

## **BMWED-IBT**

### **LEGISLATIVE UPDATE**

**OCTOBER/NOVEMBER 2009**

#### **HEALTH CARE REFORM**

Health Care (Insurance) Reform continues to be the dominant issue for Congress. Important incremental progress was achieved during this reporting period.

On Saturday, November 7, 2009, the House approved by a vote of 220 – 215 a legislative package introduced on July 14 that was the product of three House Committees. Thirty-nine Democrats voted against the package and only one Republican, Rep. Anh, “Joseph” Cao of Louisiana voted in favor.

The House package seeks to overhaul private insurance practices and guarantees comprehensive and affordable coverage to an additional 36 million American citizens. Beginning in 2013, the legislation would require for the first time every individual to obtain insurance, and would require all businesses with annual payrolls exceeding \$500,000 to provide coverage to their employees. Employers and individuals who do not comply will be subject to fines. It would greatly expand Medicaid and create a new marketplace where individuals could obtain federal subsidies to buy insurance from private companies or from a new government administered insurance plan (public option).

The House version proposes to pay for the expansion of insurance coverage by reducing Medicare costs by \$400 billion over the next decade, and a variety of taxes, primarily a 5.4 percent surcharge on annual income over \$500,000 for individuals and \$1 million dollars for families which amounts to 0.3 percent of current taxpayers.

The measure approved by the House does not include any proposal to enact an excise tax on employer-sponsored health insurance plans. Congressman Joe Courtney, (D-CT) authored a letter addressed to Speaker Pelosi calling for the

Speaker to reject any proposals to enact such an excise tax. The IBT, including the BMWED and BLET, joined the rest of organized labor in contacting Democratic Members encouraging them to join Congressman Courtney by co-signing his letter. Approximately 200 Members agreed to co-sign prior to the November 7<sup>th</sup> vote.

While the House was addressing its version of health insurance reform, U. S. Senate Majority Leader Harry Reid (D-NV) merged the Health, Education, Labor & Pension and Finance Committee proposals and obtained a Congressional Budget Office (CBO) cost estimate, before moving legislation in the Senate.

On Saturday, November 21, 2009, the Senate considered a cloture vote to approve a motion to proceed with debate on the Patient Protection and Affordable Care Act. A cloture vote ending debate requires a supermajority of 60 votes for passage. The motion carried 60 – 39 without the support of any Republican Senator.

Floor debate is anticipated after the Thanksgiving recess and is expected to be lengthy. It is subject to many proposed amendments, continuing on into December and will be partisan based on public statements by Republican Senators. The Senate Republican leader, Mitch McConnell of Kentucky stated the GOP's opposition will continue. "The battle has just begun," he stated. Senator Orrin G. Hatch (R-UT) said, "It's going to be a holy war."

The Senate version would expand health benefits to 31 million citizens by expanding Medicaid for low-income people, and by providing subsidies to help moderate-income people buy private insurance or coverage under a new government-administered public option, similar to the House legislation. However, the Senate version would permit States to opt out of the public option. It would also add new Medicare benefits and require nearly every American to obtain insurance or pay monetary penalties that are less onerous than the House version. The costs would be paid for by new taxes and fees and by reducing the future growth of Medicare.

Unfortunately, one of the new taxes proposed by the Senate is an excise tax on insurers for higher-cost health plans, the so called “Cadillac health plans” sponsored by employers, including railroads. Under the Finance Committee bill, the tax would be levied at a 40 percent rate on the value of insurance exceeding \$8,000 for individual coverage and \$21,000 for family coverage with some exceptions. Mr. Reid’s bill raises the threshold to \$8,500 for individuals and \$23,000 for families. Even with these modest threshold increases, a recent analysis has concluded the average affected household will pay \$7,600 more in taxes between 2013 and 2019.

The IBT, including the BMWED and BLET, stand with organized labor in opposing the Senate’s proposed excise tax, regardless of the caps, in favor of the House funding approach.

In a rare display of unity, the President and CEO of the American Association of Railroads (AAR) and the respective Presidents of the following five Rail Labor Unions; The Brotherhood of Maintenance of Way Employees Division, The Brotherhood of Locomotive Engineers and Trainmen, The International Brotherhood of Railroad Signalmen, The Transportation Communications International Union and The United Transportation Union co-signed a joint letter that was delivered to all 100 U.S. Senators on November 17, 2009. The letter was delivered in advance of the Senate procedural vote advising them that “Rail labor and management are joining together to express our deep opposition to the inclusion of any provision that would tax high value health care programs negotiated and maintained through railroad collective bargaining.” To BMWED’s knowledge, the rail industry is the only industry that has publicly stated it stands with its employees in opposing the proposed excise tax.

Due to the number of differences between the House and Senate approaches, whatever is adopted by the Senate is certain to require a Conference Committee to reconcile the differences. The BMWED will continue to speak out against and oppose the inclusion of an excise tax on employer-sponsored health plans for as long as the proposal remains under consideration.

- Leon Fenhaus, Director of Government Affairs