




Date: August 16, 2007

Memo To: Members of the NECA Board of Governors

From: J. Michael Thompson, Secretary-Treasurer 

Subject: Proposed Revisions to Bylaws

In accordance with Section 8.8 of the NECA Bylaws, the attached proposals to revise these Bylaws have been properly submitted to be voted upon at the meeting of the Board of Governors to be held at the Moscone Center ~ West in San Francisco, California on Friday, October 5, 2007.

The attached proposed changes, if adopted, shall become effective immediately unless otherwise indicated.

pc: Chapter Presidents
Chapter Managers

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BYLAW AMENDMENT #1 - Proposal to amend Section 8.6 (c) re Ballot Voting (Submitted by the NECA Executive Committee)

Current Language

Proposed Language
{underline indicates new language}

Section 8.6. Meetings of the Board of Governors.

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(c) Voice Voting. In all elections of officers, except when the candidate is unopposed, and in voting on amendments to the Bylaws, the Board of Governors shall take a ballot vote. On other matters, the usual form of viva-voce voting shall prevail with each member of the Board of Governors having one vote, provided any member of the Board of Governors may call for a ballot vote on any question before the question is put to the Board of Governors for a vote.

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When the Board of Governors utilizes a ballot vote, a tally of each vote showing both the number of votes cast, as well as the votes by each Governor, shall be made available to each Chapter.

Comment from NECA National Office:

This Bylaw amendment is proposed to accomplish the intent of Ordinary Proposal #1 adopted at the 2006 board of Governors meeting. The vote on this amendment requires a secret ballot and two-thirds (2/3) majority.

It is recommended to vote FOR this proposal.

BYLAW AMENDMENT #2 - Proposal to add Section 12.2 (f) re Committee Appointments
(Submitted by the Arizona Chapter, NECA and Supported by Majority Vote of the District 5
Council, NECA)

Add New Section 12.2 (f), as follows:

The committee members of the Council on Industrial Relations for Electrical Contracting Industry shall be comprised of 4 regular members, a chapter manager and the Vice President of Labor Relations or his alternate.

Comment from Arizona Chapter, NECA:

It is imperative for the future of our industry to have more contractor involvement. Contractors work in the field on a daily basis and know what issues are important for the survival of their businesses. At CIR it is important for the contractors to have a larger voice, therefore, more contractors need to make up the management appointments. Since all regions have different working conditions, market share, etc., it is important for all regions of NECA to be represented at CIR. The intent of the amendment is to bring more regional knowledge of the issues to the council's attention.

Comment from NECA National Office:

A proposal similar to this was rejected by the Board of Governors last year. The effect of this proposal is that regional executive directors would not serve on the CIR.

The issue of who should serve on the CIR has come up a number of times in the past, leading to the current panel makeup. The Board of Governors established that the panels are to be "selected from among the national staff of the association, the contractor members . . . and/or its chapter managers" and these selections are to be made "without regard to their occupation in the industry."

In practice, panels are comprised of three contractors, one chapter manager, one regional executive director and the Vice President of Labor Relations (or his alternate). The president annually appoints representatives from all regions of the country. The panel co-chairman is a contractor member. This balance of expertise, experience, regional diversification and institutional knowledge has served the industry well.

- The three member-contractors bring knowledge of the day-to-day realities of the marketplace and business operations.
- Chapter managers are the labor relations professionals at the local level and bring important insights to the consideration of each case. They are especially knowledgeable about health care and pension plan matters.
- The regional directors deal with a wider geographic jurisdiction and have detailed knowledge of issues and personalities based on their day-to-day work on these matters in their region.
- The vice president of labor relations brings with him the "corporate knowledge" of agreement language, NECA-IBEW understandings, policies, and commitments, as well as Council interpretations and history.

Thus, each "class" of panel member brings its own strengths to the table. To eliminate any one of these groups would make the management panel less effective. It should also be noted that CIR cases are required to be decided by unanimous vote. Therefore, each member of the Council has equal power to stop any decision that he or she does not agree with and cannot be overruled by a majority vote.

Based on these considerations, it is recommended to vote **AGAINST** this proposal.

BYLAW AMENDMENT #3 - Proposal to amend Section 16.2 re Indemnification (Submitted by the NECA Executive Committee)

Current Language

Section 16.2. Indemnification

Every Officer, Governor, employee and agent (regardless of whether such individual is paid or unpaid) of this Association shall be indemnified by the Association against all expenses and liabilities including counsel fees reasonably incurred or imposed in connection with any proceeding to which they may be made party or in which they may become involved by reason of being or having been an Officer, Governor, employee or agent of the Association except in such matter wherein the Officer, Governor, employee or agent is adjudged to have engaged in willful misfeasance or malfeasance in the performance of duties.

Proposed Language

{~~strikeover~~ indicates deleted language;
underline indicates new language}

Section 16.2. Indemnification

~~Every Officer, Governor, employee and agent (regardless of whether such individual is paid or unpaid) of this~~ The Association shall be indemnified by the Association indemnify the past and present Officers, Governors and employees of this Association against all expenses or liabilities, including counsel attorneys' fees, reasonably actually and necessarily incurred or imposed in connection with any proceeding to which they may be made party or in which they may become involved by reason of being or having been (including any settlement of such a proceeding, as long as this Association approves the settlement) because they were or are acting in their capacity as an Officer, Governor, or employee agent of the this Association (and not for any local, chapter or regional matter), unless they were negligent or subject to liability for misconduct in the performance of a duty in connection with the claims made in the proceeding. except in such matter wherein the Officer, Governor, employee or agent is adjudged to have engaged in willful misfeasance or malfeasance in the performance of duties. The right to be indemnified shall not apply to the extent that the Officer, Governor or employee is, or is entitled to be, indemnified or defended under any insurance policy or other agreement. The indemnification provided by these Bylaws is limited to any excesses over the limits of liability or coverage provided in any insurance policy or other agreement and to amounts paid as a deductible on an insurance policy.

Proposed Final Language

The Association shall indemnify the past and present Officers, Governors and employees of this Association against all expenses or liabilities, including attorneys' fees, actually and necessarily incurred in connection with any proceeding to which they may be made party or in which they may become involved (including any settlement of such a proceeding, as long as this Association approves the settlement) because they were or are acting in their capacity as an Officer, Governor or employee of this Association (and not for any local, chapter or regional matter), unless they were negligent or subject to liability for misconduct in the performance of a duty in connection with the claims made in the proceeding. The right to be indemnified shall not apply to the extent that the Officer, Governor or employee is, or is entitled to be, indemnified or defended under any insurance policy or other agreement. The indemnification provided by these Bylaws is limited to any excesses over the limits of liability or coverage provided in any insurance policy or other agreement and to amounts paid as a deductible on an insurance policy.

Comment from NECA National Office:

This amendment offers several technical corrections to the indemnification section of the NECA Bylaws and was recommended by the Association insurance agent and general counsel. It is intended to narrow the Association's liability while still providing adequate indemnification to officers and employees.

It is recommended to vote **FOR** this proposal.