

BMWED LEGISLATIVE ISSUES – 111TH CONGRESS

Leon Fenhaus

BMWED Journal March - April 2010

HEALTHCARE REFORM

Before its two-week recess in March, the U.S. Congress passed the historic health insurance reform legislation. The House passed the Senate's Patient Protection and Affordable Care Act (H.R. 3590) by a vote of 219-212 on March 21, 2010. Soon after this vote, the House passed the Health Care and Education Affordability Reconciliation Act of 2010 (H.R. 4872) by a vote of 221-211. The reconciliation bill made changes to the Senate bill which included exempting all Americans from the 40 percent excise tax on high-cost insurance plans until January 1, 2018. At that time, the tax will be placed on plans over \$10,200 for individuals and on plans over \$27,500 for families. Dental and vision benefits will be exempt from inclusion in the cost.

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act into law. And two days later, on March 25, the U.S. Senate passed the reconciliation bill by a vote of 56-43. The Senate only required a simple majority rather than the usual 60 votes needed to prevent a filibuster because the bill was considered under budget reconciliation rules. On March 30, 2010, President Obama signed the reconciliation bill into law.

Much of the reform legislation will not take effect until 2013. However, a number of the provisions take effect this year, such as requiring health plans that offer dependent coverage for children to make it available to age 26; creating a temporary reinsurance program to help companies that provide early retiree health benefits for people ages 55 – 64; forbidding insurance companies from excluding coverage for children because of pre-existing conditions; prohibiting insurance companies from cancelling policies when a person gets sick; providing a \$250 rebate for all Medicare Part D enrollees who enter the "donut hole;" giving immediate access to coverage for people with pre-existing conditions; and eliminating lifetime and annual coverage limits.

RAIL SAFETY

In 2004 and 2005, the Teamster Rail Conference surveyed thousands of members of the BLET and the BMWED in order to gain insight into the day-to-day realities of security preparedness on our nation's railroads from the perspective of front line workers. The results were published in September 2005 in a report entitled "High Alert: Workers Warn of Security Gaps on Nation's Railroads."

In late 2008 and 2009 the Rail Conference, in conjunction with the IBT Capital Strategies Department, conducted a follow-up to the original study by once again surveying BLET and BMWED members by asking identical questions to determine if, in the intervening five years, effective steps have been taken to address the security gaps revealed in the 2005 report. The 7,280 surveys completed by the members evaluated the safety and security measures in place on any one workday during the survey period.

The Teamsters Rail Conference has compiled the newly found results in a report that highlights those findings. The new report is titled "High Alert Safe Rails/Secure America 2." The results continue to warn of alarming and dangerous security gaps on our nation's railroads.

On April 15, 2010, representatives from the IBT, the Teamster Rail Conference, the BMWED and the BLET, met with representatives of the Association of American Railroads (AAR) and security representatives of the seven (7) Class I railroads, and a representative from Amtrak to brief them on the results of the "High Alert 2" survey.

On April 22, 2010, copies of the report were distributed to the office of the Secretary of Transportation Ray LaHood; and, senior officials of the Federal Railroad Administration and the Transportation Security Administration. A meeting was requested with these agencies so that they too can receive the same presentation as the carriers.

During the week of April 26, 2010, Legislative Directors Steve Stearn (MD) and Gregory Marston (VA) delivered copies of the "High Alert 2" report to leadership and staff of the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee of Commerce, Science and Transportation; and, to the House Committee on Homeland Security and the House Committee on Transportation and Infrastructure. The Teamster Rail Conference made an offer to present members of these committees with a briefing on the report at their requests.

STB Reauthorization Act of 2009

Although no major action has occurred since mid-December 2009 on the reauthorization bill (S 2889) this bill is still a high priority for the Senate Commerce, Science and Transportation Committee (SCC) that has already

approved a major overhaul of the Surface Transportation Board (STB). S. 2889 would update federal rail transportation policy to reflect changes in the industry occurring since the Staggers Railroad Act of 1980, which was responsible for deregulating much of the industry.

The bill calls for more competitiveness and closely deals with shipper's concerns about covetous pricing and practices. Additionally, this legislation would allow the STB to become a fully independent agency and would no longer have to be under the Department of Transportation's jurisdiction. The STB would then be allowed to investigate rail practices on its own initiative, a reversal from current practices, which allow investigations only after a formal complaint. The board would expand from three to five members; direct the STB Office of Public Assistance, Governmental Affairs, and Compliance to assist shippers with complaints about railroad service and rates; and create a "Rail Customer Advocate" to help rail customers resolve service and rate issues.

This measure allows for certain rate and practice disputes to be resolved by an arbitrator, and it would expand access to expedited review for complaints over rates charged by large railroad companies.

As of March 2010, the SCC continued to meet with Sen. Herb Kohl's (D-Wis.) staff on the still-to-be-inserted antitrust provision. Rail and shipper advocates also continued negotiations on some of the remaining points where controversy still exists, including how passage of this bill would affect all future decisions and precedents. The House has not yet taken a position on this bill.

According to Progressive Railroading, carriers now have some options that they did not have one year ago.

HIGH-SPEED RAIL

The Federal Railroad Administration (FRA) announced on March 31, 2010 that it would begin accepting state applications for \$115 million in planning and construction project funds for high-speed intercity passenger rail. Applications and proposals are due back by May 19. Selection announcements will be made during the summer.