

# B M W E JOURNAL

Brotherhood of Maintenance of Way Employees

www.bmwe.org

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## BMW/Teamster Merger Discussions On Track

The merger talks between the BMW and the International Brotherhood of Teamsters (IBT) are progressing well and are on track for reaching a tentative agreement to be voted on by the membership of BMW before years end. The BMW and IBT Merger Committees, and the various sub-committees, have been meeting regularly to fashion an agreement that will be beneficial to the membership of both organizations.

Acting President Simpson stated, "I estimate that we have addressed approximately 70-75% of the issues each side has brought to the table for resolution and inclusion into a merger agreement. I am cautiously optimistic that we can conclude these negotiations in the near future and soon present a merger agreement to the membership for a vote."

The key focus and purpose of a merger with IBT is to increase BMW collective bargaining strength and provide BMW with the additional financial and personnel resources necessary to gain what BMW members deserve at the bargaining table. Hand in hand with collective bargaining

strength, a merger with the IBT will provide BMW with unparalleled legislative clout in Washington, DC, with the full force and strength of the IBT Government Affairs Department, the IBT PAC Fund, and the 1.4 million members of IBT backing the demands of the BMW.

Perry Geller, Acting Secretary-Treasurer reaffirmed that the BMW Committee was committed to hammering out a merger agreement that would be "cost neutral" to the membership. Brother Geller stated, "The BMW Merger Committee will not negotiate a merger agreement that results in a dues increase for BMW members. The Committee is working diligently to structure an agreement that provides synergies and efficiencies to strengthen our efforts at the bargaining table, in organizing, and in the legislative arena without a dues increase to the members. We fully expect this merger to be a win-win for BMW members, and look forward to joining our Brothers and Sisters of the Brotherhood of Locomotive Engineers and Trainmen in the IBT Rail Conference."

The membership of the BLE in the US and Canada (now known as the BLE&T) recently ratified their merger with the IBT by the overwhelming margin of 81% in the US and 63% in Canada. The BLE members in the US became part of the newly established IBT Rail Conference, while their Brothers and Sisters in Canada became part of the Teamsters Canada Rail Conference, an autonomous Teamsters body in Canada with Constitutional ties to the IBT International Union.

BLE&T President Don Hahs stated, "I cannot say enough about the professionals from the IBT whom have worked so hard to make this a successful transition for our organization. The leadership of Jim Hoffa has clearly embraced the team concept, and the various departments of the IBT have worked with us to accomplish our goals. Every time we have asked the Teamsters for help, both before and after the merger, they have been there for us. They have attended our rallies, helped us to lobby Congress and state legislatures, and supported us in countless other ways."

As a preview of the potential to grow the BMW in a strategic merger with the IBT, the BLE and IBT entered into a cooperative arrangement for organizing even before their merger was ratified. In less than two years this joint effort has racked up an impressive number of organizing victories for BLE&T. With the addition of the Louisville and Indiana Railroad in May 2004, the BLE&T has successfully organized nine different shortline railroads in less than 24 months.

These organizing victories have brought more than 750 new members into the BLE&T. The other shortlines recently organized by the IBT/BLE&T are Portland & Western; New York & Atlantic; Great Western Railway of Colorado; St. Lawrence & Atlantic; Utah Railway; Iowa, Chicago & Eastern; Indiana Southern; and the Texas-Mexican Railway. In addition, approximately 2800 former UTU trainmen in Canada also voted to join the BLE&T and the Teamsters Canada Rail Conference.

BMW has entered into a similar cooperative arrangement with IBT in See **MERGER** Page 7

## Funding Approved for Maintenance of Way Fatigue Study

On May 14, 2004 the Office of Management and Budget (OMB) issued OMB Control Number No. 2130-0561 approving data collection for a fatigue study entitled, *Work Schedules and Sleep Patterns of Maintenance of Way Employees*. This study was first announced in the Jan./Feb. 2004 edition of the BMW Journal. The fatigue study, sponsored by the FRA and supported by the BMW, is being conducted by the independent firm of Foster-Miller, Inc. of Waltham, MA.

The overall purpose of the study is to develop a better understanding of the work/rest schedules and sleep patterns of maintenance of way workers and to evaluate the relationship between these schedules and fatigue. Foster-Miller has recently mailed a survey form and log book to 845 randomly selected BMW members nationwide asking them to fill out the survey and keep a work/sleep diary

for two weeks. Participants will be asked to document commute times, work hours, meal periods, and call outs. They will also be asked to comment on the circumstances involving overnight accommodations when held away from home on company business. Those who complete and submit their diaries and questionnaires to Foster-Miller will receive a \$75 gift certificate in appreciation for participating in the survey.

"Fatigue is a huge factor in our industry," says Fred Simpson, Acting President of the BMW. "The expansion of territories, the erratic on-call status of BMW members, work week variations, and inadequate away from home lodging and meal arrangements contribute to an environment where fatigue is the norm. This study is expected to independently document what many BMW members have known for years: Job-related fatigue is an issue within the maintenance of

way craft. Once the causes and effects of fatigue within the maintenance of way craft are documented and analyzed through this study, we can then work to address those issues in an appropriate manner."

Results from the study will be reported to the BMW and FRA only as a whole, not individually. Foster-Miller will delete the names of all participants once the data has been compiled and participants have received their gift certificates.

The study has two primary purposes: (1) It aims to document and characterize the work/rest schedules and sleep patterns of maintenance of way workers (both production and head-quartered employees); and, (2) It intends to examine the relationship between these schedules and the level of alertness/fatigue of individuals who work these schedules under various conditions.

FRA has recently conducted similar

studies involving train and engine personnel and railroad signalman.

BMW Acting President Simpson stated, "I encourage members to participate in this survey study. We will need widespread membership participation in order to collect statistically relevant data. Over the years, we have tried to get the industry to address a number of conditions that contribute to fatigue in the maintenance of way craft. I am confident that this study will help document the relationship between work schedules/working conditions and fatigue. Once the study results are in, I am hopeful that we can utilize the data to address those conditions that contribute unnecessarily to fatigue among BMW members."

BMW will publish a summary of the survey results in a future edition of the Journal once the study is completed.



# Retirement Annuity Estimates and Applications for Unemployment Benefits Available Online

The U.S. Railroad Retirement Board has announced that railroad employees can now get estimates of their future annuities and applications for unemployment benefits over the Internet.

Employees can access these new services by visiting the Board's Web site at [www.rrb.gov](http://www.rrb.gov) and clicking on "MainLine Services" for directions on establishing an RRB Internet Service account. Once employees establish their on line accounts, they will be able to get annuity estimates for themselves and their spouses, apply for unemployment benefits and conduct other business with the Board over the Internet. However, to ensure security, employees must first go online to get a Password Request Code, which they will receive by mail in about 7 to 10 days. Employees are encouraged to establish online accounts so the account is ready whenever they need to use this or other Internet services. Employees who have already established online accounts do not need to do so again.

For annuity estimates, employees will access a "Retirement Planner" which will provide employee and spouse estimates for employees who have not yet retired under the Railroad Retirement Act. The estimates will be based on the service and earnings records maintained by the Board and will show the earliest date the employee can receive a full annuity and, if applicable, the earliest date he or she can receive a reduced annuity. Only railroad employees are allowed to access Retirement Planner; but employees can also use the Retirement Planner to get annuity estimates for their spouses. In addition, employees can view and print a summary of their current record of railroad retirement service months, compensation, and social security wages. By adding service months, compensation, and wages in future years, they can also obtain an estimate based on projected earnings.

For unemployment benefits, employees will be able to file an Internet application. After an employee files

for unemployment benefits, using the Internet application, the Board will mail biweekly claim forms to the employee for completion. Although employees will not be able to file their biweekly claims over the Internet, the Board is planning to add this service and other online services in the future.

These new services are part of the Board's plan to implement comprehensive Internet services that will expand access to information and allow the railroad public to conduct its business with the agency online. For those who choose not to conduct business over the Internet, the

Board's field offices are available to answer in-person, telephone, and written inquiries.

Most Board offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday, except on Federal holidays. Addresses and phone numbers for all Board offices are available by calling the toll-free RRB Help Line at 1-800-808-0772. The RRB Help Line is an automated telephone service available 24 hours a day, 7 days a week. Board office locations and phone numbers can also be found on the Board's Web site, [www.rrb.gov](http://www.rrb.gov).

## Lost Dues Receipts Voided

The following Official Dues Receipts have been lost:

**H-0898203 through H-0898225; and C-1124183**

These OFFICIAL DUES RECEIPTS were lost in the vicinity of **DOUGLAS, WYOMING; and WENATCHEE, WASHINGTON** respectively.

These receipts are hereby declared "VOID" and all members are cautioned not to accept any as receipts. If you should learn of any person trying to sell or use these receipts, please furnish the name and address of this person to the Grand Lodge Secretary-Treasurer.

## BMW E JOURNAL CONTENTS

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The BMW E Journal is the official news publication of the Brotherhood of Maintenance of Way Employees  
An International Union affiliated with the AFL-CIO and CLC

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### Too much is at stake Nov. 2...

YOUR VOTE ON NOV. 2 will determine whether working families have good jobs, affordable health care, education, workplace rights, job safety, civil rights, retirement security and more.

### ...To let them steal the election again.

DELIBERATE VOTING RIGHTS violations in Florida and around the country in 2000 stole the votes from thousands of working families, people of color, retirees, persons with disabilities, new citizen voters and the poor. Lets make sure it doesn't happen again in 2004.

### Act now to protect your vote.

TAKE A FEW SIMPLE STEPS now to make sure your vote is safe, secure and counted on Nov. 2:

- Contact your local election office to check that you are registered to vote and find out where you should vote. Register immediately if you are not. It's easy to register online at [www.myvotemyright.com](http://www.myvotemyright.com) or [bmwe.org](http://bmwe.org), where you also can request an absentee ballot.
- If you do not receive a registration card within three weeks of registering, call the election office to see if there is a problem. If there is, follow instructions to correct the problem or reregister.
- It is particularly important to check your registration or reregister if you have moved, changed your name or have not voted in recent elections.
- Find out whether you can vote early if early voting is allowed in your community—do it.
- Check with your local election office about any new voting procedures or ID requirements and opportunities to practice using voting machines.

For more information, contact your local or national union or the AFL-CIO Civil, Human and Women's Rights Department, 815 16th St., N.W., Washington/ DC 20006 (e-mail: [voting\\_rights@afclcio.org](mailto:voting_rights@afclcio.org)).

# RRB Issuing Statements of Service

Each year, the U.S. Railroad Retirement Board prepares a "Certificate of Service Months and Compensation" (Form BA-6) for every railroad employee who received creditable railroad compensation in the previous calendar year. These forms were mailed to employees by the Board during the first half of June. While the Board has made every effort to compile and keep current a file of the addresses of all active railroad employees, employees for whom compensation was reported in 2003, but who have not received Form BA-6 by July 1, or need a replacement, should contact the nearest Board field office.

Form BA-6 provides employees with a record of their railroad retirement service and compensation. While the form has no cash value, the information shown is used to determine whether an employee qualifies for benefits and the amount of those benefits. It is important that employees review their Form BA-6 to see whether their own records of service months and creditable compensation agree with the figures shown on the form. In checking the 2003 compensation total, employees should be aware that only annual earnings up to \$87,000 were creditable for railroad retirement purposes in that year, and that \$87,000 is the maximum amount shown on the form. To assist employees in reviewing their service credits, the form also shows service credited on a month-by-month basis for 2002, 2001 and 2000, when the creditable compensation maximums were \$84,900, \$80,400 and \$76,200, respectively. In addition, the form identifies the rail employers reporting the employee's 2003 service and compensation. Besides the months of service reported by rail employers, Form BA-6 shows the number of any additional

service months deemed by the Board. Deemed service months may be credited under certain conditions for an employee who did not work in all 12 months of the year, but had creditable tier II earnings exceeding monthly proportions of the creditable tier II earnings maximum for the year. However, the total of reported and deemed service months may never exceed 12 in a calendar year; and no service months, reported or deemed, can be credited after retirement, severance, resignation, discharge, or death. Form BA-6 also shows the number of months of verified military service creditable as service under the Railroad Retirement Act, if the service was previously reported to the Board. Employees are encouraged to submit proofs of age and/or military service in advance of their actual retirement. Filing these proofs with the Board in advance will streamline the benefit application process and prevent payment delays. For employees who received separation or severance payments, the form, in the section designated "Taxable Amount," shows the amounts of any separation allowance or severance payments that were subject to railroad retirement tier II taxes. This information is shown on the form because a lump sum, approximating part or all of the tier II taxes deducted from such payments made after 1984 which did not provide additional tier II credits, may be payable by the Board upon retirement to qualified employees or to survivors if the employee dies before retirement. The amount of an allowance included in an employee's regular compensation is shown under "Compensation Amount." Form BA-6 also shows, in the section designated "Employee Contributions," the cumulative amount of tier II railroad retirement payroll taxes paid by the employee over

and above tier I social security equivalent payroll taxes. While the Board does not collect or maintain payroll tax information, the Board computes this amount from its compensation records in order to advise retired employees of their payroll tax contributions for Federal income tax purposes. Employees should check their name, address, social security number, birth date and sex shown at the top of the form. In order to protect privacy, only the last four digits of an employee's social security number are shown. If the employee's last name shows only five letters, his or her birth date shows as 99-99, and the sex code shows as U(nknown), the Board is verifying his or her social security number with the Social Security Administration. Otherwise, if the personal identifying information is incorrect or incomplete

(generally cases where the employee's surname has more than 10 letters and the form shows only the first 10 letters) or the address is not correct, the employee should contact the nearest Board field office. The field office can then correct the Board's records. This is important in order to prevent identity or security-related problems that could arise if the employee wants to use certain Internet services available on the Board's Web site. Employees can request that printouts of their individual railroad retirement records of service months and compensation be mailed to them. And a PIN/Password is not required to use this service. This service can be accessed simply by visiting the Board's Web site at [www.rrb.gov](http://www.rrb.gov), clicking on "MainLine Services," and selecting the "Request my Service & Compensation History" option.

## A Call Home

by H. M. Tummons

When my husband, the railroader, walks out the door to go to work, it's not for eight hours and then home. It's for at least eight days. He drives to work. But his drives are not just across town or an hour away from home. His shortest drive, since we have been together has been four hours and the longest has been approximately, twenty hours. So depending on where he is going is how much earlier he has to leave.

But let me tell you a little bit about my railroader. He calls me so I don't worry so much. He calls me while he's on the road, when he stops for gas. He tells me about the weather and the traffic and how he is doing. He tells me he loves me. Once he gets to his destination we talk every night. Sometimes not for long and sometimes time flies while we talk.

But he lets me know how his day has gone and what he's had for dinner. He wants to know how my day went and to make sure that I've eaten.

Sometimes he calls me on his lunch break, just to tell me he loves me.

His gang teases him about calling me, but he just tells them that they need to call home and let their "Sweeties" know that they are alright and to let them know that they are being thought of.

Being a railroaders wife could be a lonely life, but with a railroader like mine it's not so hard and it's not so lonely. But it's the life I've chosen because of my love for this railroader.

So if you have to be away from the one you love for any reason, call them and tell them you miss them or that you are thinking of them. But always tell them you love them!

## Benefit Rate Increase for Railroad Unemployment and Sickness Benefits

The maximum daily benefit rate payable for claims under the Railroad Unemployment Insurance Act increases to \$56 from \$55 in the new benefit year, which begins July 1, 2004. Benefits are normally paid for the number of days of unemployment or sickness over four in 14-day registration periods, so maximum benefits for biweekly claims will total \$560. During the first 14-day claim period in a benefit year, benefits are payable for each day of unemployment or sickness in excess of seven, rather than four, which, in effect, provides a one-week waiting period. Initial sickness claims must also begin with four consecutive days of sickness. However, only one waiting period is required during any period of continuing unemployment or sickness, even if that period continues into a subsequent benefit year. Claimants already on the rolls will, therefore, normally not

be required to serve another waiting period because of the onset of the new benefit year. To qualify for normal railroad unemployment or sickness benefits, an employee must have had railroad earnings of at least \$2,800 in calendar year 2003, not counting more than \$1,120 for any month. Those who were first employed in the rail industry in 2003 must also have at least five months of creditable railroad service in 2003. Under certain conditions, employees with ten or more years of service, who do not qualify in the new benefit year on the basis of their 2003 earnings, may still be able to receive benefits after June 30, 2004. Ten-year employees who received normal benefits in the benefit year ending June 30, 2004, might still be eligible for extended benefits, and ten-year employees may be eligible for accelerated benefits if they have rail earnings of at least

\$2,825 in 2004, not counting earnings of more than \$1,130 a month. Application forms for unemployment and sickness benefits may be obtained from railroad employers, railroad labor organizations, any Railroad Retirement Board office, or the Board's Web site at [www.rrb.gov](http://www.rrb.gov). As an alternative to applying for unemployment benefits through the mail, unemployment claimants can instead file electronically through the Board's Web site. This service can be accessed by visiting the Board's Web site and clicking on "MainLine Services" for directions on establishing an RRB Internet Services account. **Employees are encouraged to initiate an online account while still employed so the account is established if they ever need to apply for these benefits or use other RRB Internet services.** After a claimant files an Internet application for unemploy-

ment benefits, the Board will mail biweekly claim forms to the claimant for completion. Although claimants cannot currently file their biweekly claims over the Internet, the Board is planning to add this service and other online services in the future. Claimants with questions about unemployment or sickness benefits should contact the nearest Board office. Most Board offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday, except on Federal holidays. Claimants can find the address and phone number of the Board office serving their area, and also get information about their claims and benefit payments, by calling the toll-free RRB Help Line at 1-800-808-0772. The RRB Help Line is an automated telephone service available 24 hours a day, 7 days a week. Field office locations can also be found on the Board's Web site, [www.rrb.gov](http://www.rrb.gov).



Freddie N. Simpson

# P R E S I D E N T ' S P E R S P E C T I V E

## THE BMW IN CANADA *History in the Making*

**T**he BMW in Canada is at a historic crossroad. On June 8, 2004, the Canada Industrial Relations Board (CIRB) certified the Teamsters Canada Rail Conference (TCRC) - Maintenance of Way Employees Division as the representative of maintenance of way employees on the Canadian Pacific Railway. Under Canadian law, the CIRB is vested with the authority to render

decisions regarding union representation and jurisdiction. This authority is similar to the authority vested in the National Labor Relations Board (NLRB) and the National Mediation Board (NMB) to render decisions regarding union representation and jurisdiction in the United States.

The certification of the TCRC-Maintenance of Way Employees Division culminates a long cooperative joint effort by BMW and IBT to unite the BMW members in Canada with the members of other rail unions within the TCRC, including the Brotherhood of Locomotive Engineers, the operating employees formerly represented by the United Transportation Union, and the Railway Traffic Controllers (Canadian Train Dispatchers).

I feel an obligation as Acting President of BMW to explain to you the circumstances which led to the current situation in Canada. And I also want to share with you my vision of a future where U.S. and Canadian maintenance of way workers are once again united together for the common good of our members in both countries.

In order to fully comprehend the issues surrounding the Canadian move towards separation from BMW, one needs to gain an appreciation for the intricacies of Canadian labor law, and what has transpired internally within the BMW over the past two years since Convention.

Under the Grand Lodge Constitution, the BMW is made up of six "Regions" consisting of the Northeast, Southeast, Northwest, Southwest, Western, and Canada. The Grand Lodge Vice Presidents and Executive Board members are nominated from their respective regions. At the 2002 Grand Lodge Convention, a majority of the more than 500 BMW Local Lodge Delegates from the U.S. and Canada, all of whom were elected through secret ballot by the membership of each Local Lodge, voted to return to "at-large" elections for Grand Lodge Vice President and Executive Board positions, the system that prevailed until 1982. In "at-large" elections, every Local Lodge Delegate votes for every Grand Lodge Officer position regardless of the candidate's regional designation. This is in contrast to the previous system of "regional elections" where Local Lodge Delegates were only allowed to vote for the Vice President and Executive Board member from his or her "region."

You may ask, "why did the Delegates to Convention vote to change from regional to at-large elections for Grand Lodge Officers?" A majority of Local Lodge Delegates to the 2002 BMW Convention obviously believed that "at-large" elections were fairer, more representative, and more democratic than "regional" elections. After all, the Grand Lodge Vice Presidents and Executive Board members are vested with broad authority under the BMW Constitution and Bylaws to make decisions affecting every single member of the BMW in both the U.S. and Canada. Therefore, the Local Lodge Delegates acted to assure their Lodge's ability to vote for, and hold accountable, every Grand Lodge Officer whose decision affects the membership of each Local.

At the time of the 2002 Grand Lodge Convention there were three BMW System Federations in Canada. Less than three weeks after the close of Convention, the two System Federation General Chairmen of the Canadian System Federation and the Eastern System Federation, respectively, signed a letter, as "Executives" of the Central Committee for Canada (CCC), to the Grand Lodge President expressing a strong desire to separate from the BMW. The closing paragraph of that letter stated, in part, "In view of the forgoing, we are attaching our plan in accordance with the Canadian Resolution . . ." As information, the "Canadian Resolution" provides a procedure for Canadian separation from the BMW. The "plan" referenced in the signed letter to the BMW President detailed the creation and structure of a new Canadian union with no ties to the BMW in the U.S.

During the summer of 2003, the Canadian Auto Workers (CAW) seized upon the "CCC Executives" expressed desire to separate from the BMW by commencing a card signing campaign (raid) against the BMW in Canada. The United Steelworkers of America (USWA), not to be outdone by the CAW, wrote a letter to the System Federation General Chairmen in Canada stating, in part, "the USWA in Canada will not sit by as another Organization organizes BMW workers in Canada." The USWA then commenced their own card signing campaign (raid) against the BMW in Canada. The raids were strongly protested by the Canadian Vice Presidents and the BMW Grand Lodge President. The CAW raid petered-out. The USWA refused to stop its raids. And, the Canadian Labour Congress, the equivalent of the AFL-CIO in Canada, failed to enforce its own anti-raiding provisions. This total disregard for the jurisdictional and representational rights of BMW by the CLC opened up the door for other unions to raid BMW in Canada as well.

Even though a host of building trade unions in Canada elect their Canadian officers at-large through their international conventions, the CLC refused to allow the same accommodation to BMW. Indeed, CLC's Chairman Ken Georgetti (a Steelworker!) Refused to act on BMW's complaint against the USWA raid.

During this same relative time period, Grand Lodge was following its Convention mandate by conducting exploratory merger discussions with several unions including, but not limited to, the Steelworkers, the Operating Engineers, and the Teamsters. As a result of these exploratory meetings, and after full consideration and deliberation, the Grand Lodge Officers voted unanimously on behalf of our U.S. and Canadian membership to commence formal merger discussions with the International Brotherhood of Teamsters (IBT).

Both myself and IBT General President James Hoffa wrote letters to Steelworker President Leo Gerard advising him of the merger negotiations between BMW and IBT. I repeatedly asked USWA President Gerard to respect our union's sovereign decision to negotiate a merger agreement between BMW and IBT for our U.S. and Canadian membership. I also requested, in the strongest possible terms, that USWA immediately cease and desist their raid against BMW in Canada. The Steelworkers, however, encouraged and supported by certain BMW System Officers in Canada, refused repeated requests to cease and desist their raid against BMW. In light of USWA's refusal, and in an attempt to protect the rights of BMW members in Canada, I authorized a joint BMW/Teamsters card signing campaign in order to give our Canadian membership a choice, through procedures of the CIRB, regarding which union they wanted as their representative.

A little over four months after I authorized this joint campaign, in a groundswell of support, more than 75% of the membership at CP Rail voluntarily signed Teamsters cards. Those cards were submitted to the CIRB for certification. The choice of BMW members on CP rail to join the Teamsters Canada Rail Conference-Maintenance of Way Employees Division was certified by the CIRB on June 8, 2003. The CIRB will soon resolve a similar representation issue on the Canadian National Railway. Under Canadian Labor Law, the CIRB can certify a union based upon an overwhelming majority of signed cards, or by conducting and supervising a run-off vote where no clear majority is determined in the card count.

Our former CP Rail members are now Teamsters. As this edition of the Journal goes to press, we are awaiting the imminent decision of the CIRB regarding the Board's determination resolving the representation issue on the Canadian National Railway (CN). By all accounts, BMW members on the Canadian National will soon be certified as Teamsters, Steelworkers, or possibly See **PRESIDENT** Page 7



# SECRETARY - TREASURER'S REPORT

## Lawsuit postpones election of Grand Lodge President

**A**s reported in the last edition of the BMW Journal, former BMW President Mac A. Fleming retired, effective April 14, 2004, after an extended medical leave.



**Perry K. Geller, Sr.**

Immediately following Brother Fleming's announcement, Acting President Freddie Simpson ordered a special election to fill the remaining unexpired term for President in accordance with Article I, Section 7(b) of the Grand Lodge Constitution and Bylaws. The date for the special election was set for June 8, 2004.

However, a lawsuit filed by two former Grand Lodge Officers resulted in the U.S. District Court ordering a postponement of the special election until at least September 8, 2004.

Article I Section 7(b) of the BMW Constitution and Bylaws states, in part, "In the event of a vacancy in the office of President or Secretary-Treasurer, the President or Secretary-Treasurer shall immediately set a date for a special election and promptly give notice thereof to all Grand Lodge Officers and System Division and Federation General Chairmen, who shall be the duly qualified electors to fill such vacancy for the remaining term of office and shall cast their votes in accordance with the provisions of Article XXII, Section 14.... The election must be held not more than sixty (60) days from the date the vacancy occurs, or the date it becomes known that a vacancy will exist...."

As reported elsewhere in this Journal, the choice of BMW mem-

bers at Canadian Pacific Railway (CP) to join the Teamsters Canada Rail Conference-Brotherhood of Maintenance of Way Employees Division has been certified by the Canadian Industrial Relations Board (CIRB). A similar certification or order to resolve virtually identical representational issues on the Canadian National Railway (CN) was imminent as this edition of the Journal went to press. We can debate how and/or why this has happened in Canada, but the bottom line is that Canadian maintenance of way employees have made their choice on the CP, and the CIRB will soon certify the membership's choice at CN as well.

Because of the situation involving Canadian separation from BMW, many rank-and-file members and officers of the BMW in the U.S. questioned the eligibility of the Canadian System Federations to vote for President in the special election originally scheduled for June 8, 2004. Many U.S. members argued that the Canadian System Federations should not be allowed to vote in a special election for Grand Lodge President inasmuch as the Canadian System Federations would no longer be affiliated with the BMW Grand Lodge in the United States.

In light of such eligibility questions, and in view of the CIRB's imminent decision to certify a union other than BMW in Canada, Acting President Simpson brought the U.S. membership's concerns regarding the Canadian eligibility question before the Grand Lodge Executive Board for discussion and deliberation. After a full review of the facts, and after extensive debate on the merits, a determination was reached that the Canadian System Federations were ineligible to vote in the special election due to the fact that they would no longer be affiliated with the BMW Grand Lodge. The decision to exclude the System Federation General Chairmen in Canada from voting was made to protect the right of self-determination of BMW members in the U.S. to elect, through their System Federation/Division General Chairman, their choice of President of the BMW. This decision by the Board proved sound and correct

when, on June 8, 2004 (the very day the election was scheduled), the CIRB certified the Teamsters Canada Rail Conference as the new representative of maintenance of way employees at CP Rail.

Upon such determination by the Board, the General Chairmen of the Pennsylvania Federation and Eastern System Federation, jointly filed suit in U.S. District Court seeking a "preliminary and permanent injunction" against the BMW. This lawsuit by two former Grand Lodge Officers sought a court order to declare that the System Federation General Chairmen in Canada were eligible to vote in the special election for BMW President. The lawsuit also sought compensatory damages against the BMW union, and sought BMW Grand Lodge payment for the cost

and attorney fees/expenses of the lawsuit they filed against the Brotherhood. Essentially, their lawsuit sought to require that our members' dues paid to Grand Lodge be used to pay the costs and compensatory damages of their reckless lawsuit.

Thankfully, none of these remedies were ordered by the Court. Rather, the Court ordered a postponement of the election originally scheduled for June 8, 2004 to give the appropriate Canadian authorities (e.g., the CIRB) an opportunity to resolve the representation issues involving maintenance of way employees in Canada. Unfortunately, however, it may well be that the membership of the Pennsylvania Federation and the Eastern System Federation end up saddled with the expenses associated with their General

See **SECRETARY** Page 7

## LOCAL LODGE SECRETARY-TREASURERS ARE AWARDED SERVICE PINS

The following Brothers have been awarded Service Pins in recognition of their dedicated service as Secretary-Treasurer of their respective local lodges:

### 10 YEAR SERVICE PINS

NAME OF SECRETARY	NAME OF LODGE	NO OF LODGE
Curtis L. Martin	Hinton	0130
Ken E. Abeyta	Denver	0014
William H. Speer, Jr.	Wahlen City	0090
James D. Tortorelli	Fisher Peak	0204
Larry J. Cottrell	Klamath Falls	0236
David L. Bowman	Wabash Peru	0287
Tim Boehm	Mandan	0306
David R. Scoville	Colfax	0325
Robert Steele	Greenfield	0347
Michael Mayo	Herington	0376
Ronald A. Randolph	Boone	0437
Matthew Tollison	Hickory	0525
Everett W. Harless, Jr.	Pulaski	0568
Carlen R. Rodewald	Fort Dodge	0626
Carter L. Wilson	Liberty	0665
Eddie G. Gorham	Advance	0686
Michael D. Letcher	Great Falls	0735
Barry S. Stepp	Cincinnati	0885
Wayne J. Sarapata	Norfolk & Portsmouth	0995
Charles W. Hoskins	Success	1047
Robert N. Alley	Sheridan	1074
Wade E. Fisher	M. O. Lodge	1175
Roy J. Storkson	Wilson	1189
Michael E. Hanks	Jefferson	1252
Steven L. Selfors	Minot	1326
Robert K. Hamel	Buffalo	1334
David C. Stanger	Ogden	1348
Steve Wagner	Liberty	1377
Danny R. Hill	Pulask	1427
Fermin E. Quintana	Subordinate	1501
Ken Kots	WM J. Biros Memorial	1514
John W. Reynolds	Burlington	1533
John E. Miller	Nineveh	1632
Jack R. Clarkston	Roachdale	1649
Timothy Watts	Jackson	1745
Thomas J. Hede	Tamaqua	1923
Dennis L. Wall	Lincoln	1980
Tim L. Funk	Freemans	2415
Joseph Gagnon	Lovell Lake	2820
Charles L. Scholes	Effingham, IL	2834
W. H. Whitaker	Grand Junction	2838
Leroy G. Paulson	Black Hills	2852
Robert D. Boncouri	South Pekin Local	2854
Dennis P. Rill		3016

### 20 YEAR SERVICE PINS

NAME OF SECRETARY	NAME OF LODGE	NO OF LODGE
Colin F. Johnson	Terminal	0799
Bernard M. Shannon, Jr	Hub City Lodge	1935
Michael G. Vodhanel		3007

# ROLL OF HONOR

## 60 year MERIT AWARDS

LODGE NAME	SYSTEM	NUMBER	MEMBER SINCE
William A. Davis	FRISCO	0518	1944
James W. Dyal	FRISCO	0493	1944
W. L. Evans	FRISCO	0493	1943
Walker W. Hance	FRISCO	0493	1944
Allen J. Merrill	CRSF	0201	1942
William A. Morgan	FRISCO	2600	1944
James A. Pringle	UN PAC	0918	1936
John R. Smith	FRISCO	1251	1943
Alfred G. Taylor	FRISCO	1547	1944

## 50 year MERIT AWARDS

LODGE NAME	SYSTEM	NUMBER	MEMBER SINCE
Eleroy C. Ayers	BURL	1105	1950
John E. Belfur	FRISCO	1600	1952
Thomas P. Carter	FRISCO	1251	1948
Andrew Felix	C&NW	1071	1944
J. D. Frazee	ICGF	0654	1953
Samuel T. Gibson	FRISCO	0518	1952
Elmer D. Gray	FRISCO	0493	1948
Cecil Lape	FRISCO	0745	1948
Vivian Montoya	UN PAC	0918	1953
Cornelio S. Montoya Sr	UN PAC	0918	1952
Francisco M. Perez	C&NW	0342	1944
Mark C. Plumb	FRISCO	0493	1952
Marion M. Spackman	UN PAC	0918	1951
Frank S. Stopyra	CRSF	0201	1952
James T. Thomas	FRISCO	1547	1948
Harold G. Vickery	FRISCO	1600	1947

## 40 year MERIT AWARDS

LODGE NAME	SYSTEM	NUMBER	MEMBER SINCE
Vincete C. Aguilar	C&NW	2853	1964
Martin L. Hayes	FRISCO	0518	1962
Maurice L. Sheldahl	C&NW	1935	1954
Harold G. Wood	FRISCO	0355	1962

## 30 year MERIT AWARDS

LODGE NAME	SYSTEM	NUMBER	MEMBER SINCE
Dennis R. Albers	AEF	1162	1972
Larry V. Allen	FRISCO	1547	1972
Anton J. Andersen	BURL	1105	1973
Charles W. Angel	FRISCO	0745	1972
James M. Angel	FRISCO	0745	1972
Mark Applegate	SP ATL	0376	1973
Charles M. Artz III	CRSF	0201	1968
Dennis Barsamian	CRSF	0201	1969
Kenneth D. Bergeron	CRSF	0201	1971
Manuel Bettencourt	CRSF	0201	1970
R. M. Black III	FRISCO	2033	1972
Mike L. Bonacci	BURL	1105	1973
Thomas J. Bonner	FRISCO	1600	1972
David H. Booth	UN PAC	0918	1972
Roger R. Boudreault	CRSF	0201	1971
L. F. Box	FRISCO	1600	1972

James E. Brown	C&NW	1097	1973
Donald J. Cheever Jr	CRSF	0201	1972
Hal R. Choate	FRISCO	0493	1972
C. R. Clark	FRISCO	0518	1972
Charles D. Clark	CRSF	0201	1973
Richard D. Clayton	C&NW	1046	1974
James R. Connor	AEF	0670	1974
Daniel E. Considine	CRSF	0201	1972
James K. Copeland	FRISCO	0493	1972
James D. Craker	FRISCO	0493	1972
Larry L. Curl	SOU	0627	1974
Curtis D. Davis	FRISCO	1251	1971
James R. Deaton	FRISCO	0493	1972
Ronald R. Dumais	CRSF	0201	1972
Danny R. Elliott	FRISCO	0745	1972
Dominick Fauci	C&NW	1046	1974
Michael J. Flaherty	CRSF	0201	1968
John J. Ford	CRSF	0201	1970
Thomas Glenn	CRSF	0201	1967
Herman T. Goodwin	CRSF	0201	1966
Jerry J. Hagan	SP ATL	0376	1973
Freddie L. Hampton	FRISCO	2600	1972
Jerry W. Hankins	BURL	1105	1973
Joseph L. Hansis	CRSF	0201	1970
Everett W. Harless Jr	ASF	0568	1971
John T. Hepperly	C&NW	1046	1974
Robert F. Horgan	CRSF	0201	1972
Jack L. Huffman	BURL	1105	1972
Robert W. Jackson	BURL	1105	1972
Robert L. Jensen	BURL	1105	1974
Bill W. Johnson	AEF	0670	1974
Bruce W. Johnson	CRSF	0201	1973
L. D. Keifer	BURL	1105	1972
James D. Kelsey	FRISCO	1251	1972
Kenneth J. Kendall	BURL	1105	1973
Michael W. Kendall	BURL	1105	1972
Dennis L. Keraghan	CRSF	0201	1970
Russell A. Larimer	BURL	1105	1970
Henry Lee	UN PAC	0918	1967
Paul F. Liebfried	CRSF	0201	1971
Raymond H. Lobato	UN PAC	0918	1971
Jimmy E. Loftis	FRISCO	0493	1972
Perry G. Logan	C&NW	1046	1974
Robert L. Lucas	FRISCO	1600	1971
Thomas R. Mangiafico	CRSF	0201	1972
Jose G. Martinez	UN PAC	0918	1968
Jose G. Martinez	UN PAC	0918	1968
Trinidad P. Martinez	UN PAC	0918	1966
Luther A. Massey Jr	FRISCO	2033	1972
David Mc Afee	FRISCO	0493	1972
Timothy J. Mc Carthy III	CRSF	0201	1972
Tim A. Mc Cluskey	BURL	1105	1971
Dean A. Mc Donald	FRISCO	0518	1972
Thomas J. Mc Kinnon Jr	CRSF	0201	1972
Paul D. Mc Lain	C&NW	1125	1974
Sammie G. Metcalf	FRISCO	0355	1972
Ernest H. Millette	CRSF	0201	1969
Cornelio Montoya Jr	UN PAC	0918	1966
Gary R. Neman	BURL	1105	1971
Cornelius P. O Leary	CRSF	0201	1973
Eddie J. Ousley	FRISCO	2600	1972
John J. Pateleena	CRSF	0201	1972
Donald H. Pearce	BURL	1105	1970
Ronald E. Pelletier	CRSF	0201	1973
Jose F. Pereira	CRSF	0201	1971
William A. Perry	CRSF	0201	1970
J. W. Philippi	BURL	1105	1970
D. R. Phillips	FRISCO	0493	1972
Jose M. Pinto	CRSF	0201	1971
C Eddie Pitts	FRISCO	0518	1972
Terry W. Prough	C&NW	0342	1974
Darrell R. Rasdall	UN PAC	0918	1971
William P. Rice	CRSF	0201	1972
Stephen T. Rivers	CRSF	0201	1972
Arturo Romero	UN PAC	0918	1973
Kenneth D. Rose	FRISCO	1251	1972
Robert L. Rothermich	FRISCO	0493	1972
Randy T. Royston	FRISCO	0493	1972
Wayne K. Russell	CRSF	0201	1972
Michael P. Sherer	C&NW	1788	1974
Jose I. Silveira	CRSF	0201	1970
Dale L. Squibb	UN PAC	0918	1973
Ed R. Sundquist	UN PAC	0918	1972
David D. Tanner	UN PAC	0918	1972
Donald G. Taylor	FRISCO	1600	1972
Raymond A. Thomas	FRISCO	0493	1972
Wayne D. Timmerman	BURL	1105	1973
Robert T. Trujillo	UN PAC	0918	1967
Terry E. Turner	FRISCO	0493	1972
William D. Turner	FRISCO	1600	1972
Jerry A. Underwood	FRISCO	0518	1972
John S. Volker	BURL	1105	1971
Gene F. Waage	BURL	1105	1973
Ray A. Wagstaff	UN PAC	0918	1971
Boyd L. Warner	UN PAC	0918	1973
John L. Webb	FRISCO	0493	1972
John F. Williams	UN PAC	0918	1973
James E. Wilson	C&NW	1046	1974
Lonnice G. Wooten	FRISCO	1547	1972
Nicholas L. Yochum	BURL	1105	1971

## 20 year MERIT AWARDS

LODGE NAME	SYSTEM	NUMBER	MEMBER SINCE
Ed E. Blackburn	FRISCO	0493	1978

Joseph N. Blowey	CRSF	0201	1972
Willie R. Brooks	FRISCO	1600	1982
David H. Christian	CRSF	0201	1974
Luis R. Colon Vasquez	SP ATL	0376	1981
Gerald P. Courtney Jr	CRSF	0201	1983
Alfrazier Dean	FRISCO	2600	1982
Timothy J. Farr Jr	SP ATL	0376	1979
David J. Fitzgerald	CRSF	0201	1979
Richard Flynn	FRISCO	1600	1980
Leonard Ford-bey	CRSF	2627	1976
James D. Gibbons	FRISCO	0745	1982
Thomas L. Greenwood	FRISCO	1251	1982
Bradley C. Hamilton	BURL	1105	1980
Brian D. Hichert	BURL	1105	1980
R Tommy Hulsey	FRISCO	1600	1982
John J. Hussey	CRSF	0201	1979
Ernest S. Jim	UN PAC	0918	1981
James B. Johnson	FRISCO	0493	1983
Rodger M. Johnson	BURL	1105	1982
George N. Jones	FRISCO	2033	1982
Mark S. Kruse	AT&SF	2410	1984
John W. Lamons Jr	UN PAC	0918	1981
Norman E. Long Jr	CRSF	0201	1974
Bradley Morgan	SP ATL	0376	1977
Robert W. Morris	CRSF	0201	1979
Denis P. O Connell	CRSF	0201	1980
Stephen C. O Malley	CRSF	0201	1978
Peter Popczuk	CRSF	0201	1989
Joseph L. Powers	CRSF	0201	1978
Michael A. Rivera	AT&SF	2418	1984
Paul G. Robertson	CRSF	0201	1976
Richard C. Ryder	CRSF	0201	1980
Pablo Sanchez	UN PAC	0918	1981
Robert P. Schultz	FRISCO	0745	1982
Gary R. Stall	BURL	1105	1980
Brian E. Sullivan	CRSF	0201	1977
Jim E. Watson	UN PAC	0918	1981
G. E. Welker	FRISCO	0745	1982
Derek T. Wood	CRSF	0201	1975

## 10 year MERIT AWARDS

LODGE NAME	SYSTEM	NUMBER	MEMBER SINCE
Dirrick R. Adams	FRISCO	0745	1994
Alvin W. Andres Jr	SP ATL	0376	1984
Kenny R. Avery	FRISCO	1600	1992
Mark T. Benecke	FRISCO	0493	1992
Dana E. Bertini	CRSF	0201	1989
Allen R. Birchfield	FRISCO	0361	1992
Andrew J. Black	CRSF	0201	1985
Phillip T. Blair	UN PAC	0918	1992
Henry M. Blais	CRSF	0201	1988
Justin D. Boyd	FRISCO	0518	1992
Thomas E. Brabec	BURL	1105	1992
Jeff S. Buelt	BURL	1105	1992
Robert A. Calhoun	CRSF	0201	1990
David A. Carpenter	FRISCO	0493	1992
Donnie R. Carter	FRISCO	1600	1993
Ryan M. Case	UN PAC	0918	1993
Nicholas T. Cibotti Jr	CRSF	0201	1990
Richard C. Conlon Jr	CRSF	0201	1988
Gordon M. Corbett	UN PAC	0918	1992
Jackie D. Couey	FRISCO	1547	1992
David A. Courage	CRSF	0201	1990
John M. Cronin	CRSF	0201	1985
Daniel L. Dail	FRISCO	0518	1993
Joseph M. Donovan	CRSF	0201	1989
Timothy T. Donovan Jr	CRSF	0201	1990
Howard M. Dugger	FRISCO	0361	1993
James V. Ferraro	CRSF	0201	1992

David E. Fotos	CRSF	0201	1989
David Garrity	CRSF	0201	1989
Brian D. Gedicke	FRISCO	0493	1993
Stanley M. Gentry	FRISCO	0745	1993
Arthur J. Gerrish Sr	CRSF	0201	1987
Destrey Gibson	FRISCO	0355	1992
Mark F. Gorman	CRSF	0201	1988
Robert P. Goscinak	CRSF	0201	1988
Wade L. Grider	FRISCO	0361	1993
Gary A. Griggs	FRISCO	0493	1992
Carl W. Hamrick	FRISCO	0493	1992
David R. Haskins	CRSF	0201	1985
Van E. Helm	UN PAC	0918	1993
John J. Hickey	CRSF	0201	1989
Michael W. Hill	FRISCO	1251	1991
Tommy D. Howerton	FRISCO	0355	1992
Aaron D. Hurst	FRISCO	2600	1993
Keith D. Jones	FRISCO	0493	1992
Marion E. Jones	FRISCO	0493	1991
Curtis A. Jordan	CRSF	0201	1988
Mark H. Jordan	CRSF	0201	1991
John M. Lentz	CRSF	0201	1989
Rafe A. Lovelace	FRISCO	0493	1992
Jesus A. Lujan	UN PAC	0918	1990
William F. Lyons	CRSF	0201	1989
Charles N. Mac Lean	CRSF	0201	1989
John F. Maisey	CRSF	0201	1986
M. D. Makinen	UN PAC	0918	1991
Dennis S. Mann	FRISCO	0493	1993
Michael K. Marshall	FRISCO	0493	1993
Donald F. Martinez	UN PAC	0918	1992
Jim W. Mc Bee	UN PAC	0918	1992
Bernie G. Mc Bryde	SP ATL	0376	1992
Douglas F. Mc Clellan	CRSF	0201	1990
James L. Mc Cord	CRSF	0201	1984
Douglas A. Mckay	CRSF	0201	1989
Michael J. Meurling	CRSF	0201	1989
Gregg R. Moister	CRSF	0201	1989
Kenneth R. Monden	FRISCO	0361	1993
Richard L. Monroe	FRISCO	0745	1993
Paul R. Morris	FRISCO	0518	1992
Gregory L. Moseley	FRISCO	0518	1992
Dave N. Mullaney	CRSF	0201	1987
Joseph J. Murphy	CRSF	0201	1987
Scott P. Murphy	CRSF	0201	1989
Joe M. Neves	CRSF	0201	1989
Robert T. O Brien	CRSF	0201	1985
Gerald D. Olson	FRISCO	0745	1992
Larry M. Owens	FRISCO	0493	1992
Tony L. Owens	FRISCO	0493	1992
John P. Perrin	CRSF	0201	1987
Philip S. Perusse	FRISCO	0355	1992
Frank L. Ponzer	FRISCO	0493	1992
Jeffrey L. Pyle	FRISCO	0493	1993
Clifford M. Rees	FRISCO	2600	1993
John P. Roberts	UN PAC	0918	1993
Matthew L. Savor	UN PAC	0918	1992
Chester A. Saylor	FRISCO	0355	1993
Robert Shanley	CRSF	0201	1988
Robert Shaponick	CRSF	0201	1987
James M. Simpson	FRISCO	0493	1992
Jeffrey L. Smith	FRISCO	1251	1992
Berlin St John III	FRISCO	0493	1992
Samuel P. Starks	FRISCO	0493	1994
Gregory A. Sumner	FRISCO	1251	1992
Lance D. Sumner	FRISCO	1251	1992
Paul L. Sylvester	CRSF	0201	1992
Richard D. Thomas	CRSF	0201	1990
N Jeff Thomason	FRISCO	0745	1993
Robert B. Tribble	FRISCO	1600	1993
Jerry D. Truitt	FRISCO	2600	1993
Derek C. Vance	FRISCO	2600	1993
John A. Wadlow Jr	FRISCO	0493	

## BMW Legislative Issues – 108th Congress

Continued from Page 8

will be given background checks similar to those given to U.S. drivers; require carriers to retain shipping papers for longer periods of time; and increase penalties for those who violate federal hazmat laws. These and other provisions in the House and Senate reauthorization bills will enhance the ability of workers to ensure that hazardous materials are transported in the safest way possible and, in the unfortunate case of an accident or terrorist attack, that first responders are properly trained to address the problem and ensure public safety.

In addition, HMTA reauthorization must not be used as a vehicle by the industry groups to eliminate the Occupational Safety and Health Administration's (OSHA) authority to protect hazmat employees.

### Amtrak (Reform; Reauthorization), High Speed Rail

Senate Commerce Committee Chairman John McCain (R-AZ) introduced Amtrak reform legislation, that similar to the Administration's proposal, would dismantle Amtrak, pass costs along to the states, and insist that certain services be turned over to the private sector or eliminated.

The bill introduced on April 8 would require the Amtrak Board, within six

months after enactment, to separate Amtrak into two entities: (1) the National Railroad Passenger Corporation (NRPC) to provide overall supervision of the restructuring of intercity passenger rail; and (2) the American Passenger Railway Corporation (APRC), which would be responsible for conducting passenger operations, infrastructure maintenance, and related services.

The bill also creates a Long Distance Route Restructuring Commission, whose seven members are to be appointed by the President without any approval by the Senate or input from stakeholders, including labor. The bill also calls for the creation of an interstate to manage rail operations and rail service (and related activities) on the Northeast Corridor (NEC).

The bill does include some language on collective bargaining and employer status. Specifically, any entity providing inter-city passenger rail after the enactment of this Act will be considered an employer for purposes of the Railroad Retirement Act and the Railway Labor Act. In addition, a new passenger carrier that replaces the services of a current carrier, is required to enter into an agreement with represented employees that gives those employees priority of rehiring and establishes rates of pay rules and working conditions.

## SECRETARY-TREASURER

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Chairmen's lawsuit.

By order of the United States District Court for the Eastern District of Michigan, the Honorable Judge Gerald E. Rosen directed the parties' counsel to draft an Order that postpones the election to fill the unexpired term of the BMW Grand Lodge President until at least September 8, 2004. This postponement of the election by the Court was expressly ordered to allow the Canadian Industrial Relations Board (CIRB) additional time to resolve the representation issues in Canada. Since the Judge's order, issued in May 2004, the CIRB has certified the Teamsters Canada Rail Conference-Brotherhood of Maintenance of Way Employees Division as the representative of CP Rail maintenance of way employees in Canada. As mentioned above, the CIRB will soon rule on similar representation issues involving the maintenance of way craft on CN. After these issues are resolved in Canada, and such results are reported to the Court, an election to fill the unexpired term of BMW President will be scheduled.

The lawsuit filed against your union by the Pennsylvania Federation and the Eastern System Federation resulted in a postponement of the special election for Grand Lodge President. The Court did not find fault with the Executive Board's determination, nor did the Court impose an injunction against Grand Lodge or order Grand Lodge to pay their attorney fees and expenses as requested by the plaintiffs.

It is my humble opinion that the Court's decision appropriately recognizes Canada's right to self-determination and the sovereign authority of the CIRB to resolve the issues involving representation of maintenance of way employees in Canada. And the Court has also appropriately recognized the U.S. membership's right to self-determination, including the right to elect their BMW President. It is unfortunate, however, that the legal posturing of two former Grand Lodge Officers has resulted in the postponement of the election and has prevented, at least temporarily, the qualified BMW electors from carrying out their responsibility to fill the unexpired term of President in accordance with the Constitution and Bylaws of the BMW.

## PRESIDENT'S PERSPECTIVE

Continued from Page 4

CAW. The decision by the CIRB will be based upon the wishes of the Canadian membership at CN, either through a majority certification by the CIRB or through a run-off election supervised by the CIRB. Regardless, just as at CP, the decision of the CIRB will be based upon the expressed will of the CN membership through the exercise of each members' sovereign right of freedom of association and self-determination.

The railroads in the U.S. and Canada have merged together into larger and more powerful entities.

## BMW/Teamster Merger Discussions On Track

Continued from Page 1

advance of finalizing a merger agreement with IBT. IBT and BMW recently held a joint 2-day training session on the National Labor Relations Act for BMW Union Pacific System Division officers and newly organized BMW members at Nortrak, a track component manufacturing plant in Cheyenne, WY. BMW and IBT are also cooperating jointly on matters related to Amtrak, shortlining, rail security, job protection, organizing, asbestos tort reform, hazmat reauthorization, and a host of other matters affecting BMW members nationwide.

Because the draft merger agreement between the BMW and IBT is still a work in progress, it is not possible to address specifics in this article. However, some of the highlights and goals of the draft merger agreement include the preservation of BMW autonomy, coordination of activities with the BLE&T and the IBT Rail Conference, coordination of rail issues with other unions and the AFL-CIO, no dues increase for BMW members as a result of the merger, increase BMW collective bargaining strength and gain the additional resources necessary to secure stronger contracts for BMW members, increase organizing and education within the BMW, and provide BMW with the political and legislative clout of a 1.4 million member strong union.

Under the draft merger agreement, BMW's autonomy is preserved. BMW will continue to elect its own Grand Lodge Officers, System Federation/Division Officers, and BMW Convention Delegates from among the ranks of the BMW. Only BMW members will be eligible to be nominated and elected to BMW office, including delegates to BMW Conventions. The BMW Division will continue to hold its Convention every 4 years as currently provided in the Grand Lodge Constitution and Bylaws. In addition, the BMW structure of autonomous System Federations/Divisions and Local Lodges would remain largely unaffected by the merger agreement, and

every System Federation/Division will retain its authority to amend their Bylaws and structure as currently allowed.

Elections for IBT International office and delegates to the IBT Convention will be conducted under the applicable provisions of the IBT Constitution. BMW officers and members will be eligible to run for IBT International office and as BMW delegates to the IBT International Convention.

In other merger related news, the Canada Industrial Relations Board (CIRB) certified the Teamsters Canada Rail Conference (TCRC) - Maintenance of Way Division, as the representative of maintenance of way employees on the Canadian Pacific Railway. The certification, which became effective on June 9, 2004, culminates a long cooperative joint effort by BMW and IBT to unite BMW members on CP Rail with the other rail unions in the TCRC, including the Brotherhood of Locomotive Engineers, the United Transportation Union, and the Railway Traffic Controllers (Canadian Dispatchers).

The CIRB is expected to rule on a similar application for certification pending before the Board for representation of maintenance of way employees on the Canadian National Railway. In a press release dated June, 9, 2004, Acting President Simpson stated, "Today I congratulate the maintenance of way employees on the Canadian Pacific Railway. At long last, the Canada Industrial Relations Board has acknowledged their choice of the Teamsters as their collective bargaining representative. And now, it is time for the CIRB to resolve the representation issue on the Canadian National as well. I am optimistic that if all goes well, the maintenance of way employees of our two countries will soon be united under the banner of the International Brotherhood of Teamsters."

Responding to questions regarding a merger ratification vote in the United States, Acting President Simpson stated, "I have every confidence in the membership of our great union to comprehend what's at stake, and I am very comfortable in putting the fate of our union, and the fate of each and every one of us, in their hands. Every member has a vested interest in this merger, and I encourage every member to actively participate and vote when the agreement is put before them in a ballot referendum. We are all in this together, and we will be guided by the will of the membership."

Additional updates regarding the progress of merger discussions between BMW and IBT will be provided in future editions of the BMW Journal, on the BMW website [www.bmw.org](http://www.bmw.org) and through other means of communication.

# BMW Legislative Issues – 108th Congress

**B**MWE's Department of Government Affairs in Washington, D.C. is currently working on the following legislative issues. You may also track these issues and more at our main website [www.bmwe.org](http://www.bmwe.org) (clicking on the BMW Legislative link) or go to [www.bmwewash.org](http://www.bmwewash.org) for a complete legislative update.

## Asbestos (FELA)

At the end of April, after cloture was not invoked on S. 2290, the Hatch-Frist asbestos bill, Senate Leaders Frist (R-TN) and Dashle (D-SD) asked Judge Edward R. Becker, a former federal judge, to mediate negotiations between defendant companies, insurers and organized labor. Judge Becker became involved in the issue last summer at the request of Sen. Arlen Specter (R-PA).

In a press statement, AFL-CIO President John Sweeney expressed disappointment that after a year of intensive efforts the level of funding which business and insurers were willing to support was inadequate to fund fair compensation values for victims. Nonetheless, Sweeney said the AFL-CIO remains committed to seeking fair compensation for asbestos victims.

It remains unlikely that a bill will get passed this year, however, if there is some progress on a consensus, that would put the bill at the top of the agenda for the next Congress.

## Rail Security

On May 5, Ed Wytkind, President, Transportation Trades Department, AFL-CIO, testified at a hearing on railroad security chaired by Jack Quinn (R-NY), House Subcommittee on Railroads, T&I Committee.

Wytkind stressed the need for a rail security bill that benefits from the insight of front-line workers and gives them the tools they need to help make our rail system as secure as possible. He noted the Administration has done little to harden the vulnerable rail targets, ensure the training of employees or provide the level of funding that is so desperately needed for training, new technology deployment and infrastructure improvements. He stated,

"Carriers must be required to follow security procedures, employees must be trained and afforded whistle-blower protections, unregulated remote control locomotive use must stop, and rail yards, facilities and locomotives must be secured."

On May 13, Reps. Eleanor Holmes (D-DC) and Jim Turner (D-TX) introduced the Safe Transit and Rail Awareness and Investments for National Security Act (Safe TRAINS Act). It was referred to the Transportation and Infrastructure Committee.

Rail Labor worked with the Select Committee on Homeland Security to include in the bill training language, good whistleblower protections, and adding the unions to a list of groups that the Department of Homeland Security is required to consult with. The Committee did not accept our recommendation that would allow for the removal from the industry management officials who willfully and dishonestly harass employees for reporting security concerns. Nor did they accept our request that labor unions be eligible to receive grant money to train their members.

On June 1, Rep. Stephen Lynch (D-MA) introduced the Rail Transit Safety and Security Act of 2004 (H.R. 4476) that would overhaul training for rail workers, expand safety and communications systems, and improve emergency preparedness of America's rail networks and personnel. The bill will authorize \$640 million for improvements to Amtrak's Northeast Corridor tunnels; \$2.5 billion for capital security assistance grants; \$1.35 billion for operational security assistance grants; and 50 million for research and development. The legislation incorporates the findings of the Northeast Rail Security Summit, which was held in Boston on April 30, and hosted by Congressman Lynch.

Also in June, Reps. Don Young (R-AK), Jack Quinn (R-NY) and Jon Porter (R-NV) introduced The Protecting Railroads against Enemy Efforts through Modernization, Planning and Technology Act (PREEMPT). The bill (H.R. 4604) requires a comprehensive

DOT-DHS rail transportation security plan. It authorizes \$1.1 billion to improve the safety and security of our rail infrastructure, communications and operational systems, and railroad employees, including \$570 million to improve the safety and security of the Northeast corridor rail tunnels in New York City, and money for upgrades to the tunnels in Baltimore and Washington, DC. Also included is funding for redundant power, communications and train control systems to ensure continued operation in the event of a catastrophe, and for new technologies, such as automated freight car inspection, right-of-way security monitoring, and emergency bridge repair systems. In addition, PREEMPT will provide grants for station security, improved public awareness programs, additional canine patrols and other measures to ensure public and employee safety.

Rail Labor is reviewing the above bills, and will work toward improving them as they make their way through the legislative process.

## TEA Reauthorization

On May 19, Senate Republican and Democratic leaders ended their stand-off, and agreed to allow the six-year transportation reauthorization bill to go to conference. Minority Leader Dashle (D-SD) and Majority Leader Bill Frist (R-TN) agreed that Republicans would not sign a conference report that did not reflect the bipartisan consensus achieved when the Senate passed its version of the bill in February. The negotiators will now have to work out differences between H.R. 3550 (authorizes \$283 billion) and S. 1072 (authorizes \$318 billion). The White House has said that President Bush would veto either version because both exceed the \$256 billion he recommended.

The Democratic Leadership of the full House and the Transportation and Infrastructure Committee sent a letter dated May 20 to President Bush criticizing the inadequate funding provided in the Administration's TEA-21 reauthorization. The letter highlights the fact that the President's continued insis-

tence on a \$256 billion bill would actually mean cuts in real spending for Federal highway and transit programs by almost \$3.3 billion by FY 2009 and would eliminate more than 150,000 good jobs.

Senate and House conferees met on June 9 and June 23 and approved a slate of non-controversial provisions of the bill. What remains unclear is how the 73 member panel would tackle the No. 1 issue: total funding for the bill. Transportation Secretary Norman Mineta sent a letter to the conferees reiterating the administration's opposition to the funding levels in both bills.

Congress passed a fourth extension of the current surface transportation law that will keep highway and transit programs running through July 31.

## Hazardous Materials Transportation Act (HMTA) Reauthorization

Transportation Labor worked with staff on the House Transportation & Infrastructure Committee and the Senate Commerce, Science, and Transportation Committee to craft a bipartisan HMTA reauthorization bill that was included in the TEA-21 reauthorization bills. Some industry groups are urging conferees to sever the hazardous materials transportation title from the final surface transportation reauthorization bill. The Transportation Trades Department (TTD) sent a June 4 letter to conferees stating that we strongly oppose any attempt to sever the HMTA title and urge the conferees to include a HMTA reauthorization in the final TEA-21 reauthorization conference report.

The letter states that Transportation labor believes that any HMTA reauthorization legislation – as a combination of both House and Senate bills – must include increased funding for training emergency responders and hazmat employees; guarantee that all workers who handle hazardous materials be provided general awareness/familiarization, safety, and function-specific training; retain existing law to forbid the removal of placards from hazmat shipments; ensure that drivers of Mexican and Canadian domiciled motor carriers

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