significant legislative developments as they occur throughout the year. It is also incumbent upon each member of the Board of Governors to inform the Association of his views on legislation he considers to be of unusual interest or of particular importance.

To the extent that legislation or proposed legislation or the administration thereof would affect the business of electrical contracting, NECA should take an active part independently and in cooperation with other elements of the construction industry:

- (a) to keep its membership, the industry and the public informed of the effect thereof,
- (b) to keep the legislative and executive branches of the Government informed as to the views and interests of the electrical contracting industry in connection therewith,
- (c) to make the industry and the public aware of the action and attitudes of the legislators and executive officials with respect to such legislation or the administration thereof, and
- (d) to encourage electrical involvement in developing and supporting qualified candidates for federal elective office in order to maintain a favorable legislative environment.

(Adopted Jan. 4, 1955)

(Revised Oct. 23, 1965; Oct. 6, 1979; Sept. 30, 1989; Oct. 7, 1995; Oct. 23, 1999)

Comment from NECA National Office:

The ability of the association to respond to actions taken during the federal legislative process is hampered by the existing policy. The proposed policy encompasses a broader range of activities, not only legislative but regulatory, too. Under this revised standing policy, the Board of Governors continues to have the authority to formulate and adopt the policies for the association; the strategies and tactics needed to achieve those policy goals are assigned to the Government Affairs Committee with the oversight of the Executive Committee. This will provide for a more efficient method for accomplishing NECA's legislative and regulatory goals while still relying on the Board of Governors for policy determinations.

This proposal is recommended **FOR** adoption.