

**BYLAWS**  
of the  
**BROTHERHOOD OF  
MAINTENANCE  
OF WAY  
EMPLOYEES  
DIVISION**

of the  
**International  
Brotherhood  
of Teamsters**

**2010**





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**BROTHERHOOD OF  
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EMPLOYEES  
DIVISION**  
of the  
**International Brotherhood  
Of Teamsters**

*Revised and Amended at the Second Regular Convention  
of the National Division held in the city of  
Las Vegas, Nevada  
June 21-23, 2010*



**NATIONAL DIVISION HEADQUARTERS**  
Southfield, Michigan



**TABLE OF CONTENTS**

---

**BYLAWS**

PREAMBLE . . . . . xix

**ARTICLE I  
Organization of the BMWED**

**SECTION**

1. Official Name, Rail Conference  
Membership and Structure . . . . . 1

2. Jurisdiction over National Division Matters . . . . . 1

3. National Division Officers . . . . . 1

4. Eligibility, Election of, Term of Office  
and Rights of Candidacy for National  
Division Office . . . . . 2

5. National Division Convention Schedule  
and Governing Rules of Order . . . . . 3

6. National Division Convention Delegates  
and Voting Strength . . . . . 3

7a. When a National Division Officer  
Becomes Incapacitated . . . . . 3

7b. When a National Division Office Becomes Vacant . . . . . 4

8. Calling for and Holding Special Conventions . . . . . 4

9. Voting Procedures at Special Conventions . . . . . 5

10. Assigning Delegates to Special Conventions . . . . . 5

11. Defining a National Division Quorum . . . . . 5

12. Defining the National Division Fiscal Year . . . . . 5

13. Authorized Agents of the National Division . . . . . 5

**ARTICLE II  
National Division Jurisdiction and Supervision**

**SECTION**

1. General Supervisory Guidelines . . . . . 5

2. Regulations for the Government of Local Lodges . . . . . 6

3. Criteria for Employing Staff at National Division . . . . . 6

## TABLE OF CONTENTS

---

### ARTICLE III National Division President

#### SECTION

1.	General Supervisory and Reporting Responsibilities . . . . .	6
2.	Interpretations and Appeals Process . . . . .	6
3.	Authority to Issue Dispensations . . . . .	7
4.	Criteria for Employing Department's Staff and/or Consultants . . . . .	7
5.	Authority to Appoint Assistants, Delegate Authority and Deputize Members . . . . .	7
6.	Appointing National Division Organizers . . . . .	7
7.	Authority to Suspend National Division Officers from Service . . . . .	7
8.	Authority to Remove Officers/Members Guilty of Sedition, Malfeasance in Office, Deviation from Uniform Collective Bargaining Policy and Revoke Local Lodge Charters . . . . .	7
9.	Power to Remove Officers following Surety Bond Cancelation . . . . .	8
10.	Authority to Appoint Legislative Representatives . . . . .	8
11.	When Unable to Preside Over a National Division Session . . . . .	8
12.	Annual Meeting with National Division and System Officers . . . . .	8
13.	Insuring Active National Division Representatives against Accidental Death and Dismemberment . . . . .	9
14.	Appointing Members to National Division Convention Committees on Bylaws and Resolutions . . . . .	9
15.	Appointing Members to National Division Convention Committees on Legislative Matters, Rules, Officer's Reports, Jurisdiction, Ritual and Salaries and Finance . . . . .	9
16.	Handling of National and Regional Collective Bargaining Agreements . . . . .	9
17.	Other Duties Assigned to the National Division President . . . . .	10

## TABLE OF CONTENTS

---

### ARTICLE IV National Division Vice Presidents

#### SECTION

1. General Duties . . . . . 10
2. Location of Office . . . . . 10
3. Assigned Duties, Territories and Reporting Requirements . . . . . 10

### ARTICLE V National Division Secretary-Treasurer

#### SECTION

1. General Supervisory and Reporting Responsibilities . . . 11
2. General Duties Regarding Dues Receipts, Accounting, Membership Records and Document Signature Requirements . . . . . 11
3. Authority over and Distribution of BMWED Funds . . . . . 11
4. National Division Convention Assistance, Attendance and Reporting Requirements . . . . . 12
5. Handling of BMWED Deposits and Investments . . . . . 12
6. Required Names and Signatures on all BMWED Accounts . . . . . 12
7. Distribution of Official Circulars . . . . . 12
8. Handling Executive Board Directed Assessments . . . . . 13
9. Obligations to Successor . . . . . 13
10. Employment of Auditors . . . . . 13
11. Criteria for Employing Department's Staff and/or Consultants . . . . . 13
12. Authority to Conduct Audits of BMWED Accounts . . . 13
13. Procedure for Handling Partial Dues Payments . . . . . 13
14. Handling of Missing Dues Payments . . . . . 13
15. Suspicion of Backdated Dues Receipts . . . . . 13
16. Willful Noncompliance by Officer or Representative . . 13

## TABLE OF CONTENTS

---

17.	Maintaining Retirees Names and Addresses . . . . .	14
18.	Other Duties Assigned to the National Division Secretary-Treasurer . . . . .	14

### ARTICLE VI National Division Executive Board

#### SECTION

1.	Election of Executive Board Officers . . . . .	14
2.	Defining an Executive Board Quorum . . . . .	14
3.	Duties of Office . . . . .	14
4.	National Division Convention Report . . . . .	14
5.	Authority . . . . .	14
6.	Convening the Executive Board . . . . .	15
7.	National Division President May Convene the Executive Board . . . . .	15
8.	Auditing Authority and Reporting Requirements . . . . .	15
9.	Duties of the Executive Board Secretary . . . . .	15
10.	Procedure for Ordering Special Assessments between National Division Conventions . . . . .	16
11.	Executive Board Chairman, Vice Chairman and Secretary to Serve as “Trustees” of the BMWED . . . . .	16
12.	Loans of BMWED Funds . . . . .	17
13.	L.M.R.D.A Fines and Legal Fees . . . . .	17
14.	Other Duties Assigned to the National Division Executive Board . . . . .	18

### ARTICLE VII Salaries of National Division Officers and Personnel

#### SECTION

1.	Officer and Appointee Salary Guidelines . . . . .	18
2.	Officer and Appointee Wage Distribution and Benefits . . . . .	18
3.	Executive Board Salaries . . . . .	18

**TABLE OF CONTENTS**

---

4.	National Division’s Bargaining Unit Employees . . . . .	18
5.	Away from Home Expenses . . . . .	19

**ARTICLE VIII**  
**Charges and Trials of BMWED National Division Officers**

**SECTION**

1.	Procedures . . . . .	19
----	----------------------	----

**ARTICLE IX**  
**Appeals**

**SECTION**

1.	Right to Appeal . . . . .	19
2.	Rights Regarding Civil Appeals . . . . .	19

**ARTICLE X**  
**Authorization of Legal Services**

**SECTION**

1.	Criteria for Employing the Services of an Attorney . . . . .	19
----	--	----

**ARTICLE XI**  
**National Division Departments**

**SECTION**

1.	List of National Division Departments . . . . .	20
----	---	----

**ARTICLE XII**  
**BMWED Legislative Boards**

**SECTION**

1.	Purpose . . . . .	20
2.	Carrying out the activities of the Legislative Department . . . . .	20
3.	Organization of State Boards . . . . .	20
4.	Officers of State Legislative Boards . . . . .	21
5.	Term of Office . . . . .	21
6.	Eligibility Requirements . . . . .	21
7.	Bylaws . . . . .	21

**TABLE OF CONTENTS**

---

8.	Duties . . . . .	21
9.	Vacancies . . . . .	22
10.	Assignment . . . . .	23
11.	Salary and Expenses . . . . .	23
12.	Endorsing of Candidates for Public Office . . . . .	23
13.	Legislation . . . . .	23
14.	Cooperating in Legislative Work . . . . .	23

**ARTICLE XIII**  
**BMWED Death Benefits Department**

**SECTION**

1.	Official Name . . . . .	24
2.	Secretary-Treasurer as Superintendant of Department . . . . .	24
3.	Standard Benefit . . . . .	24
4.	Reduced Benefit . . . . .	24
5.	Proof of Death . . . . .	25
6.	Forfeited Rights - Delinquent Dues Payments . . . . .	25
7.	Forfeited Rights - Expelled from Membership . . . . .	25
8.	Retired and Unemployed Members . . . . .	26
9.	Payment to Designated Beneficiary and/or Others . . . . .	26
10.	Distribution of Funds by Superintendant and the Appeals Review Process . . . . .	27
11.	Jurisdiction of Superintendant . . . . .	28
12.	Reporting Requirements . . . . .	28
13.	Benefit Eligibility . . . . .	28
14.	Article XIII as Governing Document . . . . .	28
15.	Members Serving in the U.S. Military . . . . .	29

**ARTICLE XIV**  
**Bonds**

**SECTION**

1.	National Division . . . . .	29
----	-----------------------------	----

## TABLE OF CONTENTS

---

2.	System Divisions and Federations . . . . .	29
3.	Local Lodges . . . . .	30
4.	Selection of a Surety Company . . . . .	30
5.	Reporting Shortages . . . . .	30

### ARTICLE XV Revenues, Fees, Dues, and Assessments

#### SECTION

1.	Revenues and the General Fund . . . . .	30
2.	Initiation Fee . . . . .	31
3.	Dues Structure . . . . .	31
4.	Increasing Initiation Fee or Dues . . . . .	33
5.	Timely Payment, Maintaining Good Standing, Delinquency and Agency Fee Payers . . . . .	33
6.	System Secretary-Treasurer's Remittance Responsibilities . . . . .	35
7.	Local Lodge Secretary-Treasurer's Remittance Responsibilities . . . . .	36
8.	Refunds . . . . .	36

### ARTICLE XVI Dues Receipt, Unemployment, Dispensation, and Life Membership Cards, Emblems, and Badges

#### SECTION

1.	Receipts for Dues, Fees and Assessments Paid . . . . .	36
2.	Issuance of Unemployment Cards . . . . .	37
3.	Use of BMWED Badges and Emblems . . . . .	38
4.	Lifetime Membership . . . . .	38

### ARTICLE XVII Membership

#### SECTION

1.	Eligibility . . . . .	38
2.	Assignment of Members . . . . .	38

## **TABLE OF CONTENTS**

---

3.	Transfer of Membership . . . . .	39
4.	Withdrawal Cards and Loss of Active Membership . . . . .	39
5.	Notification of Expelled Membership . . . . .	40
6.	Duties of Members . . . . .	41
7.	Maintenance of Good Standing . . . . .	41
8.	Privileges of Membership . . . . .	41

### **ARTICLE XVIII Government of Local Lodges**

#### **SECTION**

1.	Formation of Local Lodges and Application for Charters . . . . .	42
2a.	Dissolution of Local Lodges . . . . .	42
2b.	Consolidation of Local Lodges . . . . .	43
3.	Jurisdiction . . . . .	43
4.	Governing Laws . . . . .	43
5.	Provisions Governing Local Lodge Assessments . . . . .	44
6.	Membership Meetings . . . . .	44
7.	Investment and Expenditure of Funds . . . . .	44
8.	Audits and Financial Reports . . . . .	45
9.	Nomination and Election of Officers . . . . .	45
10.	Terms of Office . . . . .	48
11.	Vacancies in Office . . . . .	48
12.	Salaries . . . . .	48
13.	Authority and Duties of Officers . . . . .	48
14.	Representation and Election of Delegates to National Division Conventions . . . . .	50
15.	Representation and Election of Delegates to System Division or Federation Joint Protective Boards . . . . .	52
16.	Charges and Trials by Local Lodges . . . . .	52

## TABLE OF CONTENTS

---

17.	Affiliation with and Appointment of Delegates to AFL-CIO .....	52
-----	---	----

### ARTICLE XIX Government of BMWED Protective Department, System Divisions and Federations

#### SECTION

1.	Organization and Composition .....	52
2.	Membership Participation .....	53
3.	Governing Laws .....	53
4.	Representation and Election of Local Lodge Delegates to System Division or Federation Joint Protective Board Meetings and/or Conventions ..	54
5.	Nomination and Election of System Division or Federation Officers.....	54
6.	Authority and Duties of Officers .....	56
7.	Meetings of Joint Protective Boards and/or Conventions	57
8.	Investment and Expenditure of System Division or Federation Funds .....	57
9.	Negotiation and Adoption of System Division or Federation Collective Bargaining Agreements .....	58
10.	Violation of Collective Bargaining Agreements.....	59
11.	Adjustment of Grievances with Management .....	59
12.	National Division Assistance in Adjustment of Grievances with Management .....	60
13.	Authorization of System Strikes.....	60
14.	National and Regional Associations.....	61
15.	Right to Copies of Collective Bargaining Agreements .....	62
16.	Authorization of National Strikes.....	62
17.	Violations of Strike Calls .....	63
18.	Special Assessments to Finance Strikes .....	64
19.	Strike Benefits .....	64

## **TABLE OF CONTENTS**

---

20.	Unauthorized Strikes . . . . .	64
21.	Charges and Trials by System Divisions or Federations .	65
22.	Consolidation of System Divisions or Federations . . . . .	65

### **ARTICLE XX Amendments**

#### **SECTION**

1.	Amending the Bylaws . . . . .	65
2.	Review by Bylaws Committee . . . . .	66
3.	Report of the Bylaws Committee . . . . .	66

INDEX AND CROSS REFERENCE OF BMWED BYLAWS . . . . .	67
---	----

### **RESOLUTIONS**

NO. 1	BMWED - IBT in the Forefront of Rail Labor . . . . .	93
NO. 2	ARTICLE XIX – Contract approval . . . . .	93
NO. 3	Honoring of Union Picket Lines . . . . .	94
NO. 4	Unemployment Benefits . . . . .	94
NO. 5	Railroad Employee’s Medical Records . . . . .	95
NO. 6	Insurance – Furloughed Employees . . . . .	96
NO. 7	Contractors to Pay Railroad Retirement Taxes . . . . .	96
NO. 8	Short Lines . . . . .	97
NO. 9	Job Stabilization . . . . .	97
NO. 10	Federal Employer’s Liability Act . . . . .	98
NO. 11	F.E.L.A. Evaluation Form . . . . .	99
NO. 12	Non-Designated Law Firms . . . . .	99
NO. 13	Designated (F.E.L.A.) Council . . . . .	100
NO. 14	Solidarity: Legislative and Protective Departments . . .	101
NO. 15	Annual Sick Leave . . . . .	102

## TABLE OF CONTENTS

---

NO. 16	Work Season . . . . .	102
NO. 17	Operation Lifesaver . . . . .	102
NO. 18	New Positions and Vacancies – National Division . . . . .	103
NO. 19	National Workers Memorial . . . . .	103
NO. 20	The Veterans’ Pledge . . . . .	104
NO. 21	Organ Donors . . . . .	105
NO. 22	Retirees . . . . .	105
NO. 23	R.U.I.A. – Military Service . . . . .	106
NO. 24	Providing Benefits for Surviving Spouse(s) and Dependents . . . . .	106
NO. 25	National Vacation Agreement . . . . .	107
NO. 26	S.T.B. Authorization: Reforms to Protect Workers and the Public Interest . . . . .	107
NO. 27	Organizing . . . . .	110
NO. 28	National Transportation Strike for Collective Bargaining Rights and Justice for Transportation Workers . . . . .	110
NO. 29	Organ Donor Coverage . . . . .	111
NO. 30	Support for Rail Labor Coalitions . . . . .	112
NO. 31	Attendance of Lodge Meetings . . . . .	112
NO. 32	Distribution to Delegates of Proposed Resolutions . . . . .	112
NO. 33	Impact of Health and Welfare Plans for Canadian Members Covered Under U.S. National Agreements . . . . .	113
NO. 34	Fight Discrimination on Railroad and Industrial Properties . . . . .	113
NO. 35	Roll of Honor Merit Awards . . . . .	114
NO. 36	Dues Deductions . . . . .	114
NO. 37	Elimination of Camp Car/Trailer Lodging . . . . .	114
NO. 38	Laws and Regulations Governing Company-Provided Lodging Facilities . . . . .	115

## TABLE OF CONTENTS

---

NO. 39	Enjoin the Railroad Retirement Board to Collect Railroad Retirement Taxes from Contractors . . . . .	116
NO. 40	Contracting Out . . . . .	117
NO. 41	BMWED - IBT Annual Scholarship Award . . . . .	117
NO. 42	BMWED - IBT Support for Long Term Viability of Amtrak . . . . .	118
NO. 43	ARTICLE XVII, Section 6 . . . . .	119
NO. 44	Retirement Insurance . . . . .	119
NO. 45	Railroad Retirement Tier 2 C.O.L.A. Increases . . . . .	119
NO. 46	Consolidation of Services in the Rail Conference . . . . .	120
NO. 47	Occupational Disability Earnings . . . . .	120
NO. 48	“Successorship Rights” . . . . .	121
NO. 49	O.S.H.A. Standards . . . . .	121
NO. 50	Support Our Troops, Veterans and Their Families . . . . .	122
NO. 51	Observance of Martin Luther King, Jr. Holiday . . . . .	122
NO. 52	Paid Time for Union Activities . . . . .	123
NO. 53	Insurance for Retired B.M.W.E.D. Members . . . . .	123
NO. 54	Continued Good Standing for Unemployed Members . . . . .	124
NO. 55	Arizona Senate Bill 1070 - Immigration . . . . .	124
NO. 56	Workers’ Memorial Day . . . . .	125
NO. 57	Passenger Rail Rate for Amtrak Workers . . . . .	126
NO. 58	Stop Norfolk Southern’s Illegal Harassment of Injured Workers . . . . .	127
NO. 59	Correct Wage Inequities on Norfolk Southern . . . . .	128
NO. 60	Uniform Application of Random Drug and Alcohol Regulations . . . . .	128
NO. 61	Repeal of Taft-Hartley Act . . . . .	129
NO. 62	Seniority Retention . . . . .	130
NO. 63	Health Care for Returning Carrier Exempts . . . . .	130

## TABLE OF CONTENTS

---

NO. 64	In Support of the Rail Labor Bargaining Coalition . . . .	131
NO. 65	Boycott of British Petroleum . . . . .	131

### **BMW/IBT MERGER AGREEMENT**

MERGER AGREEMENT BETWEEN BMW AND IBT . . . . .	133
--	-----

#### **GENERAL PRINCIPLES**

1.1	Purpose . . . . .	135
1.2	Overview . . . . .	136
1.3	Relationship of BMWED and IBT Departments . . . . .	136
1.4	Relationship of Controlling Documents . . . . .	136
1.5	Ratifications . . . . .	137

#### **RAIL CONFERENCE**

2.1	Rail Conference . . . . .	137
2.2	Rail Conference Jurisdiction . . . . .	137
2.3	Rail Conference Headquarters and Offices . . . . .	137
2.4	Rail Conference Policy Committee . . . . .	137
2.5	Rail Conference Convention . . . . .	137
2.6	Rail Conference per Capita . . . . .	138
2.7	Rail Conference Operations . . . . .	138

#### **BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION**

3.1	BMW Division . . . . .	138
3.2	BMWED Jurisdiction . . . . .	138
3.3	BMWED Headquarters and Offices . . . . .	138
3.4	BMWED Officers . . . . .	138

## TABLE OF CONTENTS

---

3.5	BMWED Convention . . . . .	138
3.6	BMWED Dues . . . . .	138
3.7	BMWED Operations . . . . .	139
3.7.1	Control of Assets and Funds . . . . .	139
3.7.2	Benefit Plan . . . . .	139
3.7.3	Employees and Consultants . . . . .	139
3.7.4	Collective Bargaining Agreements . . . . .	139
3.8	Initiation Fees, Dues, Assessments and Per Capita . . . . .	139
3.9	Functions/Cost Assumed by IBT . . . . .	140

## SPECIAL PROVISIONS

4.1	Continued Cooperation . . . . .	141
4.2	Effective Date . . . . .	141
4.3	BMWE Bodies . . . . .	141
4.4	Membership . . . . .	141
4.5	Officers . . . . .	141
4.6	Charters . . . . .	141
4.7	Transition to IBT Constitution . . . . .	141
4.8	Eligibility to Vote . . . . .	141
4.9	Eligibility to Run for Office (IBT “Continuous Good Standing” Rule) . . . . .	142
4.10	Elections . . . . .	142
4.11	Eligibility of BMWED Local Lodge Secretary-Treasurers . . . . .	142
4.12	Charges and Appeals . . . . .	143
4.13	Trusteeships . . . . .	143
4.14	Ratification of Contracts . . . . .	143
4.15	Joint Council Affiliations . . . . .	144

## TABLE OF CONTENTS

---

4.16	Jurisdictional Disputes . . . . .	144
4.17	IBT General Executive Board . . . . .	144
4.18	IBT Convention Delegates . . . . .	144
4.19	BMWE Assets . . . . .	145
4.20	BMWE PAC Fund . . . . .	145
4.21	Designated Council (FELA) . . . . .	145
4.22	Organizing . . . . .	145
4.23	System Federation/Division Bylaws . . . . .	145
4.24	Mergers, Consolidations and Disbandments . . . . .	146
4.25	Strike Fund . . . . .	146
4.26	Ratification . . . . .	146
4.27	Disputes . . . . .	146
4.28	Withdrawal . . . . .	147
4.29	Savings Clause . . . . .	147
4.30	Correction of Inadvertent Errors . . . . .	147
4.31	Amendments . . . . .	147
4.32	Headings and Notes . . . . .	148

### CANADA

5.1	Approval of Transfer Agreement . . . . .	148
5.2	General Terms . . . . .	148

### RITUAL

To the Lodge President . . . . .	153
Rules of Order . . . . .	153
Opening Ceremony . . . . .	154
Order of Business . . . . .	155

## TABLE OF CONTENTS

---

Closing Ceremony .....	155
Obligation .....	156
Parliamentary Procedures .....	156
A Parliamentary Motion Guide .....	161

# PREAMBLE

The objectives of the Brotherhood are:

1. To exalt the character and increase the ability of its members.
2. To ensure greater safety for our members and the traveling public and affect economy in the departments in which our members are employed by interchanging ideas and adopting the best methods of performing our duties.
3. To benefit the general public by raising the standard of efficiency of our membership.
4. To alleviate distress and suffering caused by sickness or disability among our members.
5. To assist the families of deceased members.
6. To inspire all members of the Brotherhood to live a sober, moral, and honest life.
7. To encourage all members to faithfully and honestly perform their duties to the best of their ability for the Brotherhood and for their employers.
8. To use all honorable means to secure the passage of laws beneficial to our membership, and to improve labor conditions generally.
9. To stimulate the civic education of the members in their political rights; and to use the ballot intelligently to the end that the Government may not be perverted to the interest of the favored few, but that it may be a "Government of the people, by the people, and for the people" in the fullest sense.



**ARTICLES OF THE BYLAWS**

**OF THE**

**BROTHERHOOD OF  
MAINTENANCE  
OF WAY EMPLOYEES**

**DIVISION  
OF THE**

**INTERNATIONAL  
BROTHERHOOD  
OF  
TEAMSTERS**



**2010**



ARTICLE I

Organization of the BMWED

Section 1. This Organization shall be known as the Brotherhood of Maintenance of Way Employes Division (BMWED) of the International Brotherhood of Teamsters (IBT). The BMWED also shall be a member of the Rail Conference within the International Brotherhood of Teamsters. BMWED shall have full and exclusive jurisdiction over wages and working conditions in classes, crafts or bargaining units where it holds bargaining rights. BMWED shall consist of a National Division, System Divisions and Federations and Local Lodges.

The National Division may merge itself with another division of the IBT Rail Conference only upon approval of the majority of the ballots returned by the active membership in good standing through a referendum ballot.

Applications from other labor organizations to merge or affiliate with BMWED must be presented to the National Division Officers for consideration. Authorization of the National Division Officers must be obtained before negotiations with such an applicant and any expenditures connected to a proposed merger or affiliation occur. The National Division shall not merge itself with another labor organization without first obtaining approval of the majority of the ballots returned by the active membership in good standing through a referendum ballot, and approval of the written merger agreement by the IBT General Executive Board pursuant to Article IX, Section 12 of the IBT International Constitution. Such a merger or affiliation may include a provision allowing the other labor organization appropriate proportional representation with BMWED.

Sec. 2. The National Division shall have jurisdiction over all matters pertaining to the National Division not otherwise referable to the IBT pursuant to the terms of the Merger Agreement.

Each member specifically retains the right to communicate with any other BMWED member at any time.

The use of words such as he, his and him, as they appear in these Bylaws are not intended to restrict the application of these Bylaws or a particular Article or Section to a specific gender, but are used solely for the purpose of grammatical convenience and clarification.

Sec. 3. The Officers of the National Division shall consist of a President, five (5) Vice Presidents, a Secretary-Treasurer, and five (5) members of the Executive Board. The National Division President may appoint a Chaplain, Messenger, Sentinels and Sergeants-at-Arms at each Convention of the National Division.

Between Conventions of the National Division all administra-

1 tive, executive and judicial power and authority of the Division shall  
2 be vested in the National Division Officers as provided in these By-  
3 laws, except for matters referable to the IBT pursuant to the terms of  
4 the Merger Agreement.

5  
6 **Sec. 4.** The National Division Officers shall be members of a  
7 BMWED lodge and shall be nominated and elected at the regular  
8 quadrennial Conventions of the National Division by a representa-  
9 tive majority vote of the duly accredited delegates elected by secret  
10 ballot. In the event balloting results in no candidate winning a major-  
11 ity vote (a number greater than half of the total possible votes), the  
12 candidate garnering the fewest votes shall be dropped from the bal-  
13 lot, and a run-off ballot will be conducted. If there is only one nomi-  
14 nee for an office, there shall be no ballot for that position, and the  
15 nominee will be declared elected. The five (5) Vice Presidents and  
16 the five (5) members of the Executive Board shall be from a System  
17 Division or Federation in his respective region and shall be nomi-  
18 nated by delegates from his respective region. National Division Of-  
19 ficers shall serve for a term of four (4) years unless removed by death,  
20 resignation or for cause, and shall be eligible for reelection. They  
21 shall be installed during the session of the National Division Con-  
22 vention in which they are elected, their installation and term of of-  
23 fice to be effective commencing September 1 following election ex-  
24 cept in the case of filling an unexpired term, when such Officer shall  
25 take charge of his office immediately upon being elected and he shall  
26 serve for the remainder of the term; provided, however, that the term  
27 of office of any temporary National Division Officer will expire im-  
28 mediately upon the election and installation of his successor. Any  
29 vacancy in such office, temporary or permanent in nature, shall be  
30 filled in accordance with the terms of these Bylaws.

31  
32 Eligibility and good standing to nominate, second, run for office  
33 and vote shall be governed by the terms of the Merger Agreement.

34  
35 Every bona fide candidate for National Division office shall  
36 have certain rights with respect to the distribution of campaign lit-  
37 erature and freedom from discrimination. The National Division will  
38 comply with all reasonable requests of all such candidates to distrib-  
39 ute, by mail or otherwise, at the candidate's expense, campaign lit-  
40 erature in aid of his candidacy to all members in good standing of the  
41 BMWED. Whenever the National Division or its incumbent Offic-  
42 ers authorize distribution to members, by mail or otherwise, of cam-  
43 paign literature on behalf of any bona fide candidate for office or on  
44 behalf of the National Division itself with reference to elections, simi-  
45 lar distribution shall be made by the National Division and its Offic-  
46 ers for any other bona fide candidate if so requested by such candi-  
47 date, and equal treatment will be accorded as to the expense of such  
48 distribution to be borne by such candidate. Every bona fide candi-  
49 date shall have the right, upon request, once within thirty (30) days  
50 prior to National Division elections in which he is a candidate, to  
51 inspect the list containing the names and last known addresses of all  
52 members of the BMWED who are subject to Union Shop Agree-  
53 ments requiring membership in the BMWED as a condition of their

employment, which lists shall be maintained by the Secretary-Treasurer at the Headquarters of the BMWED. Every bona fide candidate for National Division office may supply the National Division with a picture and a brief campaign announcement of 250 words or less to be published in the BMWED Journal. All information shall be published in the same Journal edition as the last proposed Bylaws changes prior to the National Division Convention. The National Division shall also provide adequate safeguards to insure that its elections are fair and impartial, and any candidate has the right to request and designate an observer at the polls and the counting of ballots.

No funds received by the National Division through initiation fees, dues, assessments or similar levy shall be contributed or applied to promote the candidacy of any person in elections of National Division Officers, nor shall any money of an employer of members of the BMWED be so contributed or applied. The BMWED may, however, expend its funds for notices, factual statements and other expenses necessary for the conduct of its elections so long as such activities do not involve promotion of candidates for office.

The National Division Secretary-Treasurer shall preserve for one (1) year the credentials of all delegates and alternates and all ballots, minutes and other records of the Convention pertaining to the election of National Division Officers.

**Sec. 5.** The National Division shall convene in regular Convention in the month of June, quadrennially, at a time and date and in such city as may be determined by the National Division President and National Division Secretary-Treasurer jointly, with the approval of the National Division Executive Board.

The rules contained in the current edition of Robert's Rules of Order shall govern the BMWED in all cases to which they are applicable and provided they are not inconsistent with these Bylaws and any special rules of order the BMWED may adopt.

**Sec. 6.** At each regular Convention of the National Division, delegates shall be entitled to cast one vote for every member in good standing of the membership which he represents. Each National Division Officer shall be a delegate ex officio but he may not participate in the election of National Division Officers unless he has been elected as a delegate by secret ballot vote of members of a Local Lodge.

**Sec. 7(a).** In the event a National Division Officer becomes incapacitated, upon receipt of notice of such incapacitation, the President or Secretary-Treasurer shall within ten (10) days thereafter, call a meeting of all remaining National Division Officers to determine if such office should be filled and, if so, they shall appoint a member from the region, if applicable, to fill the position.

Any vacancy or vacancies resulting from such temporary appointments, or election, if deemed necessary, shall be filled in the same manner.

1           **Sec. 7(b).** In the event of a vacancy in a National Division of-  
2           fice, the President or Secretary-Treasurer shall immediately set a date  
3           for a special election and promptly give notice thereof to all National  
4           Division Officers and System Division and Federation General Chair-  
5           men, who shall be the duly qualified electors to fill such vacancy for  
6           the remaining term of office and shall cast their votes in accordance  
7           with the provisions of Article XVIII, Section 14. In the interim be-  
8           tween the occurrence of the vacancy and the said election, it shall be  
9           filled temporarily by majority vote of the remaining National Divi-  
10          sion Officers.

11  
12           Each National Division Officer will be entitled to cast one vote,  
13           and each General Chairman or his duly authorized representative,  
14           will be entitled to cast the representative vote of the membership of  
15           the System Division or Federation he represents, for the member-  
16           ship paid up to the end of the previous quarter, as shown by the Na-  
17           tional Division record as of the date the vacancy occurred.

18  
19           In the event of a vacancy in the office of Vice President or Ex-  
20           ecutive Board member, those eligible to be elected to fill such va-  
21           cancy, must be from a System Division or Federation of the region  
22           where the vacancy occurs, and must be nominated by a System Divi-  
23           sion or Federation Officer from that region.

24  
25           The election must be held not more than sixty (60) days from  
26           the date the vacancy occurs, or the date it becomes known that a  
27           vacancy will exist. Any vacancy or vacancies resulting from said  
28           special election and/or any vacancy or vacancies occurring between  
29           the date the call is issued and the date of the election will also be  
30           filled at that election in the same manner.

31  
32           The expenses of the General Chairmen and System Federation  
33           General Chairmen, or their duly authorized representatives, attend-  
34           ing these meetings will be borne by their respective System Divi-  
35           sions or Federations.

36  
37           Vacancies occurring less than three (3) months previous to a  
38           Convention of the National Division will remain vacant until the  
39           Convention except in the office of the President, Secretary-Treasurer  
40           or Executive Board, in which case the temporary Officer elected by  
41           the National Division Officers will hold office until the Convention.

42  
43           If the President is unable to issue the calls provided for by this  
44           Section 7, such calls shall be issued by the National Division Secre-  
45           tary-Treasurer.

46  
47           **Sec. 8.** Special Conventions of the National Division may be  
48           called by the President with the written consent of a majority of the  
49           members of the Executive Board. The President shall call a special  
50           Convention of the National Division upon petition of any four (4)  
51           members of the Executive Board. At least sixty (60) days' notice in  
52           writing must be given to System Divisions and Federations and Lo-  
53           cal Lodges indicating the time and place of holding such special

Convention and its purpose. No other business except that specified in the call shall be considered or transacted at such special Convention of the National Division.

Upon written request of a majority of the delegates and National Division Officers at the last regular National Division Convention, setting forth the reason for such request, and bearing the seal of the Local Lodges, a special Convention shall be called for the purpose of considering such question or questions as are specified in the request for such special Convention, and it shall be the duty of the Secretary-Treasurer upon receipt of such majority request, within ten (10) days thereafter, to make the necessary arrangements for the holding of such special Convention, the same to be held not later than sixty (60) days from the date of the filing of the majority request.

**Sec. 9.** At such special Conventions the voting shall be as prescribed in Section 6 of this Article.

**Sec. 10.** The representation at all special Conventions of the National Division shall be the duly accredited delegates at the last preceding regular Convention of the National Division. In case of a vacancy of both the delegate and alternate of a Local Lodge, such Local Lodge shall immediately proceed to elect another delegate and alternate.

**Sec. 11.** At least one hundred fifty (150) delegates entitled to a seat on the floor of the house shall form a quorum of the National Division.

**Sec. 12.** The fiscal year of the National Division and all of its subordinate bodies shall end on March 31 of each year.

**Sec. 13.** Only the elected officers of the National Division are authorized to be its agents for service of process. The officers and employees of subordinate bodies are not authorized to be agents of the National Division for service of process under any circumstances.

## ARTICLE II

### National Division Jurisdiction and Supervision

**Section 1.** The National Division shall exercise general supervision and control over all System Divisions and Federations, Local Lodges, Officers and the entire membership of the BMWED, as well as all subjects pertaining to the same. While the autonomy of System Divisions and Federations is duly recognized, and they may adopt Bylaws establishing procedures for the conduct of their internal affairs and business, none of the provisions of such Bylaws shall be in conflict with any of the provisions of these Bylaws subject to the terms of the Merger Agreement. Prior to becoming effective, all

1 System Division or Federation Constitutions and Bylaws and any  
2 amendments thereto must be approved by the National Division  
3 President and the IBT General President.

4  
5 **Sec. 2.** The National Division shall adopt and prescribe laws  
6 and regulations for the government of Local Lodges and shall have  
7 the power to amend or repeal the same; and it shall do all things  
8 necessary to promote the welfare of the BMWED.

9  
10 **Sec. 3.** National Division Officers and persons occupying  
11 National Division appointed positions shall, when consistent with  
12 good service, employ their assistants from the ranks of the BMWED,  
13 but under no circumstances shall any such person employ any of his  
14 relatives where such relatives would be required to work under his  
15 direct supervision.

## 16 17 18 **ARTICLE III**

### 19 20 **National Division President**

21  
22 **Section 1.** The National Division President shall exercise gen-  
23 eral supervision over all the affairs of the BMWED. It shall be the  
24 duty of the National Division President to preside at all sessions of  
25 the National Division, and he shall submit at each regular session of  
26 the National Division, when assembled, a message setting forth in a  
27 general manner the affairs of the BMWED during his term of office,  
28 including a complete report of his decisions with reference to the  
29 interpretation of the Bylaws, or his decision in any matter concern-  
30 ing which an appeal may have been taken to the Appeal Board under  
31 the Bylaws, together with suggestions for legislation and changes in  
32 these Bylaws for the best interest of the BMWED; also such other  
33 suggestions and recommendations as he may deem advantageous to  
34 the BMWED and its members.

35  
36 **Sec. 2.** He shall decide all questions pertaining to the  
37 interpretation or meaning of any clause or Section of these Bylaws  
38 as well as all controversies which may be appealed from System  
39 Divisions, Federations or Local Lodges and shall promptly forward  
40 his decision in writing to the System Division, Federation or Local  
41 Lodge from which the appeal is taken. Appeals from the decisions of  
42 the President may be appealed by either party to the National Division  
43 Appeal Board, which shall consist of all National Division Officers.  
44 Such appeals shall be filed with the National Division Secretary-  
45 Treasurer within sixty (60) days after receipt of the President's  
46 decision. The Secretary-Treasurer shall refer the appeal to the National  
47 Division Appeal Board, except for those members who may be  
48 directly involved in the case under consideration. The National  
49 Division Appeal Board will report their decision to the National  
50 Division President and the appellant. Further appeal of the decision  
51 of the Appeal Board shall be handled in accordance with the applicable  
52 provisions of the IBT Constitution, subject to the terms of the Merger  
53 Agreement.

**Sec. 3.** He may, with the consent of the National Division Executive Board issue such dispensations as may be necessary to overcome emergencies or conditions not herein provided for.

**Sec. 4.** All appointments for positions coming under the President's supervision, and their salaries must be approved in advance by the National Division Executive Board, except for temporary appointments of less than sixty (60) days.

All consultants hired by the President, and their fees and/or salaries must be approved by the National Division Executive Board prior to any services being rendered, except in cases of emergency.

Any vote on appointments or the hiring of consultants shall be by roll call and the minutes thereof shall be sent to all System Officers.

**Sec. 5.** He shall have the authority, subject to the approval of the National Division Executive Board, to appoint Assistants to the President to assist him in the discharge of the duties of his office per the requirements in Section 4 of this Article.

He may also delegate authority to act for him to any National Division Officer.

He may also deputize any member to be his immediate representative for particular duties. Such deputies are to possess only such power as is expressly delegated. Such deputies shall submit in writing a full and complete report of his actions to the National Division President immediately after the conclusion of his duties.

**Sec. 6.** He shall, at his discretion, appoint National Division Organizers or Representatives. Such appointees shall be subject to the same qualifications prescribed in Article I, Section 4, for eligibility to National Division office. Such Appointee in the performance of his duties shall cooperate and work in conjunction with the General Chairman of the System Division or Federation on which he is working.

**Sec. 7.** He may summarily suspend from office and shall discontinue the salary of any National Division Officer who, in his judgment, is guilty of such misconduct in office as to warrant such removal for cause; provided that any such National Division Officer so disciplined shall have the right, upon demand in writing, to an immediate hearing before the National Division Appeal Board, whose decision shall be final unless reversed on further appeal under the applicable provisions of the IBT Constitution. If the decision of the National Division Appeal Board is in favor of the accused, he shall be returned immediately to his former position and be paid for all time lost and personal expenses. If the final decision is in favor of the accused his record shall be cleared of such charges.

**Sec. 8.** He shall have the power to convene Joint Protective Boards or Grievance Committees and/or Local Lodges when he deems

1 such action advisable and to report to such Board or Grievance Com-  
2 mittee and/or Local Lodge any member thereof who failed to per-  
3 form his duties, or who is guilty of sedition, or committed malfea-  
4 sance in office. He shall have the power to summarily remove from  
5 office and suspend any member who, after charges and trial, has been  
6 found guilty of sedition or malfeasance in office, subject to appeal to  
7 the National Division Appeal Board and further appeal under the  
8 applicable provisions of the IBT Constitution.  
9

10 He shall have the power to suspend from office any National  
11 Division or System Division or Federation Officer who, without hav-  
12 ing obtained the President's permission, deviates from any uniform  
13 collective bargaining policy. Any Officer thus suspended shall re-  
14 main out of office unless reinstated following an appeal to the Na-  
15 tional Division Appeal Board in accordance with Article IX of these  
16 Bylaws and further appeal under the applicable provisions of the  
17 IBT Constitution.  
18

19 He shall, with the approval of the National Division Executive  
20 Board, revoke the charter of any Local Lodge guilty of willful viola-  
21 tion of the provisions of these Bylaws, or of failure to comply with  
22 valid orders, decisions or policies of the BMWED, subject to appeal  
23 to the National Division Convention. Should it be necessary to re-  
24 voke the charter of a Local Lodge, all loyal members in good stand-  
25 ing may be transferred to the nearest Local Lodge.  
26

27 **Sec. 9.** He shall remove Officers or representatives of Local  
28 Lodges, System Divisions or Federations, and the National Division  
29 after their surety bond coverage has been canceled. Should any Lodge  
30 or System Division or Federation fail to fill, within a reasonable time,  
31 a vacancy thus created, the National Division President shall fill such  
32 vacancy by appointment for the unexpired term.  
33

34 **Sec. 10.** He shall also have the power to appoint legislative rep-  
35 resentatives when approved by the National Division Executive Board.  
36

37 **Sec. 11.** When he is unable by reason of unavoidable cause to  
38 preside at any session of the National Division, the Officers and del-  
39 egates present will proceed to elect a temporary presiding Officer for  
40 such meeting. The National Division President may request any Na-  
41 tional Division Officer, or delegate, to temporarily fill the chair dur-  
42 ing any session of the National Division Convention. Any temporary  
43 vacancy of the National Division President's chair, during recess of  
44 National Division, must be filled by a National Division Officer.  
45

46 **Sec. 12.** Immediately after the close of each National Division  
47 Convention and yearly thereafter, at such time and place as the Na-  
48 tional Division President directs, he shall convene the National Di-  
49 vision Officers and System Officers, for the purpose of discussing  
50 the field work and outlining the work to be carried out by the Na-  
51 tional Division Vice Presidents, and also to be instructed in carrying  
52 out any policy which the National Division President, Secretary-Trea-  
53 surer and the Executive Board may have prepared; provided further

that the System Officers represented at such meetings shall be recognized in an advisory capacity.

**Sec. 13.** He shall have all active National Division representatives insured at the expense of the BMWED, insuring the BMWED against any loss resulting from the death or injury of such National Division representative. The insurer and amount of such insured liability shall be determined by the National Division President and Executive Board, but shall not be less than an amount equal to that prescribed by the Worker Compensation Laws where the National Division is headquartered. All National Division representatives shall be construed as being hired at the National Division Headquarters.

**Sec. 14.** He shall appoint members, two from each region of the United States who shall serve as a National Division Convention Bylaws Committee; and five (5) members, at least one from each region who shall serve as a National Division Convention Resolutions Committee. The Resolutions Committee shall also act as the Credentials Committee.

These Committees shall be provided sufficient time and resources to meet, deliberate and provide a written Report to the Delegates at the National Division Convention. The time and place of Committee meetings shall be at the discretion of the National Division President. All appointments shall be made at least thirty (30) days prior to the convening of the Committees.

All proposed changes in the Bylaws as presented by the Bylaws Committee Report shall be indicated in the Committee's Report by printing said changes in bold type or italicized print.

**Sec. 15.** The President shall also appoint the members of, designate the temporary Chairman, and convene the additional National Division Convention Committees hereafter designated, and such other special committees and assistants as may be necessary to facilitate the work of the BMWED. Each Committee listed below shall contain at least one (1) member from each region:

- Committee on National and State Legislative Matters
- Committee on Rules
- Committee on National Division Officers Reports
- Committee on Jurisdiction
- Committee on Salaries and Finances
- Committee on Ritual

Note: The Committee on Legislative Matters shall consist of six (6) members, at least one from each region and a Convener, who is the Assistant to the President/National Legislative Director on legislative matters.

**Sec. 16.** In the case of any collective bargaining agreements adopted upon approval by the President on behalf of the BMWED on a national or regional basis, the President shall forward a copy of

1 such agreement to each constituent System Division, Federation or  
2 Local Lodge which has members directly affected by such agree-  
3 ment and also maintain at the Headquarters of the BMWED copies  
4 of any such agreement available for inspection on request by any  
5 member or any employee whose rights are affected thereunder.  
6

7 The National Division President shall not have the power to  
8 enter into any agreement other than national agreements without the  
9 written consent of the affected General Chairmen (Chairman). If the  
10 National Division President is not able to receive the written consent  
11 of all affected General Chairmen, he shall have the right to submit  
12 such agreement directly to the affected rank and file. Such ratifica-  
13 tion vote shall be by mail ballot referendum to all members in good  
14 standing covered by such agreement. Such vote will be conducted  
15 by an impartial ballot counting company. If the agreement is ratified,  
16 the National Division President shall be empowered to enter into the  
17 agreement.  
18

19 **Sec. 17.** In addition to the foregoing, the National Division Presi-  
20 dent shall exercise authority and perform such other duties as are  
21 additionally prescribed in these Bylaws or other governing laws of  
22 the BMWED or which may be delegated or assigned to him by the  
23 National Division Convention or which may be imposed upon him  
24 by the IBT Constitution, the Merger Agreement or applicable law.  
25

## 26 27 **ARTICLE IV**

### 28 29 **National Division Vice Presidents**

30  
31 **Section 1.** The duties of each National Division Vice President  
32 are to assist the National Division President in the discharge of his  
33 duties under his general direction, subject to the provisions hereinaf-  
34 ter made in this Article.  
35

36 **Sec. 2.** The office of each Vice President shall be located in the  
37 region from which he is elected and as near as practicable in the  
38 general locality in which the Vice President resides. The National  
39 Division President may assign a Vice President to perform work in  
40 another region on a temporary basis.  
41

42 **Sec. 3.** The Vice Presidents will be assigned to the following  
43 duties, namely:  
44

45 They shall be nominated from one of each of five regions com-  
46 prising the Northeastern territory, the Northwestern territory, the  
47 Southeastern territory, the Southwestern territory and the Western  
48 territory. The National Division Vice Presidents shall devote their  
49 entire time to the up building of the BMWED and to do such work as  
50 decided upon by the National Division Officers at their annual meet-  
51 ings. They will work under the direct instructions of the National  
52 Division President. They shall visit and instruct Local Lodges, assist  
53 the General Chairmen in their committees and boards and shall have

authority to examine and audit the records and books of any Local Lodge and shall institute civil and criminal action to protect the interests of the BMWED when so directed by the National Division President. Each National Division Vice President shall prepare a written report on his activities and responsibilities to each Regular Convention.

**ARTICLE V**

**National Division Secretary-Treasurer**

**Section 1.** It shall be the duty of the National Division Secretary-Treasurer to keep a true and correct record of the proceedings of the National Division. He shall read all documents submitted to that body which are proper to be read. He shall receive all funds of the National Division. He shall preserve any documents pertaining to the business of the BMWED. Except where otherwise provided in these Bylaws, he shall have charge of the books, papers and records of the BMWED and also possession (for the trustees) of the personal property and funds of the BMWED.

**Sec. 2.** He shall countersign all charters, cards and certificates emanating from the National Division. He shall also issue all official receipts for fees, dues, and assessments. It shall be his duty to keep accurate accounts of all monies received and disbursed by him, a correct record of National Division members, Local Lodges, their Officers, members and post office addresses, dates of joining, membership numbers and such other information as may be required by the President or Executive Board.

**Sec. 3.** He shall have charge of all funds of the National Division. He shall make disbursements to cover all expenses of operating the National Division when authorized by these Bylaws or resolution adopted thereunder. Disbursements can not exceed income from dues and investments unless approved by the National Division Executive Board. If such approval is made, each General Chairman will be advised why it was necessary to spend down assets.

Where applicable, he shall promptly return to System Division or Federation Secretary-Treasurer and Local Lodge Secretary-Treasurer receipts for all monies received from them and remit to the System Division or Federation Secretary-Treasurer on or before the 20th day of each month all monies due them. He shall on or before the 20th day of the first month of each quarter, forward to the Local Lodge Secretary-Treasurer all monies due them for the preceding quarter.

Should a Local Lodge Secretary-Treasurer fail to submit the Local Lodge quarterly audit report within ninety (90) days after the end of the quarter, no money due the lodge will be released until receipt of the quarterly audit report. Should a Local Lodge not receive monies due them in any quarter as a result of failure to file a

1 quarterly audit report, the National Division Secretary-Treasurer shall  
2 notify by letter the National Division President, the General Chair-  
3 man, and the Local Lodge Officers.

4  
5 He will see that the National Division audit reports provided  
6 for in Article VI, Section 8, of these Bylaws are made available for  
7 inspection by the persons so authorized by such provision.

8  
9 He shall discharge on behalf of the BMWED such duties as  
10 may be imposed upon him by applicable law. He shall execute and  
11 file reports to Federal or State authorities as required.

12  
13 He shall maintain such records available for inspection as ap-  
14 plicable law may require to be preserved in support of reports filed  
15 by the BMWED.

16  
17 **Sec. 4.** He shall assist the National Division President in mak-  
18 ing all necessary arrangements for each Regular Convention of the  
19 National Division, and attend in person, unless excused for proper  
20 cause. He will furnish such Conventions a statement showing the  
21 financial condition of the BMWED, and a full report covering his  
22 term of office.

23  
24 **Sec. 5.** He shall deposit all monies and securities belonging to  
25 the BMWED in national banks or with reliable trust companies and  
26 securities firms to be selected by himself and the National Division  
27 President, jointly, and subject to the approval of the National Division  
28 Executive Board. The National Division Secretary-Treasurer will have  
29 the authority, with the approval of the National Division President  
30 and the Executive Board, to invest surplus funds of the BMWED in  
31 securities guaranteed by the full faith and credit of the United States  
32 Government, Federal agency issues, or in bonds and other fixed  
33 income securities of suitable investment grade quality that will enable  
34 the BMWED to secure an optimal return on investment without undue  
35 risk. These investments may include equities, but not to exceed forty  
36 percent (40%) of the total National Division surplus funds.

37  
38 With respect to bonds and other fixed income securities, any  
39 such investments shall meet the rating qualifications of A or Higher  
40 (Standard & Poor's and/or Moody's).

41  
42 Such investments shall be consistent with the policies endorsed  
43 by the BMWED and the free trade union movement.

44  
45 **Sec. 6.** All funds and securities must be deposited in the name  
46 of the BMWED and all checks against said funds must be signed by  
47 him or his designee and countersigned by the National Division Presi-  
48 dent or his designee.

49  
50 **Sec. 7.** He shall cause a copy of each official circular issued by  
51 the National Division to be forwarded to all National Division Offic-  
52 ers, System Divisions and Federations and Local Lodges.

53

**Sec. 8.** When instructed by the National Division Executive Board, he shall levy assessments upon the members of the BMWED; he shall collect all such assessments and disburse the same upon the order of the National Division Executive Board.

**Sec. 9.** He shall deliver to his successor (when elected, installed and after bond has been executed and accepted by the National Division Executive Board) all monies belonging to the National Division, together with all books, documents and other properties of the BMWED, which may be in his possession.

**Sec. 10.** He shall employ auditors as may, in his judgment, be necessary to carry on the auditing work; such auditors to be entirely responsible to him under his jurisdiction. To qualify for appointment, such auditors shall meet the same requirements as those prescribed in Section 4 of Article I for eligibility to National Division office.

**Sec. 11.** All appointments for positions coming under the National Division Secretary-Treasurer's supervision and their salaries must be approved by the National Division Executive Board prior to their appointment, except for positions of less than sixty (60) days duration. All consultants hired by the National Division Secretary-Treasurer and their fees and/or salaries must be approved by the National Division Executive Board prior to any services rendered.

Any vote on appointments or the hiring of consultants shall be by roll call and the minutes thereof shall be sent to all System Officers.

**Sec. 12.** He shall be empowered, either personally or through his designee to examine and audit the books and accounts of any National Division Officer, System Division or Federation or Local Lodge of the BMWED at any time.

**Sec. 13.** In case a where a member remits National Division dues and System Division or Federation dues only, the National Division Secretary-Treasurer shall hold his official receipt until the member furnishes proof that he has paid his Local Lodge dues.

**Sec. 14.** On System Divisions or Federations handling remittances, the matter of missing payments in dues will be taken up with the System Secretary-Treasurer. On other System Divisions or Federations the matter will be taken up with the remitter, with copy to the System office.

**Sec. 15.** On System Divisions or Federations handling remittances, the matter of apparently backdated dues payments will be taken up with the System Secretary-Treasurer, and a satisfactory explanation or proper correction of such payment dates on dues receipts and remittance reports requested. On other System Divisions or Federations the matter of apparently backdated payments will be taken up with the remitter, with copy to the System office.

**Sec. 16.** When an Officer or representative unreasonably delays

1 his remittance reports or willfully persists in the practice of backdating  
2 dues payments, it shall be the duty of the National Division Secretary-  
3 Treasurer to cancel the surety bond coverage on his position and  
4 advise the lodge, system or Officer under whose jurisdiction such  
5 Officer or representative is functioning. Such lodge, system or Officer  
6 shall thereupon take immediate steps to remove such Officer or  
7 representative from the service, and, where he is not promptly  
8 removed, the National Division Secretary-Treasurer shall bring the  
9 matter to the attention of the National Division President for action  
10 under the provisions of Article III, Section 9.

11  
12 **Sec. 17.** He shall keep record of the last known address and  
13 other relevant data concerning any member who retires. Names and  
14 addresses so maintained shall be furnished to the BMWED's Legis-  
15 lative Department upon request.

16  
17 **Sec. 18.** In addition to the foregoing, the National Division Sec-  
18 retary-Treasurer shall exercise such authority and perform such other  
19 duties as may be additionally prescribed in these Bylaws or other  
20 governing laws of the BMWED or which may be delegated or as-  
21 signed to him by the National Division Convention.

## 22 23 24 **ARTICLE VI**

### 25 26 **National Division Executive Board**

27  
28 **Section 1.** Immediately after the final adjournment of the Na-  
29 tional Division Convention, the National Division President shall  
30 call the National Division Executive Board together for the purpose  
31 of electing a Chairman, Vice Chairman and Secretary, to transact  
32 such other business as is provided by these Bylaws and special en-  
33 actments of the National Division Convention, and other business  
34 that may properly come before the National Division Executive Board.

35  
36 **Sec. 2.** The quorum of the National Division Executive Board  
37 shall be three (3) members.

38  
39 **Sec. 3.** It shall be the duty of the National Division Executive  
40 Board to conform in every respect to these Bylaws of the BMWED  
41 and the enactments of the National Division Convention. By joint  
42 action the Board may, with the National Division President and Na-  
43 tional Division Secretary-Treasurer, adopt such provisions as may  
44 be necessary, in their opinion, for the best interests of the BMWED.

45  
46 **Sec. 4.** The National Division Executive Board shall, through  
47 its Secretary, submit to each regular Convention of the National Di-  
48 vision a full report of all business transacted by them, and stating  
49 what legislation is necessary, in their opinion, to promote the welfare  
50 of the BMWED.

51  
52 **Sec. 5.** Except as otherwise provided in these Bylaws, all ad-  
53 ministrative, executive and judicial power and authority of the

BMWED shall be vested in the National Division President, Secretary-Treasurer, Vice Presidents and the Executive Board as heretofore provided in Article I, Section 3, who shall jointly determine the general policies to be adopted and enforced during the interim between National Division Conventions, including the adoption of such resolutions as may be necessary or advisable to effectuate provisions of these Bylaws, the enactments, resolutions or decisions of the National Division Convention, or the requirements of any applicable law. All such policies shall be executed by the National Division Officers who shall be accountable to the National Division Executive Board for any departure therefrom, due allowance being made for all circumstances in such events.

**Sec. 6.** The National Division Executive Board shall meet once in each year as provided in Article III, Section 12, said meeting to be held immediately after the adjournment of the annual meeting of National Division Officers, to transact all business pertaining to their office. Special meetings may be called upon the written request of a majority of the members of the National Division Executive Board, such requests being forwarded to the Chairman of the National Division Executive Board by registered letter. Such petitions shall state the reason for calling a meeting and shall allow sufficient time for each member of the National Division Executive Board to receive ten (10) days notice of such meeting prior to the date. Copies of such notices shall be forwarded by the Secretary of the National Division Executive Board to all other National Division Officers.

**Sec. 7.** The National Division President may call a meeting of the National Division Executive Board at any time, notice of said meeting to be given in accordance with the provisions of Section 6 of this Article.

**Sec. 8.** It shall be the duty of the National Division Executive Board to engage the services of a certified public accountant to conduct quarterly certified audits at Headquarters.

The National Division Executive Board shall have free access to the books and papers of all National Division Officers. The National Division Executive Board shall furnish, through the National Division Secretary-Treasurer, a copy of the audit report signed by the accountant, to the National Division President, Secretary-Treasurer and each member of the National Division Executive Board, and upon request a copy will be furnished to Local Lodge Secretary-Treasurers which may be inspected by any member in good standing.

**Sec. 9.** The duty of the National Division Executive Board Secretary shall be to keep minutes of all transactions of the National Division Executive Board.

The National Division Executive Board Secretary shall furnish each System Officer with these minutes within sixty (60) days of the conclusion of the National Division Executive Board's meeting. The

1 minutes shall include the voting record and results of any and all  
2 questions acted on by the National Division Executive Board, ex-  
3 cluding death benefit appeals.

4  
5 The National Division Executive Board Secretary may call on  
6 the National Division President for assistance in reproduction and  
7 distribution of such minutes.

8  
9 In the event of a vacancy in the office, or the absence or inabil-  
10 ity to act, of the Chairman of the National Division Executive Board,  
11 the Vice Chairman shall, for the time being, perform the functions  
12 and duties of the Chairman.

13  
14 **Sec. 10.** It shall be the duty of the National Division Offic-  
15 ers between National Division Conventions, by majority vote of  
16 its members, to authorize such special assessments upon all mem-  
17 bers as may be necessary to provide sufficient funds with which  
18 to administer the affairs of the BMWED properly. Such assess-  
19 ments shall be effective until the next regular National Division  
20 Convention. After such assessment has been ordered, the Na-  
21 tional Division Executive Board Secretary shall notify the Na-  
22 tional Division Secretary-Treasurer thereof, who, in turn, shall  
23 levy such assessments and notify all members of the BMWED  
24 by mail. Any member failing to pay lawful assessments after  
25 due notice will forfeit all rights in the BMWED. Such assess-  
26 ments may be paid by the members to the System Division or  
27 System Federation Secretary-Treasurers, Local Lodge Secretary-  
28 Treasurers, or to any authorized representative.

29  
30 **Sec. 11.** Legal title to all property (real, personal and oth-  
31 erwise) of the BMWED, and to all interests of said BMWED  
32 and of its members therein, shall be deemed to be, and hereby is  
33 declared, vested in the Trustees of said BMWED. Reference to  
34 "Trustees" herein shall include the successors of said Trustees.  
35 The Trustees shall hold title in trust for the benefit of the  
36 BMWED and shall be deemed to be Trustees of an active ex-  
37 press trust. Legal title to property and interests may be trans-  
38 ferred, conveyed, encumbered or affected by instruments or con-  
39 veyances executed by said Trustees, and such instruments or  
40 conveyances shall bind all rights of said Trustees, the BMWED  
41 and its members in and to the property affected thereby without  
42 any other or different instrument or conveyance being executed  
43 by said BMWED, its Officers or members. The Trustees shall  
44 not sell, exchange or encumber any of the property or interests  
45 to which they hold title unless previously authorized to do so in  
46 each particular case by two-thirds of all National Division Of-  
47 ficers. Such authorization shall be contained either in minutes  
48 of meetings of such National Division elective Officers, or in  
49 writings signed by them.

50  
51 Except where otherwise provided, said Trustees shall also be  
52 custodians of all property of said BMWED, and no property of said  
53 BMWED, except documents and evidence involved in litigation, ar-

bitration, hearings, conferences, legal matters and the like in which said BMWED is interested or concerned, shall be removed from Headquarters or disposed of in any manner without the written consent of said Trustees.

The style of signature of said Trustees shall be the individual names of said Trustees followed by "Trustees of Brotherhood of Maintenance of Way Employees Division."

There shall be three of such Trustees. The respective persons acting as Chairman, Vice Chairman and Secretary of the Executive Board of said BMWED shall during their respective incumbency in office ex officio be the Trustees.

The certificate or affidavit of the President or Secretary-Treasurer of said BMWED relating to the election, term of office, incumbency in office, death, resignation or removal of any Chairman, Vice Chairman or Secretary of the Executive Board or any Trustee or successor, and/or to the provisions or any provision of the Bylaws of said BMWED, shall be deemed sufficient proof and evidence thereof.

Upon the death, resignation, removal, expiration of Trusteeship or of term of office, of any Trustee, all right, title and interest of said Trustee in and to any and all property of said BMWED and interests therein shall automatically and without conveyance or other transfer be deemed, and hereby is vested in the successor of such Trustee, free and clear from all right, title, interest, claim and demand of said former Trustee, his heirs, representatives and persons claiming or to claim by, through or under him individually.

The Trustee who is also Secretary of the Executive Board of said BMWED shall keep true and correct records of all accounts, doings and actions of said Trustees; said records shall at all times be open for inspection by the National Division elective Officers.

**Sec. 12.** In authorizing expenditures or loans neither the Executive Board nor any other established body of the BMWED or Officer thereof shall directly or indirectly authorize or make any loan or loans to any Officer or employee of the National Division or of any of its System Divisions, Federations or Local Lodges which result in a total indebtedness on the part of such Officer or employee to the BMWED in excess of two thousand dollars (\$2,000.00).

**Sec. 13.** None of the funds of the BMWED shall be obligated or used directly or indirectly to pay the fine of any Officer or employee convicted of any willful violation of the Labor-Management Reporting and Disclosure Act of 1959, but this prohibition shall not prevent the assumption by the National Division or by any System Division, Federation or Local Lodge of the costs of defending the BMWED or any of its constituent bodies

1 or Officers, agents, representatives or employees in any civil or  
2 criminal proceedings in which they may become involved for  
3 any alleged violations of law.  
4

5 **Sec. 14.** In addition to the foregoing, the National Division Ex-  
6 ecutive Board shall exercise authority and perform such other duties  
7 as are additionally prescribed in these Bylaws or other governing  
8 laws of the BMWED or which may be delegated or assigned to it by  
9 the National Division Convention.  
10

## 11 **ARTICLE VII**

### 12 **Salaries of National Division Officers and Personnel**

13  
14  
15  
16 **Section 1.** For the faithful performance of his duties, each  
17 elective National Division Officer shall receive an annual salary as  
18 follows:  
19

20 President: \$158,106.63\*

21 Secretary Treasurer: \$137,900.84\*

22 Vice President \$121,268.62\*  
23

24 \*Note: Rate reflects adjustment adopted at 2<sup>nd</sup> Regular National  
25 Division Convention.  
26

27 Each elective National Division Officer's salary and each Na-  
28 tional Division Appointee's salary shall be adjusted periodically so  
29 as to reflect all general wage increases including cost-of-living ad-  
30 justments as provided for under National Agreements applicable to  
31 the membership of the BMWED. All such increases shall be applied  
32 in the same manner and on the same dates as provided for under  
33 subsequent National Agreements.  
34

35 **Sec. 2.** The salaries of the National Division President, Vice  
36 Presidents, Secretary-Treasurer and Appointees shall be on an an-  
37 nual basis, and shall be paid in equal semimonthly installments. For  
38 each National Division Officer or Appointee paid on an annual ba-  
39 sis, the National Division shall provide medical, dental, and vision  
40 insurance policies at least equivalent to that received by members  
41 under the National Agreement.  
42

43 **Sec. 3.** The salary of members of the Executive Board, or Board  
44 of Trustees, shall be paid on a per diem basis, from the time they  
45 leave their respective headquarters until they have completed their  
46 duties as Executive Board Members, or Members of the Board of  
47 Trustees, and return to such headquarters. National Division Offic-  
48 ers paid on a per diem basis, will not receive medical, dental, and  
49 vision insurance coverage at National Division expense.  
50

51 **Sec. 4.** The salaries of all clerical forces and other employees  
52 employed at the National Division Headquarters shall be determined  
53 by agreement negotiated between the National Division President,

Secretary-Treasurer, and duly elected Committee representing the employees' organization.

**Sec. 5.** All National Division Officers or representatives when attending the National Division or traveling in the interests of the BMWED, or when their duties require them to leave their regular boarding and lodging places, shall have their expenses paid out of the General Fund when the same are approved by the National Division President.

**ARTICLE VIII**

**Charges and Trials of BMWED National Division Officers**

**Section 1.** Whenever charges are filed against a National Division Officer for a violation committed in that capacity, such charges shall be filed in writing in duplicate with the National Division Secretary-Treasurer. Trials shall be conducted in accordance with Article XIX of the IBT Constitution subject to the terms of the Merger Agreement.

**ARTICLE IX**

**Appeals**

**Section 1.** Decisions of the National Division Appeal Board may be appealed by either party in accordance with the provisions of the IBT Constitution and the terms of the Merger Agreement.

**Sec. 2.** No Officer or member of the BMWED shall resort to the civil courts or agencies of the Government in any case, controversy, or dispute or appeal any grievance to any such tribunal until such Officer or member shall have first exhausted all remedies provided by these Bylaws and the Merger Agreement not inconsistent with applicable law for the redress of such cases.

**ARTICLE X**

**Authorization of Legal Services**

**Section 1.** The President of the National Division, with the approval of the National Division Executive Board, may employ the services of an attorney at law. The expense of such services shall be paid out of the general funds of the BMWED; provided, however, that no National Division Officer shall employ an attorney at law at the expense of the National Division to carry on internal disputes. Any services required of an attorney at law not otherwise a full time employee of the BMWED, must include a fully executed written retainer.

**ARTICLE XI****National Division Departments**

**Section 1.** The National Division shall include the following departments consistent with Paragraphs 1.3 and 3.9 of the Merger Agreement:

- National Legislative Department
- Strategic Coordination and Research Department
- Safety and Education Departments
- Organizing Department
- Communications Department
- Arbitration Department (Chicago)

**ARTICLE XII****BMWED Legislative Boards**

**Section 1.** Purpose. To protect the interest and advance the quality of life of its membership and their families with respect to legislation the National Division shall maintain State Legislative Boards which shall work cooperatively with the BMWED National Legislative Director and IBT Department of Governmental Affairs.

**Sec. 2.** Carrying out the activities of the Legislative Department. To fulfill its purpose, a Legislative Board shall be organized in each state and in any state where only one Local Lodge is located that lodge shall be designated a Legislative Board and shall elect the appropriate list of Officers.

**Sec. 3.** Organization of State Boards. Each Local Lodge shall, at a regular or special meeting held between January 1 and June 30 in the year following a National Division Convention, elect by secret ballot a local Legislative Representative to serve as a member on the State Legislative Boards, and in addition they shall elect a Vice Legislative Representative who shall serve in the event the Legislative Representative is unable to carry out the prescribed duties. The Secretary-Treasurer of each Local Lodge shall report immediately to the National Division President the results of the election, giving the name of the persons elected as Legislative Representative and Vice Legislative Representative together with any other personal data pertaining thereto. After June 30 in the year following a regular National Division Convention, the National Division President or his designee will direct the incumbent Director of the State Legislative Board to convene the members elect at some convenient location within the State for a Legislative Convention for the purpose of reviewing its work and achievements, and to elect Officers. An accurate record of the proceedings of the State Convention shall be forwarded to the National Division President, the BMWED National Legislative Director and the Director of the IBT Department of Government Affairs, within 30 days after the State Convention.

**Sec. 4.** Officers of State Legislative Boards. Each Board shall elect a State Legislative Director and an Assistant State Legislative Director.

Effective January 1, 2006, any member in good standing of a Local Lodge, as provided in the Merger Agreement, falling under the jurisdiction of said State Legislative Board shall be eligible to be nominated and elected to the position of State Legislative Director and Assistant State Director.

The election shall be by secret ballot with each Local Legislative Representative entitled to cast a vote. There shall be no voting by proxy in the election.

Local Lodge Legislative Representatives shall be given at least fifteen (15) days advance notice in writing at their last known home address of the time, date, and place at which elections will be held.

Incumbent Directors and Assistant Directors shall be representatives ex officio, unless elected as a Local Legislative representative, and shall be entitled to run for reelection as an officer of their respective Boards, but shall not be entitled to cast a vote.

**Sec. 5.** Term of Office. Members of State Legislative Boards shall serve a four-year term of office beginning January 1 in the year following the holding of their regular Legislative Convention.

**Sec. 6.** Eligibility Requirements. Any member who at the time of nomination for the position of Local Legislative Representative or Vice Legislative Representative, must be a resident and registered and/or qualified voter of the State from which elected to serve and meet the eligibility requirements set forth in the Merger Agreement. These requirements shall also apply to the position of Legislative Director and Assistant Legislative Director at the time of nomination to the position.

**Sec. 7.** Bylaws. The State Legislative Boards will be governed by these Bylaws as provided for herein.

**Sec. 8.** Duties. It shall be the duty of the Legislative Directors when authorized by the National Division President, or his designee, to carry out the program promoting legislation that will advance the wages, hours and working conditions and improve the quality of life for the membership and their families and to oppose legislation deemed detrimental.

The Legislative Directors will preside at all meetings of their respective State Legislative Board and cast the tie breaking vote.

The Legislative Directors shall comply with all applicable Lobbying Laws and cooperate with the IBT Government Affairs Department in the filing of reports required thereunder.

1 The Legislative Directors shall render appropriate bills for sal-  
2 ary and expenses and a written report outlining their legislative ac-  
3 tivities to the National Division President and his designee not later  
4 than the 1st and 15th days of each month.

5  
6 Should any of the Legislative Directors for any reason be un-  
7 able to attend to their duties, they shall at once notify the National  
8 Division President, who will instruct the Assistant Legislative Di-  
9 rector of that State Legislative Board to serve as the Legislative Di-  
10 rector until the incumbent Legislative Director is able to resume du-  
11 ties or until the end of the term, whichever the case may be. If for any  
12 reason the Assistant Legislative Director is unable to serve, the Na-  
13 tional Division President or his designee may appoint a Local Lodge  
14 Legislative Representative recommended by the Legislative Direc-  
15 tor to perform necessary duties of the Legislative Director until the  
16 Legislative Director and/or Assistant Legislative Director is able to  
17 resume duty.

18  
19 For all elections held on or before December 31, 2005, eligibil-  
20 ity and good standing to nominate, second, run for office and vote  
21 shall be governed by the provisions of the BMW Constitution and  
22 Bylaws in effect immediately prior to the merger. For elections held  
23 on January 1, 2006 or after, eligibility and good standing to nomi-  
24 nate, second, run for office and vote shall be governed by the provi-  
25 sions of the Merger Agreement.

26  
27 The Legislative Directors shall attend legislative meetings  
28 in their home state as directed by the National Division Presi-  
29 dent or his designee to keep informed on pertinent Legislation,  
30 and in every way possible advance the interests of the Union.  
31 The Legislative Director will work with the Local Lodges and  
32 other IBT Local Unions and Joint Councils and oversee the for-  
33 mation of a working COPE and Legislative Action Committee  
34 in each of the Electoral Districts in their state and to increase  
35 participation in IBT's DRIVE (Democratic, Republican, Inde-  
36 pendent Voter Education) fund in the United States.

37  
38 The Legislative Directors, upon authorization of the National  
39 Division President or his designee, shall seek membership in various  
40 state labor and interest groups that share in the Union's goals.

41  
42 The Legislative Directors, upon authorization of the National  
43 Division President, shall represent the Union before regulatory agen-  
44 cies for the purpose of disposing of questions that arise concerning  
45 safety, health and sanitary conditions that directly affect the mem-  
46 bership.

47  
48 **Sec. 9. Vacancies.** Should the incumbent State Legislative Di-  
49 rector be unable to serve for any reason, the Assistant State Legisla-  
50 tive Director shall be notified by the National Division President or  
51 his designee to fill the temporary vacancy or the unexpired term.  
52 Should a vacancy occur in the office of the Assistant State Legisla-  
53 tive Director, said vacancy shall be filled by appointment by the

National Division President or his designee. Should the Local Legislative Representative position in any Local Lodge become vacant, the Vice Local Legislative Representative shall fill the vacancy for the unexpired portion of the term and an election shall be held at the next regular Lodge meeting for the purpose of filling the position of Vice Local Legislative Representative for the unexpired portion of the four-year term of office. Such elections shall be subject to the terms of the Merger Agreement.

**Sec. 10. Assignment.** The National Division President shall appoint a National Legislative Director from the BMWED to work cooperatively with the IBT Department of Government Affairs to carry out, direct and coordinate Legislative activities in the United States. Unless otherwise provided for in these Bylaws, no Legislative Director shall become active on legislative matters until authorization has been obtained from either the National Division President or his designee.

**Sec. 11. Salary and Expenses.** The salary and expenses of Officers of State Legislative Boards will be fixed by the Director of the IBT Government Affairs Department in accordance with the IBT Constitution. The salary and expenses of Local Lodge Legislative Delegates attending State Legislative Conventions, as provided for in Section 3 of this Article, will be borne by the respective Local Lodges.

**Sec. 12. Endorsing of Candidates for Public Office.** Legislative Directors, after consulting the appropriate COPE committees, if in place, may submit to the National Division President, for approval, recommendations with respect to the endorsement of candidates for any public office. Prior to the COPE Committee or Legislative Director making any recommendation, they shall advise the Local Lodges in that electoral district of the proposed endorsement. Under no circumstances shall any member of the National Division issue or publicize endorsements of any kind utilizing the National Division's name in any form, for any candidate to any public office without the written approval of the National Division President.

**Sec. 13. Legislation.** State Legislative Directors shall not advocate or oppose legislation without the specific approval or authorization of the National Division President or his designee except where bills directly affecting the BMWED, or railroad labor, require immediate attention.

**Sec. 14. Cooperating in Legislative Work.** State Legislative Directors of the BMWED shall cooperate with Legislative Representatives of the Legislative Boards of other standard labor organizations in organizing and maintaining joint legislative boards or committees in the respective States in order that our organization may be in a position to do its part in securing favorable legislation and in opposing unfavorable legislation concerning matters in which the BMWED and such other organizations have mutual interests. However, State Legislative Directors shall not incur or commit the

1 BMWED to any joint expense without first securing the approval  
2 and authorization of the National Division President.

3  
4 The Officers of the System Divisions or Federations and Local  
5 Lodges of the BMWED should fully cooperate in actively supporting  
6 such legislative programs as may be agreed upon by such Joint  
7 Legislative Boards or Committees; and, if possible, such Officers  
8 should furnish the Legislative Representative information requested  
9 by him or the National Division President for the purpose of carrying  
10 out the legislative program.

## 11 12 13 **ARTICLE XIII**

### 14 15 **BMWED Death Benefit Department**

16  
17 **Section 1.** Subject to the provisions of these Bylaws, the Na-  
18 tional Division shall maintain a Department known as the Death  
19 Benefit Department. The Department heretofore maintained and  
20 known as the Provident Department and the Superintendent of said  
21 Provident Department shall henceforth be known, respectively, as  
22 such Death Benefit Department and the Superintendent of such Death  
23 Benefit Department.

24  
25 **Sec. 2.** The Secretary-Treasurer of the National Division imme-  
26 diately upon his election as such Secretary-Treasurer, and qualifica-  
27 tion, ex officio, shall be and become also the Superintendent of the  
28 Death Benefit Department and shall act as such Superintendent during  
29 his tenure in office as Secretary-Treasurer and shall have custody of all  
30 property, funds, securities, papers, records, books and documents of  
31 every kind relating to or belonging to said Death Benefit Department.

32  
33 **Sec. 3.** Upon due proof of the death of any member of the  
34 BMWED, who, at the time of such death shall be in good standing in  
35 said BMWED, and who shall be eligible to receive death benefits  
36 pursuant to Section 13 of this Article and whose participation in the  
37 benefits of the Death Benefit Department is not limited under Sec-  
38 tion 4 or debarred under Sections 6, 8 and/or 13 of this Article, the  
39 Superintendent of the Death Benefit Department shall, out of the  
40 funds or property coming into his custody or control as such Super-  
41 intendent, pay the beneficiary of such member the sum of five hun-  
42 dred dollars (\$500.00) if such member has had a continuous mem-  
43 bership since January 1, 1971.

44  
45 **Sec. 4.** New or rejoined members who are eligible to receive  
46 death benefits pursuant to Section 13 of this Article but who had  
47 reached the age of fifty years at joining date or last rejoining date  
48 (whichever was latest) may participate in the benefits of the Death  
49 Benefit Department to the extent provided in this Section. Upon due  
50 proof of the death of any such member who at the time of such death  
51 shall be in good standing in the BMWED, and who is not debarred  
52 from participation in the BMWED, and who is not debarred from  
53 participation in the benefits of the Death Benefit Department under

the provisions of Sections 6, 8 and/or 13 of this Article, the Superintendent of the Death Benefit Department shall, out of the funds or property coming into his custody or control as such Superintendent, pay the beneficiary of such member the sum of one hundred and fifty dollars (\$150.00) if such member has had a continuous membership since January 1, 1971.

**Sec. 5.** A copy of the death certificate or Coroner's Report must be furnished to the Superintendent to establish proof of the member's death. Said Superintendent may require further and other proof and data including satisfactory proof of the deceased member's date and year of birth where there shall exist a reasonable doubt as to his age. Such proof of death and other data will be furnished without cost to the BMWED.

**Sec. 6.** Any member eligible for death benefit rights pursuant to Section 13 of this Article who shall fail to pay all of his dues and properly levied assessments on or before the first day of the month for which such dues and assessments are due shall be deemed to be delinquent insofar as his status in the Death Benefit Department is concerned and to have forfeited all rights, interests and benefits of, in and to said Death Benefit Department, its funds and property, except that any such member may regain such rights if such member, prior to death and during the month for which such dues and/or assessments became payable, pays such dues and assessments in full; provided, however, that a retired member eligible for death benefit rights pursuant to Section 13 of this Article who shall fail to pay all of his dues on or before the first day of the first month (i.e., January, April, July or October) of the quarter of the calendar year for which such dues are due shall be deemed to be delinquent insofar as his status in the Death Benefit Department is concerned and to have forfeited all rights, interests and benefits of, in and to said Death Benefit Department, its funds and property, except that any such retired member may regain such rights if such retired member, prior to death and during the month on the first day of which such dues became payable, pays such dues in full. While such member is delinquent neither he, nor his beneficiary, widow, estate or Local Lodge, nor any other person who might otherwise be entitled to the death benefit as to such member, shall be entitled to any rights, interests or benefits of, in or to said Death Benefit Department, its funds or property. If such member remains delinquent during the entire month on the first day of which such dues became payable, he, his beneficiary, widow, estate and the aforesaid Local Lodge and persons shall permanently forfeit all rights, interests and benefits of, in and to said Death Benefit Department, its funds and property and become ineligible for death benefit rights unless such member shall have rejoined prior to January 1, 1963, and shall have become entitled to benefits computed from the date of said rejoining under Sections 3 or 4 and 13 of this Article.

**Sec. 7.** In the event a member is expelled from membership in the BMWED, or his System Division or Federation or Local Lodge disaffiliates with the BMWED, he, his beneficiary and aforesaid Local

1 Lodge and persons, shall be deemed to have forfeited all rights, in-  
2 terests and benefits of, in and to said Death Benefit Department, its  
3 funds and property, and no payments to any person shall be made  
4 under this Article by reason of death of said member.  
5

6 **Sec. 8.** Any member eligible for death benefit rights pursuant to  
7 Section 13 of this Article holding a Retiree Membership Card or an  
8 Unemployment Card may nevertheless continue his rights in said Death  
9 Benefit Department, subject to the provisions of this Article, without  
10 payment of other than National Division dues, as provided in Article  
11 XV, Section 3, provided, however, that if such member shall not re-  
12 sume full active membership in good standing in the BMWED within  
13 thirty (30) days after returning to the service of any company in a  
14 position under the jurisdiction of the BMWED, all of the rights, inter-  
15 ests, benefits and privileges of said member, his beneficiary, and afore-  
16 said Local Lodge and persons, in and to said Death Benefit Depart-  
17 ment, its funds and property, shall immediately upon the expiration of  
18 said thirty (30) days cease and no payments to any person shall be  
19 made under this Article by reason of the death of said member.  
20

21 **Sec. 9.** Each member of the BMWED eligible for death benefit  
22 rights pursuant to Section 13 of this Article (including retired mem-  
23 bers and unemployed members) may from time to time designate  
24 one or more persons and/or institutions to whom any benefits to which  
25 he may be or become entitled shall be paid, and the last valid desig-  
26 nation in force at his death shall be given effect; provided, that a  
27 valid designation shall not be revoked except by burning, tearing,  
28 canceling or obliterating the same, with intention to revoke the same,  
29 by the member or by some person in his presence and by his direc-  
30 tion or by a subsequent valid designation; but the death of any desig-  
31 nated beneficiary prior to the death of the member shall automati-  
32 cally revoke the designation as to that beneficiary. Unless otherwise  
33 provided in the designation, the entire benefits payable thereunder  
34 shall be paid in equal shares to the beneficiaries who survive the  
35 member, if there be more than one such surviving beneficiary; other-  
36 wise entirely to the sole survivor thereof. A designation shall be valid  
37 only if made in writing upon a beneficiary form provided by the  
38 BMWED for such purpose and: (1) If the beneficiary or beneficia-  
39 ries was filled in by the member himself and was signed by the mem-  
40 ber other than by mark, or, if not so filled in and signed, then (2) If  
41 said form shows the beneficiary or beneficiaries and bears the signa-  
42 ture or signature mark of the member and the signatures of two other  
43 persons each of whom thereby attests that the designation of benefi-  
44 ciary or beneficiaries so shown is in accordance with the member's  
45 expressed wish and that they witnessed the member's signature or  
46 signature mark thereon.  
47

48 No claim based upon any beneficiary designation shall be con-  
49 sidered or allowed unless such designation is delivered to the Super-  
50 intendent of the Death Benefit Department, supplemented by proof  
51 satisfactory to him that such designation was not revoked. Where a  
52 member dies leaving in force no valid beneficiary designation or  
53 where no designated beneficiary survives the member, any benefits

which are payable shall be paid to the widow or widower of said member if one survives, otherwise to the estate of said member; provided, however, that in either of said cases, the Superintendent, upon due proof of the death of said member and of the amount and status of the expense of his funeral or burial, may, in his discretion, pay said benefit, or any part thereof, not to exceed the amount of said benefit or the amount of said expense, whichever be smaller, to the Local Lodge or person or persons, including representatives of the estate of said member, who have paid said funeral or burial expense, or, in cases where said expense has not yet been paid, jointly to said Local Lodge or person or persons who assumed financial responsibility for such expense and to the undertaker of the funeral home involved. Any balance remaining after any such payment shall be paid to the widow or widower or to the estate as the case may be. Where the amount payable after payment of the funeral or burial expense is One Hundred Dollars (\$100.00) or less, and where no widow or widower survives, the Superintendent may, in his discretion, make such payment to the legal representative of the deceased. No claim as to any death benefit shall be recognized unless made within two years after the death of the member. All questions which may arise as to the Death Benefit Department or death benefit matters shall be decided in accordance with these Bylaws and applicable State and/or Federal law. Where conflicting claims are made as to the benefit, the Superintendent may, in his discretion, enter into an agreement with the claimants whereby the claimants agree as to how the benefit shall be paid or agree to submit the matter to arbitration or judicial determination, in which event any payment made by the Superintendent in accordance with any such agreement shall be in full discharge of all obligation of the BMWED, the Superintendent, and the Death Benefit Department; provided, however, that no such agreement, arbitration or judicial proceedings shall entail cost or obligation other than payment of the benefit on the part of the BMWED, the Superintendent or the Death Benefit Department.

**Sec. 10.** The Superintendent of the Death Benefit Department shall receive all claims against said Department and shall issue checks signed by himself as such Superintendent or by someone whom he has duly authorized to sign checks for him, and countersigned by the President of the National Division, or someone authorized by him to do so, covering all claims which he shall determine to be valid and payable. A Reviewing Committee, composed of the National Division President and of at least four (4) members of the Executive Board, shall meet at the call of the National Division President to review and determine the validity of any death benefit claims appealed or referred to it. The Superintendent of the Death Benefit Department shall not be a member of the Reviewing Committee. In all cases in which any claimant to a death benefit shall be dissatisfied with the disposition of the claim made by the Superintendent, such claimant shall appeal from the disposition made by the Superintendent to the Reviewing Committee, and, unless the Committee then fails to determine the validity of the claim during the ensuing four (4) months, the claimant shall secure the determination of the Committee as to the validity of the claim before instituting any action at law or in

1 equity as to it. Appeals to the Committee shall be taken in writing,  
2 delivered to the Reviewing Committee at National Division Head-  
3 quarters. The claimant and the Superintendent shall submit in writ-  
4 ing all evidence and arguments they wish considered and shall fur-  
5 nish each other with copies of all material submitted. The Superin-  
6 tendent may also refer doubtful undetermined claims to the Commit-  
7 tee for its decision as to their validity.

8  
9 **Sec. 11.** The Superintendent of the Death Benefit Department  
10 shall have jurisdiction over all matters pertaining to the Death Ben-  
11 efit Department. No other Officer, representative, member, Local  
12 Lodge or Officer or representative thereof, nor any other person, shall,  
13 without express written authority to do so from said Superintendent  
14 first obtained, have any right, power or authority to act as agent or  
15 representative of said Department or of said Superintendent.

16  
17 **Sec. 12.** The Superintendent of the Death Benefit Department  
18 shall, at the close of each fiscal year, prepare and submit to the Ex-  
19 ecutive Board of the BMWED a detailed statement of all monies,  
20 funds and property received and all claims paid, as well as all charges  
21 against the Death Benefit Department. He shall prepare a statement  
22 in detail similar to the foregoing to be presented to the delegates at  
23 each National Division Convention and shall also cause the publica-  
24 tion in the Official Journal of the names of those individuals for whom  
25 a death benefit was paid.

26  
27 **Sec. 13.** Participation in the benefits of the Death Benefit De-  
28 partment is closed to members joining or rejoining the BMWWE after  
29 December 31, 1962. Only those members of the BMWWE whose join-  
30 ing date and whose last rejoining date, if any, prior to death pursuant  
31 to Article XV, Sections 5, 5(a) and 5(b) are each prior to January 1,  
32 1963, shall be eligible to receive death benefits. Death benefits are  
33 payable solely to eligible members and are payable solely for, and  
34 solely in consideration of, continuous promptness in the payment of  
35 the required regular union dues and assessments which must be paid  
36 in any event for the maintenance of BMWWE/BMWED membership.  
37 No extra fee or charge can be paid for them. Questions as to whether  
38 a death benefit is payable or the amount to be paid shall be deter-  
39 mined solely by the deceased member's period of continuous mem-  
40 bership for death benefit purposes. Continuous membership of a  
41 member for death benefit purposes shall mean that period preceding  
42 the death of the member during which all of his dues and assess-  
43 ments were continuously and without interruption paid in advance  
44 or within the month in which due or in the case of retired members,  
45 in advance or within the first month of the quarter in which due. In  
46 computing said period of continuous membership of a member, no  
47 period prior to his joining date or to his last rejoining date pursuant  
48 to Article XV, Sections 5, 5(a) and 5(b), whichever of said dates is  
49 latest, shall be included; nor shall said period include any period  
50 after the date of death of said member, even though his dues may  
51 have been paid beyond the date of death.

52  
53 **Sec. 14.** This Article shall govern all claims and payment thereof

where the member’s death occurs on or subsequent to said date. Where the death occurs prior to said date the claims and payment thereof shall be governed by the provisions of these Bylaws as in effect at the date of death.

**Sec. 15.** Any member of the BMWED eligible for death benefit rights pursuant to Section 13 of this Article entering the military service of the United States of America, shall have his death benefit standing maintained as of the date of entering military service; provided, however, that upon his returning to the BMWED represented service he will, within thirty-five (35) days, reaffiliate himself with the BMWED by paying the current month’s dues or, if totally disabled, securing a Retiree Membership Card; and further provided that while in military service neither the member, his beneficiary, nor his estate, will have any claim upon the Death Benefit Department of the BMWED.

A member in military service has all the rights and privileges in the BMWED, including any death benefit rights for which he is eligible, if he continues to pay his dues, as required by these Bylaws with respect to eligibility for and maintenance of said rights, while in such service, subject to the terms of the Merger Agreement.

**ARTICLE XIV**

**Bonds**

**Section 1.** All National Division Officers, organizers, representatives and employees who handle funds or property of the BMWED or of a trust in which the BMWED is interested shall be bonded in such amounts as are determined by the National Division Secretary-Treasurer with the approval of the Executive Board to be required by applicable law; provided, however, that the bonds of the National Division President and Secretary-Treasurer shall be not less than the amount of \$500,000 each, the bonds of the members of the Executive Board in the sum of at least \$100,000 each, and the bonds of each Vice President, National Division organizer, representative or traveling auditor not less than \$100,000 each irrespective of the requirements of applicable law. The expenses of all such bonding shall be paid from the general funds of the National Division.

**Sec. 2.** All System Division or Federation Officers, organizers, representatives, or employees who handle funds and property of the BMWED or of any of its constituent bodies or of a trust in which any of such bodies is interested shall be bonded in such amounts as are determined by the National Division Secretary-Treasurer to be required by applicable law; provided, however, that all active General Chairmen, System Division or Federation Secretary-Treasurers, Vice Chairmen, Assistant Chairmen and System Division or Federation organizers shall be bonded in an amount not less than \$2,500 each irrespective of the requirements of applicable law. The expenses of all such bonding shall be paid from the funds of the respective System

1 Division or Federations, and the bonds shall be made payable to the  
2 National Division or the System Division or Federation as their  
3 respective interests may appear.  
4

5 **Sec. 3.** All Local Lodge Officers, organizers, representatives or  
6 employees who handle funds and property of the BMWED or any of  
7 its constituent bodies or of a trust in which any of such bodies is  
8 interested shall be bonded in such amounts as are determined by the  
9 National Division Secretary-Treasurer to be required by applicable  
10 law; provided, however, that irrespective of the requirements of said  
11 law each Secretary-Treasurer of a Local Lodge shall be bonded in  
12 the sum of not less than \$2,500. The expense of such bonding shall  
13 be paid from the funds of the respective Local Lodges but nothing in  
14 this Section shall prevent System Divisions or Federations from pay-  
15 ing such expenses from their funds should they so elect.  
16

17 **Sec. 4.** All such bonds provided for in the foregoing Sections  
18 shall be arranged and contracted for by and through the National  
19 Division Secretary-Treasurer with a reliable surety company selected  
20 jointly by the National Division President, Secretary-Treasurer and  
21 Executive Board. All such bonds shall remain in the custody of the  
22 National Division Secretary-Treasurer on behalf of the Trustees of  
23 the BMWED subject to their disposition and control as hereinbefore  
24 provided in Section 11 of Article VI.  
25

26 **Sec. 5.** Should any shortage be discovered under any of the  
27 bonds provided for in this Article, the same shall be reported to the  
28 surety company through the National Division Secretary-Treasurer,  
29 such report to consist of a complete and correct audit and a sworn  
30 statement outlining all the essential facts in the case.  
31

32 In the event of any such shortage, no Officer, board, committee  
33 or other body of the BMWED shall be authorized to accept any  
34 amount in settlement or release the surety company from liability  
35 without the written consent of the National Division Secretary-Trea-  
36 surer, or in case of shortage of a National Division Officer, the writ-  
37 ten consent of the Executive Board and National Division Secretary-  
38 Treasurer who shall not grant such consent without the approval and  
39 authorization of the surety company.  
40

## 41 **ARTICLE XV**

### 42 **Revenue, Fees, Dues and Assessments**

43  
44 **Section 1.** Revenue shall be derived from initiation fees, dues  
45 and assessments, as are levied by properly constituted authority in  
46 accordance with these Bylaws, plus amounts earned through invest-  
47 ments and other miscellaneous receipts. Aside from such sums as  
48 these Bylaws provide shall be allocated to and placed in other funds,  
49 all revenue of the National Division shall be placed in a fund known  
50 as the General Fund and shall be in the possession of the National  
51 Division Secretary-Treasurer for the purpose of defraying expenses  
52  
53

of the National Division. The National Division will furnish new lodges with supplies at no cost.

**Sec. 2.** Initiations for new members shall be \$100.00, the entire amount of which will be collected in every instance and given to the local lodge that the member joins. Initiation fees for new members hired where a non standard contract is in place or for non-rail contracts, shall be \$20.00, the entire amount of which will be collected in every instance and given to the local lodge that the member joins. No portions of this fee to be returned to applicant or any dispensation granted doing away with same except on roads, portions of the roads, or employers where there is no organization, where the BMWED has become depleted, where dual organizations hold contract or where the BMWED is being seriously threatened by new organizations. The National Division President, with the approval of the Executive Board, may issue dispensations temporarily eliminating the initiation fee.

System Divisions or Federations operating under checkoff agreements on properties where a Union Shop Agreement is not in effect, shall deduct the required initiation fee from the initial dues payment withheld from the employee's earnings and remitted to the BMWED.

New members paying their initiation fee in accordance with the provisions of the preceding paragraph shall be required to make application for membership by filing a membership request form with the proper System Division or Federation office. Such forms shall be furnished and approved by the National Division.

With regard to the percentage of any initiation fee due under Article X, Section 3(a) of the IBT Constitution shall be paid entirely from the local lodge that the member joins.

**Sec. 3.** Each member shall be required to pay all BMWED dues and assessments. National Division dues shall be adjusted each January to reflect one and threenths (1.3) of the average straight time hourly rate of pay for each of the three rate classifications listed in Paragraph 3.8 of the Merger Agreement. The average straight time hourly rate of pay for standard contracts will be based on the information reflected in the annual statement published by the National Railway Labor Conference which shall be used as an equivalent formula. In the event that the National Railway Labor Conference ceases to publish the annual statement or alters it materially, and for non-standard and nonrail contracts listed in Paragraph 3.8 of the Merger Agreement, an alternative equivalent formula shall be adopted so as to accurately reflect increases in rates of pay provided for under Agreements during the appropriate measurement period. Said amounts shall be rounded to the nearest 25 cents, which additional sum shall be taken into consideration when calculating any dues increase for the following year. Provided, however, that notwithstanding a rail carrier's classification as Class II or III, where the average weighted straight-time hourly rate on such property falls within the range of hourly

1 rates of standard contracts. National Division dues shall be that ap-  
2 plicable to members working under standard contracts.

3  
4 National Division dues for retired members shall be \$16.00 per  
5 member per year payable in the amount of \$4.00 per quarter.

6  
7 Any member who wishes to maintain full good standing during  
8 periods of unemployment or sickness may pay dues at the applicable  
9 Non-Working rate. The Non-Working rate shall equal the sum of the  
10 then current applicable IBT and Rail Conference per capita remit-  
11 tances, plus one dollar each to National Division, his System Divi-  
12 sion or Federation, and his Local Lodge. Dues timely paid at the  
13 Non-Working rate shall supersede any System Division or Federa-  
14 tion or Local Lodge rate of dues and assessments set by action of  
15 their governing bodies. Members paying Non-Working dues will be  
16 counted in National Division's per capita remittances to the Interna-  
17 tional Union.

18  
19 The National Division President may temporarily waive these  
20 dues obligations on new-organized properties with the approval of  
21 the National Division Officers. Such waiver will not continue be-  
22 yond the effective date of the first collective bargaining agreement.

23  
24 Each January 1 any monies in the strike fund in excess of 15  
25 million (absent any additional assessments) shall be transferred by  
26 the National Division SecretaryTreasurer to the National Division  
27 General Fund. An itemized account of this transfer shall be provided  
28 to the National Division Executive Board with a copy to all System  
29 Officers.

30  
31 Subject to the provisions of Section 4 of this Article, Joint Pro-  
32 tective Boards or System Division or Federation Conventions may  
33 establish System Division or Federation dues.

34  
35 Local Lodge dues shall be uniform by System Divisions or Fed-  
36 erations subject to the provisions of Section 4 of this Article. All  
37 Local Lodge SecretaryTreasurers shall remain exempt from the pay-  
38 ment of all dues until December 31, 2005 while holding that office.  
39 Except that any Local Lodge SecretaryTreasurer who is delinquent  
40 for more than ninety (90) calendar days in the execution and filing of  
41 Local Lodge reports as required in accordance with Article XVIII,  
42 Section 13, will be responsible for the payment of full dues, fees and  
43 assessments retroactively for each month, beginning the month such  
44 report was due and continuing each month until such written report  
45 is finally compiled and received.

46  
47 System Division or Federation dues and Local Lodge dues shall  
48 be paid to the System Division or Federation and to the Local Lodge  
49 having jurisdiction over the position to which a member is regularly  
50 assigned.

51  
52 New and rejoining members shall be required to pay the full  
53 month's dues for the month in which they become members.

Newly merged or consolidated System Divisions or Federations may temporarily preserve their pre-merger or pre-consolidation dues structures, and those of their respective affiliated lodges, provided that they be gradually equalized in accordance with a plan approved by the National Division President and Executive Board.

System Divisions or Federations shall consider the odd cents collected in conjunction with the foregoing provisions as Local Lodge dues and such monies shall revert to the Local Lodge.

Newly merged or consolidated System Divisions or Federations may temporarily preserve their pre-merger or pre-consolidation dues structures, and those of their respective affiliated lodges, provided that they be gradually equalized in accordance with a plan approved by the National Division President and Executive Board.

**Sec. 4.** Increases in the established initiation fee or in National Division dues shall be made pursuant to a representative majority vote of the delegates voting at a regular National Division Convention, or at a special Convention of the National Division held upon not less than thirty (30) days written notice to all System Divisions or Federations and Local Lodges entitled to such notice.

Any increases in dues by Joint Protective Boards or System Divisions or Federations shall be effected as follows: By majority vote of the delegates to a regular Convention of the Joint Protective Board, System Division or Federation; or, if at a special Convention, by majority vote of the delegates after not less than thirty (30) days' written notice to each of the Local Lodges comprised within such Joint Protective Board, System Division or Federation, or by majority vote of the members in good standing of each of the Local Lodges comprised within said Protective Board, System Division or Federation voting in a membership referendum conducted by secret ballot; or by majority vote of the members of the System Division or Federation Joint Protective Board or similar governing body, pursuant to express authority contained in the System Division's or Federation's Constitution and/or Bylaws; provided, however, that such increase shall be effective only until the next regular Convention of the System Division or Federation.

Any increases in Local Lodge dues may be made on the uniform basis required by said Section 3 after authorization by the membership of the Local Lodges within a given System Division or Federation voting as follows: (1) by majority of those Local Lodges voting, each lodge vote will be governed by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting after reasonable notice of the intention to vote upon such question; or (2) by majority of those voting members in good standing voting in a membership referendum conducted by secret ballot.

**Sec. 5.** Effective January 1, 1983 upon written request of a member, the Superintendent of the Death Benefit Department shall

1 promptly notify any member in writing who upon retirement is ineli-  
2 gible for death benefits as a result of a late or missing dues payment.  
3 All dues and properly levied assessments must be paid in advance to  
4 an authorized representative on or before the first day of the month  
5 for which such dues and assessments are due; if they are not so paid  
6 a member eligible for death benefit rights shall be deemed to be de-  
7 linquent insofar as his status in the Death Benefit Department is con-  
8 cerned and to have forfeited any and all rights, interests and benefits  
9 of, in and to said Death Benefit Department and its funds and prop-  
10 erty as provided in Article XIII, of these Bylaws and particularly in  
11 Sections 3, 4, 6 and 13 thereof. Except as to his status in the Death  
12 Benefit Department as governed by Article XIII, a member who is  
13 not otherwise delinquent and who pays his current dues and assess-  
14 ments in full within the current month will be considered in good  
15 standing and entitled to all benefits and privileges of the BMWED,  
16 subject to the terms of the Merger Agreement. A member refusing or  
17 failing to pay his unpaid back dues and assessments in full or refus-  
18 ing or failing to pay his current dues and assessments in full within  
19 the current month is not in good standing, is delinquent for all pur-  
20 poses and shall not be entitled to a seat in his lodge or to any of the  
21 benefits or privileges of a BMWED member; provided, however,  
22 that a retired member who is not otherwise delinquent and who pays  
23 his current dues and assessments in full within the first month (i.e.,  
24 January, April, July or October) of any current quarter will be con-  
25 sidered in good standing and entitled to all benefits and privileges of  
26 the BMWED, subject to the terms of the Merger Agreement. A re-  
27 tired member refusing or failing to pay his unpaid back dues and  
28 assessments in full or refusing or failing to pay his current dues and  
29 assessments in full within the first month of any current quarter is  
30 not in good standing, is delinquent for all purposes and shall not be  
31 entitled to a seat in his lodge or to any of the benefits or privileges of  
32 a BMWED member. Any member desiring to pay his dues in ad-  
33 vance will be allowed to do so. Upon death of a member any dues  
34 paid in advance beyond the month or quarter in which death occurs  
35 shall be refunded.

36  
37 (a) A member coming under the provisions of a Union Shop  
38 Agreement who becomes delinquent for all purposes by reason of  
39 failure to pay his dues and assessments shall be considered in viola-  
40 tion of said agreement; such violation requires the filing of a citation  
41 notice, after which dues and assessment payments cannot be accepted.

42  
43 An individual residing in the United States covered by a Union  
44 Shop Agreement must pay the initiation fee, dues and assessments  
45 (not including fines and penalties) required of all members of the  
46 union within the time limits provided for in the Union Shop Agree-  
47 ment. Such an individual may elect to meet the requirements of the  
48 Union Shop Agreement without joining the BMWED or if presently  
49 a member, by resigning such membership and continuing to pay a  
50 fee equivalent to periodic full (monthly) dues and assessments re-  
51 quired for the acquisition or retention of membership in the BMWED.  
52 If a member chooses to resign his/her membership, he/she must no-  
53 tify the National Division Secretary-Treasurer in writing. Such indi-

vidual shall be referred to as an agency fee payer and thereafter, considered a nonmember and deemed to have met the membership requirements of the Union Shop Agreement. Agency fee payers shall be equally eligible for all benefit programs available to members, including strike benefits, death benefits and the Journal. Nonmembers shall not be eligible to run for or hold office, participate in the BMWED's governing activities, vote or be counted for purposes of tabulating votes.

A nonmember coming under the provisions of a Union Shop Agreement who fails to pay the initiation fee, dues and assessments necessary to become a member within the time required by the agreement shall be considered in violation of said agreement; such violation requires the filing of a citation notice, after which such initiation fee, dues and assessments cannot be accepted.

(b) A member not coming under the provisions of a Union Shop Agreement who becomes delinquent for all purposes for a period of less than six (6) months may, subject to the limitations of Article XIII, and particularly Sections 3, 4, 6, 8 and 13 thereof, rejoin as a member upon payment of all back and current dues and assessments; if six (6) or more months delinquent, he may rejoin upon payment of an initiation fee and the current month's dues.

**Sec. 6.** Each System Division or Federation Secretary-Treasurer properly qualified to handle remittances shall remit to the National Division Secretary-Treasurer all National Division funds and other funds coming into his possession, not belonging to his System, including National Division and IBT portions of the initiation fee, twice each month and include in such remittance all funds received by him more than five (5) days prior to the date of such remittance; except that funds in his possession belonging to Local Lodges assigned to his System shall be remitted to the Local Lodge Secretary-Treasurers of the respective Lodges within twenty (20) days after receipt of the current quarterly Local Lodge audit report in proper order. He shall see that all Local Lodge Secretary-Treasurers remit all collections in accordance with Section 7 of this Article and shall promptly notify the National Division Secretary-Treasurer of such Secretary-Treasurers who fail to comply in full with Section 7. He shall promptly handle with the Local Lodges, Organizers and other representatives remitting to him, all matters of correction of payment credits and other discrepancies in reports, collection of missing payments, etc., as well as all correspondence pertaining thereto, furnishing copies of same to the National Division Secretary-Treasurer, when transmitting the respective remittances. He shall maintain proper membership records and an adequate record of all funds and receipts received, handled and distributed by him, maintaining an accurate account of all such items with all Local Lodges, Organizers and other representatives under his jurisdiction, as well as with the National Division; and deposit, in the name of the BMWED, all monies coming into his possession, in reliable banks or trust companies covered by the Federal Deposi-

1 tory Insurance Laws. He shall maintain a proper record of all  
2 financial transactions of his office and be prepared, at all times,  
3 to make a complete accounting for all funds, turned over to him  
4 or remitted to him, as well as any BMWED property or securi-  
5 ties coming into his possession. He shall keep a strict check on  
6 the audits of all Local Lodges assigned to his System, seeing to  
7 it that audits are promptly and regularly made each quarter and  
8 reports covering rendered to the System office and to the Na-  
9 tional Division within the required time.

10  
11 **Sec. 7.** Each Local Lodge Secretary-Treasurer shall remit to  
12 the Secretary-Treasurer of the System Division or Federation to which  
13 assigned (if qualified to receive remittances, otherwise to the National  
14 Division Secretary-Treasurer) all collections received by him,  
15 including full initiation fee, at least once each month except that he  
16 shall retain in his possession, for Local Lodge purposes, the Local  
17 Lodge dues collected for his Lodge.

18  
19 **Sec. 8.** Refunds of monthly dues, fees and assessments for those  
20 who transfer outside the jurisdiction of BMWED will only be al-  
21 lowed for the months following the month the applicable General  
22 Chairman involved receives a written request and/or a valid revoca-  
23 tion of the Dues Deduction Agreement wage assignment authoriza-  
24 tion. A notice pertaining to the Brotherhood's dues refund Bylaws  
25 provision will be published semi-annually in the Secretary-Treasurer  
26 Report of the Journal or its successor publication.

## 27 28 29 **ARTICLE XVI**

### 30 31 **Dues Receipt, Unemployment, Dispensation and** 32 **Life Membership Cards, Emblems and Badges**

33  
34 **Section 1.** The payment of fees, assessments and monthly dues  
35 shall be receipted for by a monthly serially numbered official dues  
36 receipt card furnished by the National Division and bearing the Na-  
37 tional Division logo, provided, however, that in the case of employ-  
38 ees of employers who are subject to dues checkoff agreements, such  
39 individual payroll check stubs shall serve as their official dues re-  
40 ceipt and evidence of the payment of dues. In addition to the forego-  
41 ing, the National Division shall provide each remitter on checkoff  
42 with an annual dues receipt following January 1 of each year, re-  
43 flecting the dues paid by each remitter during the preceding 12-month  
44 period. Any such receipt must be completely filled out showing ac-  
45 tual date of payment, name of remitter, identification number, date  
46 of birth, occupation, employer, Lodge number, month to which paid,  
47 amount paid and signature in full of the Local Lodge Secretary-Trea-  
48 surer or authorized representative. An official receipt so issued and  
49 showing no erasure or alteration shall be recognized as evidence of  
50 good standing in the BMWED. No receipt for fees, assessments or  
51 dues other than on the official form furnished for this purpose by  
52 National Division shall be recognized as evidence of good standing  
53 in the BMWED. The National Division Secretary-Treasurer shall

prescribe regulations to govern the issuance and reporting of official dues receipts, which regulations shall be rigidly complied with by all bonded Officers and representatives of the BMWED.

Dues payments received at the National Division shall be receipted for in conformity with data processing. Consistent with the foregoing, National Division shall furnish periodic reports to each System Division or Federation that requests monthly membership records for their respective System Division or Federation in a form which to the extent practicable is compatible with record keeping systems maintained by such System Division or Federation.

**Sec. 2.** Any member who is fully paid up and in good standing shall be entitled to an Unemployment Card, without cost, when laid off through a reduction in forces, sickness or temporary disability, strikes or lockouts, or when serving in the Military Service of the United States. Any member now or hereafter holding an Unemployment Card shall be entitled to retain such card only while he holds seniority rights to a position under the jurisdiction of the BMWED. When he has lost such seniority rights, such Unemployment Card shall become void, and shall be forthwith surrendered and such member shall thereafter be subject to the provisions governing Withdrawal Cards and Retiree Membership Cards; provided, however, that if such member leaves the service of the employer, transfers to or becomes employed in a position not under the jurisdiction of the BMWED, or becomes employed in an official capacity, he will be required to pay full dues. Members to whom this provision applies must comply with its requirements; failing to do so, they shall forfeit any and all rights, interests, benefits and privileges in the BMWED and in and to said Death Benefit Department, its funds and property.

Members who apply for an Unemployment Card must, do so within sixty (60) days from the last day of the month in which they were employed. At the time of such application, the member will furnish their date of birth, which shall appear on said Unemployment Card when issued. Such Unemployment Cards shall be obtained from the Secretary-Treasurer of the Local Lodge in which membership is held, or from a bonded System Representative of the BMWED on his System Division or Federation. The original Unemployment Card shall be given to the member and a duplicate thereof shall be forwarded within thirty-one (31) days, with the authorized representative's current remittance report. A triplicate copy shall be forwarded to the System Office and a quadruplicate copy of such Unemployment Card shall be retained by the Local Lodge Secretary-Treasurer when issued by him; otherwise, it shall be retained by the bonded System Representative issuing the card for his permanent record. When such member is reemployed in a position under the jurisdiction of this BMWED for a period of thirty (30) calendar days, he must, within thirty-five (35) calendar days from date of such reemployment, present and surrender such Unemployment Card to the Secretary-Treasurer of the Local Lodge within the jurisdiction of which he is employed or to a direct representative of the National Division or System Division or Federation, and pay dues for the month

1 in which he returns to service. The original Unemployment Card,  
2 when available, shall be forwarded to the National Division Secretary-Treasurer with the remittance report listing the member's current monthly dues payment. On System Divisions or Federations  
3 qualified to receive remittances, the card shall be forwarded to the  
4 System Division or Federation Secretary-Treasurer for transmittal to  
5 the National Division Secretary-Treasurer.  
6  
7

8  
9 A member holding an Unemployment Card shall for one year  
10 from the date of its issuance be considered a member in good standing and shall be entitled to all the rights, privileges, benefits and  
11 protection guaranteed by these Bylaws of the National Division except as provided in the Merger Agreement. After one year, such member shall be entitled to a seat in the Local Lodge while in session, but  
12 shall not be entitled to a voice or a vote. The provisions of this Section shall also apply to a member paying National Division dues  
13 only and holding a Retiree Membership Card, except those who have  
14 been granted a 50 year life membership in accordance with Section 4  
15 of this Article, subject to the terms of the Merger Agreement.  
16  
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21 **Sec. 3.** The permanent emblems, badges and other regalia supplied by the National Division may be used. No other emblems, badges  
22 or regalia shall be used unless first approved by the National Division.  
23  
24

25 **Sec. 4.** Any member who has 50 years of continuous membership in the BMWED shall receive a life membership and appropriate  
26 merit awards. Retirees who have less than 50 years of membership with the BMWED and wish to become a life member will be offered  
27 a chance to purchase a life membership in the BMWED. The cost for a life membership will be determined by the number of years needed  
28 to equal 50 calendar years of membership multiplied by 70% of the current retiree dues rate. Dues payments in the first and/or last year  
29 of membership will fulfill the dues requirement for that year. Life members shall continue to have all of the rights and benefits afforded  
30 a full dues-paying retired member in accordance with the provisions of these Bylaws, subject to the terms of the Merger Agreement.  
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## 38 **ARTICLE XVII**

### 39 **Membership**

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43 **Section 1.** Eligibility. Any employee or any individual for whom the BMWED is seeking representation rights for, is eligible for membership in the Brotherhood of Maintenance of Way Employees Division.  
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46

47 **Sec. 2.** Assignment of Members. All members shall be assigned to the Local Lodge nearest their point of residence on the System on  
48 which employed and under whose jurisdiction the member is working. Members from any Local Lodge's jurisdiction may be assigned to a  
49 System Lodge upon the approval of the General Chairman, the jurisdiction of the Local and System Lodges to be defined and  
50 designated by the General Chairman.  
51  
52  
53

**Sec. 3. Transfer of Membership.** A member moving from the jurisdiction of one Local Lodge to that of another Local Lodge must apply for his Transfer Card within sixty (60) days. A member transferring from one Local Lodge to another Local Lodge nearer his point of residence will be governed by the provisions of the next following paragraph of this Section.

The Transfer Card shall be issued by the Secretary-Treasurer of the Local Lodge to which the member belongs. Where the Local Lodge Secretary-Treasurer fails to issue a Transfer Card, same will be issued by the General Chairman. The original card shall be given to the member to be presented by him to the Lodge to which he desires to transfer. Copies thereof shall be forwarded within thirty-one (31) days to the National Division Secretary-Treasurer, the System Office, the Local Lodge to which transferred and a copy retained by the Local Lodge Secretary-Treasurer for his permanent record. Transfer Cards are good only ninety (90) days from date of issue. The original Transfer Card presented by the member will be accepted and filed by the Secretary-Treasurer of the Lodge to which transfer is made. Nothing in this Section shall operate to prevent the transfer of members or groups of members without Transfer Cards in connection with consolidation of Lodges where such consolidation has been properly requested and authorized.

**Sec. 4. Withdrawal Cards and Loss of Active Membership.** Any member who is fully paid up and in good standing:

(a) Who leaves the service of the employer or transfers to or becomes employed in a position not under the jurisdiction of the BMWED, or who is employed in an official capacity, shall be entitled to apply for and receive a Withdrawal Card without cost; or if he so desires, may continue his membership by continuing to comply with all provisions of these Bylaws applicable to membership, including payment of full dues and assessments; provided, however, that such a member will not be eligible to participate in or take any part in transacting the business of the BMWED. Members holding Withdrawal Cards and returning to service in a position under the jurisdiction of the BMWED for a period of thirty (30) calendar days must, within thirty-five (35) calendar days from date of such reemployment, present and surrender such Withdrawal Card to the Secretary-Treasurer of the Local Lodge within the jurisdiction of which he is employed, or to a direct representative of the National Division or System Division or Federation and pay dues for the month in which he returns to service.

The original Withdrawal Card, when available, shall be forwarded to the National Division Secretary-Treasurer with the remittance report listing the member's current monthly dues payment; except that on System Divisions or Federations qualified to receive remittances, the card shall be forwarded to the System Division or Federation Secretary-Treasurer for transmittal to the National Division Secretary-Treasurer.

1           **(b)** Who is retired or receiving an annuity may:

2  
3           **(I)** Apply for and receive a Withdrawal Card without cost or

4  
5           **(II)** If he desires to continue as a member of the BMWED,  
6 apply for and receive a Retiree Membership Card. Contingent upon  
7 receiving such card and thereafter complying with all provisions of  
8 these Bylaws applicable to retired members, including payment of  
9 all National Division dues prescribed in Article XV for members  
10 holding Retiree Membership Cards, he shall have all of the rights of  
11 a retired member including any rights in the Death Benefit Depart-  
12 ment for which he is eligible pursuant to the provisions of Article  
13 XIII, subject to the terms of the Merger Agreement; or

14  
15           **(III)** If he desires to continue full membership in the BMWED,  
16 he may do so upon continuing to comply with all provisions of these  
17 Bylaws applicable to full membership including payment of full dues  
18 and assessments, subject to the terms of the Merger Agreement.

19  
20           After December 31, 2005, members who upon retirement, or  
21 upon the receipt of an annuity, continue without interruption to pay  
22 full dues and assessments or who have received life memberships  
23 shall be entitled to attend Local Lodge meetings. Such members  
24 serving as BMWED Officers or representatives at the time of  
25 retirement, or at the time annuity is granted, may serve out the balance  
26 of the term for which elected, subject to the terms of the Merger  
27 Agreement. They shall not be eligible for election or reelection or to  
28 participate in the transaction of BMWED business except to the extent  
29 herein provided and in the case of Local Lodge Secretary-Treasurers  
30 who shall be eligible for reelection as Local Lodge Secretary-  
31 Treasurers, subject to the terms of the Merger Agreement.

32  
33           **(c)** Withdrawal Cards and Retiree Membership Cards shall be  
34 obtained from the Secretary-Treasurer of the Local Lodge in which  
35 membership is held, or from a bonded System Representative of the  
36 BMWED on his System Division or Federation. The original card  
37 shall be given to the member and a duplicate thereof shall be  
38 forwarded within thirty-one (31) days with the authorized  
39 representative's current remittance report. A triplicate copy shall be  
40 forwarded to the System Office and a quadruplicate copy retained by  
41 the Local Lodge Secretary-Treasurer when issued by him; otherwise,  
42 it shall be retained by the bonded System Representative issuing the  
43 card for his permanent record. Members applying for either  
44 Withdrawal Cards or Retiree Membership Cards must, at time of  
45 such application, furnish their date of birth which shall appear on  
46 said Withdrawal and Retiree Membership Cards when issued.

47  
48           **Sec. 5.** Notification of Expelled Membership. When a member is  
49 expelled by a Local Lodge, the Secretary-Treasurer of such Lodge shall  
50 at once notify the System Division or Federation Secretary-Treasurer  
51 and the National Division Secretary-Treasurer, giving the expelled  
52 member's name, membership number, address and cause of expulsion,  
53 and it shall be the duty of the National Division Secretary-Treasurer to

notify all Local Lodges by circular letter, of such expulsion, giving name, address, membership number and cause of expulsion.

**Sec. 6. Duties of Members.** Each member shall pay all required dues, as well as all assessments or fines properly levied, to a proper representative of the BMWED, and shall, after paying such dues, assessments or fines in full, receive an official dues receipt card.

It shall be the duty of every member to pay all dues and assessments promptly; to attend the meetings of his Local Lodge regularly unless prevented by sickness or other just cause; to comply with and assist in enforcing provisions of these Bylaws and other laws, rules and regulations of the BMWED; to see that these Bylaws are not violated; to recognize any member in good standing as a Brother and to never knowingly harm a fellow member; to never discriminate against a fellow worker on account of race, color, religion, sex, age, physical disability, sexual orientation, or national origin; to refrain from any conduct that would interfere with the Union's performance of its legal or contractual obligations; and at all times to bear true and faithful allegiance to the BMWED and his Local Union.

**Sec. 7. Maintenance of Good Standing.** Subject to the terms of the Merger Agreement, "Good Standing" means the payment of all required dues on or before the last day of the current month without a late or missing payment for the required number of months, or time stipulated in the various provisions of these Bylaws. Membership in good standing in the BMWED includes any person who has fulfilled the requirements for membership and who has not voluntarily withdrawn from membership, become ineligible for continued membership, or been suspended or expelled as provided in these Bylaws; provided, however, that the exercise of certain rights and privileges of membership shall be subject to the reasonable rules, regulations and limitations set forth in these Bylaws, the Merger Agreement or in those of the member's System Division. Any member who fails to meet the requirements set forth in these Bylaws regulating the payment of dues and assessments shall automatically lose his membership and all rights, privileges and benefits pertaining thereto.

Those members unemployed due to legal strike by our organization or sister railroad organization will maintain good standing for the duration of said strike without said payment of dues, assessments and fees for any month for which they do not receive compensation, subject to the terms of the Merger Agreement.

**Sec. 8. Privileges of Membership.** Every member in good standing shall be entitled to all rights, privileges, benefits and protection guaranteed by these Bylaws of the National Division and the Merger Agreement.

Any member in good standing shall be admitted as a visitor to any Local Lodge of the BMWED while said Local Lodge is in session provided he can prove that he is in good standing with his own Local Lodge.

1 Every member in good standing shall have the right and privi-  
2 lege to vote in elections or referendums of the BMWED, to attend  
3 membership meetings and participate in the business of such meet-  
4 ings subject, however, to applicable provisions of these Bylaws, the  
5 Merger Agreement and to such reasonable rules and regulations, quali-  
6 fications, limitations or restrictions as may be provided by other ap-  
7 plicable laws, policies or decisions of the BMWED including those  
8 contained in Constitutions and/or Bylaws of System Divisions or  
9 Federations or Local Lodges.

## 10 11 12 **ARTICLE XVIII**

### 13 14 **Government of Local Lodges**

15  
16 **Section 1.** Formation of Local Lodges and Application for Char-  
17 ters. To institute a Local Lodge twenty-five (25) or more persons  
18 eligible for membership under the provisions of these Bylaws shall  
19 meet under the auspices of someone authorized to represent the  
20 BMWED, and after paying the required fees and dues, they shall  
21 proceed to vote by secret ballot upon each applicant in turn in alpha-  
22 betical order. If two or more negative votes are cast against an appli-  
23 cant he shall be rejected. When the ballot is closed those who have  
24 been accepted shall be initiated by the duly accredited representa-  
25 tive, and those who have been rejected shall have their fees and dues  
26 returned. If the necessary number have been accepted they shall de-  
27 cide upon a name for their Lodge, leaving the number blank, and  
28 proceed to elect Officers as hereinafter provided in Section 9 of this  
29 Article. After the Officers are installed, application must be made for  
30 a charter upon blanks furnished by the duly accredited representa-  
31 tive of the BMWED and requests for instructions addressed to the  
32 National Division Secretary-Treasurer respecting bonding of Offic-  
33 ers, representatives and employees. When the said application and  
34 request for instructions are received by the National Division Secre-  
35 tary-Treasurer, accompanied by the necessary fees and dues, he shall  
36 at once issue and forward a charter, a full set of supplies to the Sec-  
37 retary-Treasurer of the Lodge and instructions governing bonding of  
38 the Local Lodge's Officers, representatives and employees.

39  
40 **Sec. 2(a).** Dissolution of Local Lodges. A Local Lodge cannot  
41 voluntarily surrender its charter if ten (10) members in good standing  
42 desire to retain it. When the membership of any Local Lodge is less  
43 than ten (10) for six (6) successive months, the National Division  
44 Secretary-Treasurer may, with the approval of the System Division or  
45 Federation General Chairman, consolidate the Local Lodge with another  
46 Local Lodge and reclaim its charter and the National Division or IBT  
47 property as hereafter provided in the next paragraph of this Section.  
48 When the membership of a Local Lodge is down to five (5) or less for  
49 six (6) successive months, or should a Local Lodge fail to hold meetings  
50 for a period of twelve (12) months, the National Division Secretary-  
51 Treasurer may, after consultation with the System Division or federation  
52 General Chairman, dissolve the Local Lodge and reclaim its charter  
53 and the National Division or IBT property as hereafter provided.

All minute books, record books and charters furnished to Local Lodges by the National Division Secretary-Treasurer or IBT shall remain the property of the National Division or IBT and be returned to it should the Local Lodge be dissolved as hereinbefore provided, and in such event the funds and properties of said Local Lodge shall be forwarded to the National Division Secretary-Treasurer and shall be equally divided and assigned to the National Division and the System Division/Federation having jurisdiction of the dissolved Local Lodge; provided, however, that in the event of consolidation of two or more Local Lodges, the funds and properties of all such Local Lodges which consolidate shall revert to the Local Lodge(s) in which they are consolidated.

**Sec. 2(b).** Consolidation of Local Lodges. Local Lodges of the same System Division or Federation may consolidate in order to facilitate the representation of the members therein, in the following manner:

(1) Each Local Lodge will assemble at a special meeting to determine by majority vote of the attending members in good standing if they desire consolidation with another Local Lodge or Lodges;

(2) If approval for consolidation is attained, a joint special meeting of the Local Lodges involved will be called by the Presidents of the respective Local Lodges. At such joint session all officers' positions shall be declared vacant and new officers elected. Subsequently, it will be determined which charters will be returned to the National Division.

In all cases of consolidation of two (2) or more Local Lodges, the funds and physical assets of those Local Lodges which consolidate shall revert to the Local Lodge in which they are consolidated; however, the charter(s) and all National Division and IBT property as hereinbefore provided shall be returned to the National Division.

**Sec. 3.** Jurisdiction. Except as otherwise provided in these Bylaws or the Merger Agreement, Local Lodges shall have jurisdiction over all their members on subjects pertaining to the BMWED, provided, however, that their decisions in all matters shall be subject to appeal to be handled in accordance with the applicable provisions of these Bylaws and the Merger Agreement. Local Lodges shall have power to summon witnesses and impose penalties for violation of these Bylaws, the IBT Constitution or the Merger Agreement by any member after charges and trial.

**Sec. 4.** Governing Laws. Each Local Lodge, its Officers, representatives and members shall recognize, observe and be bound by the provisions of these Bylaws, the Merger Agreement and the IBT Constitution and including interpretations thereof rendered by the individual granted authority under these Bylaws, the IBT Constitution or the Merger Agreement, the resolutions, decisions and directives of the governing body of the BMWED or IBT when made in conformity with the authority granted by these Bylaws, the Merger

1 Agreement or the IBT Constitution, and the resolutions adopted and  
2 the policies established at National Division or IBT Conventions.

3  
4 **Sec. 5.** Provisions Governing Local Lodge Assessments. Assess-  
5 ments may be levied by Local Lodges for special purposes upon a  
6 two-thirds vote of members voting by secret ballot in accordance with  
7 the procedures governing increases in Local Lodge dues set forth in  
8 Article XV of these Bylaws, provided, however, that all members of  
9 the Local Lodge have been notified by mail of such proposed assess-  
10 ment no less than thirty (30) days previous to the vote of its member-  
11 ship, provided, further, that such assessments shall become effective  
12 only after approval of the National Division President.

13  
14 **Sec. 6.** Membership Meetings. Regular and special meetings of  
15 a Local Lodge shall be held as determined by the membership of the  
16 respective Lodges.

17  
18 Special meetings may be called by the IBT General President,  
19 National Division President, the General Chairman, the President, or  
20 Secretary-Treasurer of the Local Lodge, or at the request of five (5)  
21 members in good standing, of which all members shall be given due  
22 notice by mail which shall also specify the purpose of the meeting.  
23 Any other business than that for which such special meeting was called  
24 may be transacted at such meeting with the consent of the majority of  
25 the members present.

26  
27 Five (5) members in good standing shall constitute a quorum  
28 and shall be qualified to transact all business properly coming before  
29 the Local Lodge.

30  
31 Every member in good standing of a Local Lodge shall have the  
32 right to attend all regular and special meetings of the Lodge and to  
33 participate in its deliberations and vote, and to express at such meet-  
34 ings his views upon candidates in elections of the Local Lodge or  
35 upon any business properly before the meeting subject, however, to  
36 such reasonable rules and regulations as the Local Lodge shall estab-  
37 lish pertaining to the conduct of its meetings including its right to  
38 enforce reasonable rules governing the responsibility of every mem-  
39 ber to his Local Lodge and the BMWED as an institution and prohib-  
40 iting conduct which would interfere with the Local Lodge's or the  
41 BMWED's performance of their legal or contractual obligations.

42  
43 Members of Local Lodges shall also have the right to meet and  
44 assemble freely with other members of the BMWED and express their  
45 views, arguments or opinions; provided, however, that in so doing  
46 they are not guilty of misconduct under these Bylaws, the IBT Consti-  
47 tution or the Merger Agreement or as may be prescribed in the Consti-  
48 tution and/or Bylaws of the System Division or Federation with which  
49 it is affiliated.

50  
51 **Sec. 7.** Investment and Expenditure of Funds. The money and  
52 the property of a Local Lodge shall be used solely for the benefit of  
53 the BMWED, the Lodge and its members and not for the personal

gain or profit of any Officer or member. Local Lodge Officers, agents, representatives and employees who handle the Lodge's funds or property shall be held to this standard of conduct and accountable for any breach thereof under these Bylaws, the IBT Constitution and the Merger Agreement and as provided by law. Such Officers as are given the responsibility under these Bylaws, the Merger Agreement, the IBT Constitution or applicable System Division or Federation governing laws shall manage, invest and expend its funds and property only in accordance with the applicable provisions of said governing laws and any resolutions properly adopted thereunder.

A Local Lodge shall not contract, agree or be obligated in any way to pay salary or expenses to any Local Lodge member or Officer or to incur any obligation of any kind with members, or others, beyond the extent of the Local Lodge funds and current income of such Local Lodge. Any obligations incurred contrary to the foregoing provision shall not create a claim or lien against the Lodge beyond the extent of available funds in the Local Lodge Treasury.

None of the funds of a Local Lodge shall be obligated or used directly or indirectly to pay the fine of any Officer or employee convicted of any willful violation of the Labor-Management Reporting and Disclosure Act of 1959, but this prohibition shall not prevent the assumption by a Local Lodge of the costs of defending the Lodge or any of its Officers, agents, representatives or employees in any civil or criminal proceedings in which they may become involved for any alleged violations of the law.

In the event of a Local Lodge's funds accumulating to the extent that the members of such Local Lodge decide by a majority vote at a regular meeting to invest their surplus funds, the Secretary-Treasurer will have the authority, with the approval of the President and Chairman of the Auditing Committee, to invest such funds in federal, state, provincial, or municipal bonds, or other investments decided upon by the members, and to collect and deposit the interest due therefrom in the Local Lodge Treasury. All such securities must be purchased in the name of the Lodge.

**Sec. 8. Audits and Financial Reports.** Examination of the financial affairs of a Local Lodge and audit of its books shall be performed by the Auditing Committee of the Lodge as hereafter provided in Section 13 of this Article. The National Division Secretary-Treasurer may personally or through his accredited representative examine and audit the books and accounts of any Local Lodge as hereinbefore provided in Article V, Sections 10 and 12. Such audits may also be conducted under Article X of the IBT Constitution.

Financial reports shall be prepared and submitted by the Secretary-Treasurer of each Local Lodge as hereafter provided in Section 13 of this Article.

**Sec. 9. Nomination and Election of Officers.** Eligibility and good standing to nominate, second, run for office and vote, shall be

1 governed by the provisions of the Merger Agreement.  
2

3 The Officers of each Local Lodge of the BMWED shall consist  
4 of a Past President, President, Vice President, Secretary-Treasurer,  
5 Recording Secretary, and Auditing Committee of three members and  
6 a Grievance Committee or Committees composed of at least one (1)  
7 member from the different departments. The position of Past Presi-  
8 dent is honorary and shall be filled by nomination and election of a  
9 member who formerly filled the office of President of the Lodge.  
10 The offices of Secretary-Treasurer and Recording Secretary may be  
11 consolidated at the option of the Lodge.  
12

13 Any member in good standing of a Local Lodge who has estab-  
14 lished seniority rights on some position coming under the jurisdic-  
15 tion of the BMWED, and who meets the eligibility requirements under  
16 the IBT Constitution and the Merger Agreement at the time of nomi-  
17 nation and election and is a member in good standing at the time of  
18 assuming office, shall be eligible to be a candidate and to hold office  
19 unless disqualified therefrom by provisions of these Bylaws, the  
20 Merger Agreement, the IBT Constitution or applicable law; provided,  
21 however, that when new lodges have been established Article II, Sec-  
22 tion 4(b) of the IBT Constitution will govern.  
23

24 A member in good standing who accepts employment with an-  
25 other employer to a position under the jurisdiction of the BMWED  
26 without interrupting his membership, and who transfers from one  
27 Local Lodge to another in accordance with these Bylaws, shall be  
28 deemed to have continuous seniority on the new position for pur-  
29 poses of election to Union office.  
30

31 All Officers of Local Lodges shall be nominated and elected as  
32 hereafter provided, subject to the terms of the Merger Agreement. In  
33 the United States, nominations and elections shall be held once every  
34 three (3) years commencing with the fall elections in 1960 at the first  
35 regular meeting of each Local Lodge in the last three (3) months of  
36 the year. At the option of the Local Lodge, nominations may be held  
37 either at the same meeting at which elections are held or at a meeting  
38 preceding the first regular meeting of the last three (3) months when  
39 elections are conducted, provided that all members in good standing  
40 of the Local Lodge have been given at least fifteen (15) days advance  
41 notice in writing at their last known home addresses of the date, time  
42 and place at which nominations shall be made and the date, time and  
43 place at which elections shall be held; and provided, further, that Lo-  
44 cal Lodges may at their option permit nominations to be made by  
45 mail to the Secretary-Treasurer of the Lodge during the period fol-  
46 lowing the notice and preceding the meeting at which the election is  
47 to be conducted. All Officers shall be elected from duly nominated  
48 candidates as aforesaid and no "write-in" candidates are permitted.  
49

50 All elections shall be conducted by secret ballot vote of the  
51 members in good standing of the Local Lodge, and each such mem-  
52 ber shall be entitled to cast one vote unless ineligible therefor under  
53 these Bylaws, the Merger Agreement or the IBT Constitution. There

shall be no voting by proxy in any election of Local Lodge Officers. If only one candidate is nominated for a given office, he may be declared elected by acclamation. The requirements of law respecting a "secret ballot" vote mean the expression by ballot, voting machine, or otherwise, of a choice by the member cast in such manner that such member cannot be identified with his vote.

Every member in good standing of the Local Lodge shall be permitted to nominate candidates and shall be eligible as a candidate for office unless disqualified therefrom by provisions of applicable law or ineligible by virtue of provisions in these Bylaws, the Merger Agreement or the IBT Constitution.

Every bona fide candidate for Local Lodge office shall have the right to request distribution of campaign literature in behalf of his candidacy, and the Local Lodge shall comply with all reasonable requests of any such candidate to distribute such literature, by mail or otherwise, to all members of the Lodge in good standing provided that such distribution shall be at the candidate's own personal expense. Whenever the Lodge authorizes distribution of such literature on behalf of a bona fide candidate for office, similar distribution shall be made upon request for all other bona fide candidates and equal treatment will be accorded as to the expense to be borne by such candidates. Any discrimination in favor of or against any candidate by the Local Lodge with respect to use of membership lists, or otherwise, is prohibited. If request is made to the Secretary-Treasurer of the Local Lodge, every bona fide candidate shall also have the right, once within a period of thirty (30) days prior to election, to inspect the list containing the names and last known addresses of all members of the Local Lodge; provided, however, that this requirement shall apply only to Lodges whose membership is subject to Union Shop Agreements in which event a membership list shall be maintained and kept by the Secretary-Treasurer of the Local Lodge at its principal office.

No funds of a Local Lodge or of an employer of any members of such Lodge shall be contributed or applied to promote the candidacy of any person for office; provided, however, that a Local Lodge may make expenditures from its funds for notices, factual statements of issues, and other items necessary to conduct elections so long as they do not involve promotion of any candidate.

The Local Lodge President shall appoint two scrutinisers to receive and count the ballots separately for each office. Each candidate for office shall be entitled upon request to appoint one observer who shall be permitted to witness the manner of distribution, casting and tabulation of ballots. Questions concerning validity of any ballot cast or the eligibility of any member to nominate or vote shall be decided by the scrutinisers and the Local Lodge President. On or after January 1, 2006 appeals concerning eligibility shall be handled in accordance with paragraph 4.10 of the Merger Agreement.

A majority of the votes cast for each office is necessary to elect.

1 In the event there is less than a majority vote with three (3) or more  
2 nominees, the candidate receiving the lowest number of votes shall  
3 be dropped and the balloting shall proceed in this manner until one  
4 candidate receives a majority. In the event of a tie vote balloting  
5 shall continue until the tie is broken.

6  
7 The results of the election for each office, as well as the names  
8 of all nominees for such office and those members proposing the  
9 nomination, shall be duly recorded in the minutes of the Lodge and  
10 reported to the membership at the next meeting of the Lodge.

11  
12 The Secretary-Treasurer of the Local Lodge shall preserve for  
13 one year the ballots and all other records pertaining to the election of  
14 Officers.

15  
16 The elections conducted as aforesaid shall become effective and  
17 the Officers elected shall assume their respective duties on the first  
18 day of January following said elections.

19  
20 Except for the foregoing specific requirements which must be  
21 observed in all Local Lodge nominations and elections of Officers,  
22 and except as may otherwise be provided in other Articles of these  
23 Bylaws, the Merger Agreement or the IBT Constitution, Local Lodge  
24 elections shall be conducted in accordance with procedures estab-  
25 lished by the Local Lodge.

26  
27 **Sec. 10.** Terms of Office. Commencing with the election of Of-  
28 ficers in the last quarter of 1960, or the first election held by the  
29 Lodge pursuant to the provisions set forth in Section 9 of this Ar-  
30 ticle, all Local Lodge Officers shall serve for a term of three (3)  
31 years unless relieved of their duties as provided in these Bylaws or  
32 the IBT Constitution or in the case of occupying office as a result of  
33 a vacancy as hereafter provided.

34  
35 **Sec. 11.** Vacancies in Office. Vacancies occurring in Local Lodge  
36 offices because of death, resignation, incapacity, or other cause shall  
37 be filled for the unexpired term by election at a regular or special  
38 meeting of the Lodge, but the procedure for elections of successors  
39 to fill such vacancies may be determined by Local Lodges without  
40 regard to the requirements set forth in Section 9 of this Article. Of-  
41 ficers elected to fill vacancies shall be installed and assume their  
42 duties immediately following election.

43  
44 **Sec. 12.** Salaries, Allowances and Expenses of Officers. Sala-  
45 ries and expenses of Local Lodge Officers shall be determined and  
46 established by the membership of the respective Local Lodges.

47  
48 **Sec. 13.** Authority and Duties of Officers. The Past President  
49 shall attend the meetings of the Lodge, assist in the initiation of can-  
50 didates, install Officers when elected, preside over the meetings in  
51 the absence of the President and Vice President, and perform such  
52 other duties as are required by the Ritual.

53

The President shall preside at all meetings of the Lodge, preserve decorum and decide all questions of order subject to an appeal to the Lodge. He shall see that a correct audit of the Secretary-Treasurer's books is made by the Auditing Committee as hereafter provided in this Section not later than thirty (30) days after the end of each quarter. He shall appoint all Committees, except the Auditing Committee and Grievance Committee, the members of which shall be elected as provided in Section 9 of this Article. He shall enforce compliance by all Officers and members of the Lodge with the provisions of these Bylaws, the IBT Constitution and the Merger Agreement and any applicable System Division or Federation Constitution and/or Bylaws. He shall cast the deciding vote on all questions in case of a tie vote of the Lodge.

The President shall also discharge on behalf of the Local Lodge such duties as may be imposed upon him by applicable law, including the execution and filing of any required reports, and he shall cause to be maintained by the Lodge such records in support of such reports and for such periods as the law requires.

The Vice President shall assist the President in the performance of his duties and in the absence of the President he shall preside at all meetings of the Lodge. The Secretary-Treasurer shall receive all communications, conduct the correspondence and have charge of the records of the Lodge. He shall keep a correct account between the Lodge and its members and between the Lodge and the System Secretary-Treasurer and/or the National Division Secretary-Treasurer, and deposit all monies in a reliable bank or trust company in the name of the BMWED, selected jointly by himself and the President of the Lodge. All disbursements from funds so deposited, whether covering remittances of collections or disbursements from the Local Lodge Treasury, shall be by check, signed by the Secretary-Treasurer and may be countersigned by the President of the Lodge. He shall collect from the members of the Lodge all BMWED required dues and initiation fees, as well as any assessments properly levied and any fines imposed by the Lodge, giving properly authorized receipts for same. He shall receive all applications for membership, receive all official dues receipts issued to him by the National Division Secretary-Treasurer or the System Secretary-Treasurer and keep a proper record of the same upon his books, rendering proper reports upon the forms provided to fully account for all such official dues receipts. He shall present to the Lodge for approval at its first regular meeting in each quarter a report of all business transacted during the previous quarter. He shall deliver to his successor (when elected, qualified and bonded) all books, papers, funds, and other property of the Lodge in his possession, taking his receipt for same. This shall include verification and turning over of the monies on deposit in the bank or trust company. He shall remit to the System Division or Federation Secretary-Treasurer all required dues and initiation fees as well as any assessments collected, at least once each month. Such remittances are to be reported on the forms provided, with the necessary copies, in accordance with standing instructions. After being duly qualified under the provisions of these Bylaws, he shall assume

1 the duties of his office and furnish the National Division Secretary-  
2 Treasurer, the System Division or Federation Secretary-Treasurer and  
3 the General Chairman a list of the names of Officers elected for the  
4 current term. In the case of Local Lodge Secretary-Treasurers remit-  
5 ting direct to the National Division Secretary-Treasurer instead of to  
6 the System Secretary-Treasurer, all of the provisions of this para-  
7 graph shall apply except that the Secretary-Treasurers of all such  
8 Lodges shall be required to remit within the same stipulated time but  
9 direct to the National Division Secretary-Treasurer, with the neces-  
10 sary copies of remittance forms provided in accordance with stand-  
11 ing instructions.

12  
13 The Secretary-Treasurer shall also discharge on behalf of the  
14 Local Lodge such duties as may be imposed upon him by applicable  
15 law, including the execution and filing of any required reports, and  
16 he shall maintain such records in support of such reports and for  
17 such periods as the law requires.

18  
19 The Recording Secretary shall keep a true and correct record of  
20 the proceedings of each meeting of the Lodge and read the same at  
21 the next succeeding meeting for action thereon. He shall also read at  
22 the Lodge meetings relevant communications from the National Di-  
23 vision, the IBT, the Rail Conference, System Division or Federation  
24 or other sources that are of interest to the members.

25  
26 The members of the Auditing Committee shall have the duty of  
27 examining the financial affairs of the Lodge. They shall meet if avail-  
28 able and audit the Lodge books not later than thirty (30) days after  
29 the end of each quarter. If necessary, they may employ the services  
30 of a competent auditor to assist them in making such audit and the  
31 expense thereby incurred shall be paid from the Local Lodge funds.  
32 The report of the Auditing Committee shall be read at the next regu-  
33 lar meeting for approval of the Lodge and filed by the Secretary-  
34 Treasurer. A copy of such report shall be sent to the National Divi-  
35 sion Secretary-Treasurer and the System Division or Federation Gen-  
36 eral Chairman (except that on System Divisions or Federations quali-  
37 fied to receive remittances, the report shall be forwarded to the Sys-  
38 tem Division or Federation Secretary-Treasurer). Such report shall  
39 be signed by the members of the Auditing Committee if available  
40 and the Local Lodge Secretary-Treasurer.

41  
42 The Officers of the Grievance Committee or Committees shall  
43 perform such duties as are prescribed for such Committees in Article  
44 XIX, Section 11, and as may be provided in the Constitutions and  
45 Bylaws of System Divisions or Federations.

46  
47 **Sec. 14.** Each Local Lodge in good standing shall be entitled to  
48 be represented at the National Division Convention by a delegate or  
49 alternate, or a delegate ex officio as set forth in the second paragraph  
50 of this Section. However, in the event a Local Lodge elects not to  
51 send its own member or delegate ex officio to the National Division  
52 Convention, two or more Local Lodges may elect to be represented  
53 by a delegate and/or alternate of another Local Lodge in the BMWED

from their System Division Federation. No delegate may represent more than five hundred (500) members at the National Division Convention unless such members are all members of one Local Lodge. A delegate or alternate to the National Division Convention may represent as many Lodges as may elect him if the total membership so represented does not exceed five hundred (500) members.

All delegates and alternates to National Division Conventions must be elected by secret ballot vote of the members in good standing of the Local Lodge by which they are accredited to the Convention; provided, however, that National Division Officers shall be delegates ex officio at all National Division Conventions as set forth in Article I, Section 6, if they are not elected as a delegate by a Local Lodge; and provided, further, that if a General Chairman or elective full time System Division or Federation Officer is not elected as a delegate by a Local Lodge, such General Chairman or such System Division or Federation Officer when designated by the General Chairman will, by virtue of his election to such office, be a delegate ex officio at all National Division Conventions (at no expense to the National Division) and accorded the same rights and privileges enjoyed by National Division Officers who are delegates ex officio as set forth in Article I, Section 6. When National Division Officers or General Chairmen or full time System Division or Federation Officers are delegates ex officio at National Division Conventions, such Officers will be entitled to cast one vote in all matters before the National Division Convention except election of National Division Officers.

All National Division Convention delegates or alternates shall be members in good standing of some Local Lodge in good standing with the National Division, and shall meet the eligibility requirements as set forth in paragraph 4.9 of the Merger Agreement, and be a member in good standing to May 1 of the Convention year.

Local Lodges shall elect delegates and alternates to the National Division Convention at a meeting held on or after January 1 of the year in which the Convention convenes. Provided, however, that Local Lodges that do not ordinarily meet between January 1 and May 1 may conduct such elections during the second half of the year prior to the year in which the Convention convenes. All members in good standing of the Local Lodge will be given at least fifteen (15) days advance notice in writing at their last known addresses of the date, time and place at which election shall be held. The National Division Secretary-Treasurer will be advised of the results of such elections in ample time for this information to be recorded at the National Division. All expenses of said delegates shall be paid by Local Lodge or Lodges represented.

The alternate will take the place of the delegate in case the delegate is unable to serve.

Credentials shall be issued to the Secretary-Treasurers of Local Lodges prior to January 1 of the year of the National Division Convention. Credentials must be signed by an elected officer of that

1 Local Lodge. In the event that there is not a Local Lodge Officer  
2 present, a System Division or Federation Officer may sign the  
3 credential. Original credentials shall be given to the duly elected  
4 delegates. Duplicate credentials shall be forwarded to the National  
5 Division Secretary-Treasurer's office as soon as possible after the  
6 election of the delegates.  
7

8 Representative votes for each delegate shall be determined in  
9 accordance with National Division records twenty (20) days prior to  
10 the opening of the Convention, and shall reflect all members in good  
11 standing as of May 1 of that year. No votes shall be added and no  
12 duplicate credentials shall be accepted after twenty (20) days prior  
13 to the opening of the Convention.  
14

15 **Sec. 15.** Representation and Election of Delegates to System  
16 Division or Federation Joint Protective Boards. Representation of  
17 Local Lodges within a System Division or Federation at Joint Pro-  
18 tective Board meetings and/or System Division or Federation Con-  
19 ventions shall be governed by the provisions of the Constitution and/  
20 or Bylaws of the respective System Division or Federation. All del-  
21 egates shall be elected by secret ballot vote of the members of the  
22 Local Lodge as hereafter provided in Article XIX, Section 4.  
23

24 **Sec. 16.** Charges and Trials by Local Lodges. Charges and Tri-  
25 als by Local Lodges shall be conducted in accordance with Article  
26 XIX of the IBT Constitution, subject to the terms of the Merger Agree-  
27 ment.  
28

29 **Sec. 17.** Affiliation with and Appointment of Delegates to AFL-  
30 CIO. Where it is practicable, Local Lodges should affiliate with the  
31 Trades Council and State Federations of Labor (affiliated with the  
32 American Federation of Labor and Congress of Industrial Organiza-  
33 tions).  
34

35 The National Division President, by virtue of his office, shall be  
36 one of the delegates to the Convention of the American Federation of  
37 Labor and Congress of Industrial Organizations. All other delegates  
38 to such Convention, to which our membership entitles us, shall be  
39 appointed by the National Division President. Any member of the  
40 BMWED in good standing is eligible to act as such delegate, if so  
41 appointed. A list of the delegates to such Conventions shall be pub-  
42 lished in the official organ of the BMWED prior to the Conventions.  
43  
44

## 45 **ARTICLE XIX**

### 46 **Government of BMWED Protective Department,** 47 **System Divisions and Federations**

48 **Section 1.** Organization and Composition. A Department shall  
49 be established and maintained within the BMWED to be known as  
50 the Protective Department. The purpose of this Department shall be  
51 the promotion of service conditions and protection of its members  
52  
53

engaged on positions of employers represented by the BMWED. For the purpose of conducting the business of the Protective Department the following agencies shall be established and maintained:

(1) System Division or Federation, Joint Protective Boards.

(2) Local Lodge or Division Grievance Committees.

(3) Such other agencies, committees or associations of the BMWED which may be established for promoting the purposes of the Protective Department when approved by the National Division Convention or the National Division President.

When, in the judgment of the National Division President, a Railway System or a large branch of a Railway System, or employer has reached a stage of organization to warrant the establishment of a Joint Protective Board, he shall either direct or, through one of his authorized agents, call in a duly elected delegate from each Local Lodge properly instituted on such System for the purpose of the formation of the first Joint Protective Board. Said Joint Protective Board shall be composed of as many members as are determined by said Board, and there must be, so far as is consistent, an equal number of Board members from each Department.

If it is determined by the National Division President that a newly organized property does not warrant the establishment of its own independent Joint Protective Board, he shall assign the newly organized members to an existing System Division or Federation. Any appeal of the National Division President's decision shall be submitted to the National Division Executive Board.

**Sec. 2. Membership Participation.** Each member in good standing in the BMWED shall be required to participate in the Protective Department subject to the laws, rules and regulations by which it is now or may hereafter be governed.

Any member of the BMWED in good standing within the jurisdiction of a System Division or Federation Joint Protective Board is eligible for membership on said Board; provided, however, that after organizing, such Boards may, consistent with the provisions of these Bylaws, the Merger Agreement and applicable law, decide eligibility to membership on said Board.

**Sec. 3. Governing Laws.** Each System Division or Federation Joint Protective Board, its Officers, representatives and members shall recognize, observe and be bound by the provisions of these Bylaws and interpretations thereof rendered by the National Division President as provided in Article III, Section 2, the resolutions, decisions and directives of the Executive Board or Officers of the National Division when made in conformity with the authority granted by these Bylaws, the resolutions adopted and policies established at National Division Conventions, and the Merger Agreement. Subject to these provisions such Joint Protective Boards may adopt a Consti-

1 tution and/or Bylaws supplementary to these Bylaws for the purpose  
2 of establishing procedures for the conduct of their internal affairs  
3 and business provided that none of the provisions of such Constitu-  
4 tions and/or Bylaws shall be in conflict with these Bylaws, the IBT  
5 Constitution or the terms of the Merger Agreement and that prior to  
6 becoming effective all such Constitutions and/or Bylaws and any  
7 amendments thereto shall be approved by the National Division Presi-  
8 dent. Any member or Local Lodge within the jurisdiction of a Sys-  
9 tem Division or Federation Joint Protective Board violating or fail-  
10 ing to comply with said Constitutions and/or Bylaws after such ap-  
11 proval and adoption shall be subject to the same penalties as those  
12 prescribed for violating any provisions of these Bylaws, the IBT  
13 Constitution or the terms of the Merger Agreement.

14  
15 **Sec. 4.** Representation and Election of Local Lodge Delegates  
16 to System Division or Federation Joint Protective Board Meetings  
17 and/or Conventions. The Joint Protective Boards of each System Di-  
18 vision or Federation may decide and prescribe in their Constitutions  
19 and/or Bylaws in what manner the Local Lodges coming under their  
20 jurisdiction shall be represented on their respective boards, as pro-  
21 vided in Section 2 of this Article, but each such Protective Board  
22 shall prescribe in its Constitution and/or Bylaws procedures govern-  
23 ing the nomination and election by Local Lodges within its jurisdic-  
24 tion of delegates to the System Division or Federation Conventions  
25 and/or meetings of the Board. Such provisions shall be subject to the  
26 terms of the Merger Agreement and shall include the following re-  
27 quirements of existing law:

28  
29 All delegates and alternates shall be elected by secret ballot  
30 vote of the members in good standing of the Local Lodge by which  
31 they are accredited.

32  
33 **Sec. 5.** Nomination and Election of System Division or Federa-  
34 tion Officers. For nominations and elections held on or before De-  
35 cember 31, 2005, eligibility and good standing to nominate, second,  
36 run for office and vote, shall be governed by the provisions of the  
37 BMW Constitution and Bylaws in effect immediately prior to the  
38 merger. For nominations and elections held on or after January 1,  
39 2006, eligibility and good standing to nominate, second, run for of-  
40 fice and vote, shall be governed by the provisions of the Merger  
41 Agreement.

42  
43 Effective with elections to be held during 1960 and thereafter,  
44 all Officers of System Divisions or Federations shall be elected not  
45 less often than once every four (4) years by either of the following  
46 two methods: (1) by secret ballot vote of the members in good stand-  
47 ing of each Local Lodge under the jurisdiction of such System Divi-  
48 sion or Federation or (2) by delegates and incumbent Officers of the  
49 System Division or Federation who have been elected by secret bal-  
50 lot vote of the members of said Local Lodges to represent them on  
51 such System Division or Federations. Any incumbent Officer of a  
52 System Division or Federation originally elected by secret ballot vote  
53 to represent a Local Lodge on the System Division or Federation

may continue to participate in future elections if so permitted by the System Division's or Federation's Constitution and/or Bylaws and so long as he remains an Officer and provided that Local Lodges are given an opportunity to elect new delegates prior to each election held by the System Division or Federation.

If such elections are conducted in accordance with Method No. 1 above, by secret ballot vote of the members in good standing of each Local Lodge comprising the System Federation or Division, such election shall be conducted by referendum of said membership and a plurality of the votes cast for each office shall be sufficient to elect. Prior to any such election a reasonable opportunity to nominate candidates shall be afforded by at least fifteen (15) days advance notice in writing to members of the Local Lodges at their last known addresses of the date, time, and manner in which nominations will be received and the election held. If elections by System Divisions or Federations are conducted in accordance with Method No. 2 above, by having only Local Lodge delegates and incumbent Officers as aforesaid participate in the election, then the elections shall be by majority vote after at least fifteen (15) days advance notice in writing to the delegates and incumbent Officers of the date, time, and place in which nominations shall be made and the elections conducted.

The following Officers (or others of comparable title) shall be elected by System Divisions or Federations: A General Chairman, Vice Chairman, Assistant Chairman, Secretary-Treasurer and an Executive Committee consisting of such Officers as shall be designated by the respective System Divisions or Federations in their Constitutions and/or Bylaws. At the option of a System Division or Federation the positions of Vice Chairman, Assistant Chairmen and Secretary-Treasurer may be consolidated in the interest of economy. In addition to the foregoing Officers required by these Bylaws, the term "Officer" and the requirements pertaining to his election shall include any member, however designated or titled in the Constitution and/or Bylaws of a System Division or Federation, who is authorized to perform the functions of any of the Officers above enumerated or those of President, Vice President, Secretary-Treasurer or other executive functions of a System Division or Federation, or those members of its Executive Committee or similar governing body, if any, and any other member performing functions designated as those of an Officer in the System Division's or Federation's Constitution and/or Bylaws.

No funds received by any System Division or Federation by way of dues, assessments, or similar levy, and no money of an employer of any members of a System Division or Federation, shall be contributed or applied to promote the candidacy of any person in an election conducted by the System Division or Federation; provided, however, that System Divisions or Federations may make expenditures from their funds for notices, factual statements of issues, and other expenses necessary to conduct elections so long as they do not involve the promotion of any candidate. The Secretary-Treasurer of

1 a System Division or Federation, or such other Officer as may be  
2 designated in its Constitution and/or Bylaws, shall preserve for one  
3 year the credentials of all delegates elected by Local Lodges under  
4 the jurisdiction of such System Division or Federation and all min-  
5 utes and other records of Conventions and/or meetings pertaining to  
6 the election of Officers.

7  
8 Except for the foregoing specific requirements which must  
9 be observed in all elections of Officers of System Divisions and  
10 Federations, and except as may otherwise be prescribed in other  
11 provisions of these Bylaws, the IBT Constitution or the Merger  
12 Agreement, nominations and elections of Officers by System  
13 Divisions and Federations shall be conducted in the form and  
14 manner and in accordance with the procedures set forth in their  
15 Constitutions and/or Bylaws including eligibility requirements  
16 for Officers which shall not be inconsistent with the Merger  
17 Agreement or with prohibitions of applicable law, filling of any  
18 vacancies in office, and terms of office, provided that no such  
19 term shall exceed four (4) years.

20  
21 Following the election of Officers on a newly organized Sys-  
22 tem Division or Federation, or when a change is made in the position  
23 of a General Chairman on an organized road, the President of the  
24 National Division will officially notify in writing the Management  
25 of the company or companies on which the General Chairman is to  
26 serve. The General Chairman, following such notification, will ad-  
27 vise the Company Officials of any other System Division or Federa-  
28 tion Officers authorized to handle organization matters with such  
29 officials.

30  
31 Following the election of a General Chairman on a newly orga-  
32 nized company and the notification of the Management by the Na-  
33 tional Division President, the General Chairman will officially no-  
34 tify each Division Superintendent, or corresponding management  
35 official, in writing, of the Local Chairman or Chairmen authorized to  
36 handle matters for the organization on said Division or company and  
37 will keep said officials notified of any changes in said Local Chair-  
38 men. This provision will also apply to all organized companies.

39  
40 **Sec. 6. Authority and Duties of Officers.** System Divisions or  
41 Federations shall prescribe in their Constitutions and/or Bylaws the  
42 authority to be exercised and duties to be performed by their Offic-  
43 ers consistent with the provisions of these Bylaws, the Merger Agree-  
44 ment and applicable law. In prescribing such authority and duties  
45 each System Division or Federation shall include the following as a  
46 part of the duties of its General Chairman and Secretary-Treasurer:

47  
48 The General Chairman shall discharge on behalf of the System  
49 Division or Federation such duties as may be imposed upon him by  
50 applicable law including the execution and filing of any reports to Fed-  
51 eral or State authorities and he shall cause to be maintained by the Sys-  
52 tem Division or Federation such records as the law requires to be kept  
53 for a period of not less than five (5) years in support of such reports.

The Secretary-Treasurer shall discharge on behalf of the System Division or Federation such duties as may be imposed upon him by applicable law including the execution and filing of any reports to Federal or State authorities, and he shall maintain such records as the law requires to be kept for a period of not less than five (5) years in support of such reports.

Each of such Officers of a System Division or Federation as are required by applicable law to execute and file reports as aforesaid shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

Each elected System Division or Federation Officer shall remit to the Secretary-Treasurer of his System Division or Federation (if qualified to receive remittances; otherwise, to the National Division Secretary-Treasurer) all collections received by him, including full initiation fees, at least once each month.

**Sec. 7.** Meetings of Joint Protective Boards and/or Conventions. Conventions of System Divisions or Federations and meetings of Joint Protective Boards shall be held as prescribed in the Constitutions and/or Bylaws of the respective System Divisions or Federations; provided, however, that the General Chairman may convene a Joint Protective Board at such other times and places and under such conditions as he may deem necessary; and provided, further, that the National Division President may convene any Joint Protective Board in case of emergency or at the request of a majority of the members of said Board upon request in writing signed by such members and stating their reasons therefore.

**Sec. 8.** Investment and Expenditure of System Division or Federation Funds. The money and property of a System Division or a Federation shall be used solely for the benefit of the BMWED, the System Division or Federation and the Local Lodges and their members within its jurisdiction, and not for the personal gain of any Officer or member. System Divisions or Federations, their Officers, agents, representatives or employees who handle a System Division's or Federation's funds or property shall be held to this standard of conduct and accountable for any breach thereof under these Bylaws. Such Officers as are given the responsibility under these Bylaws or under System Division or Federation governing laws shall manage, invest and expend the funds and property of the System Division or Federation only in accordance with the applicable provisions of said governing laws and any resolutions properly adopted thereunder.

Each System Division or Federation Secretary-Treasurer must keep the System funds in his possession on deposit in the name of the System in a reliable bank or trust company and must maintain proper records of all financial transactions of the System Division or Federation and be prepared at all times to make a complete accounting of all funds turned over to him or remitted to him.

System Divisions or Federations shall not contract, agree or be

1 obligated in any way to pay salary and expenses to any Joint Protec-  
2 tive Board member or Officer, or to incur any obligations of any  
3 kind with members or others beyond the extent of System Division  
4 or Federation funds and current income of such System Divisions or  
5 Federations without the approval of the National Division Officers.  
6 Any obligations incurred contrary to the foregoing provisions shall  
7 not create a claim or lien against the System Divisions or Federa-  
8 tions or the National Division beyond the extent of available funds  
9 in the System Division or Federation treasuries.

10  
11 None of the funds of a System Division or Federation shall be  
12 obligated or used directly or indirectly to pay the fine of any Officer  
13 or employee convicted of any willful violation of the Labor-Man-  
14 agement Reporting and Disclosure Act of 1959, but this prohibition  
15 shall not prevent the assumption by the System Division or Federa-  
16 tion of the costs of defending the System Division or Federation or  
17 any of its Officers, agents, representatives or employees in any civil  
18 or criminal proceedings in which they may become involved for any  
19 alleged violations of law.

20  
21 Each System Division/Federation is required to have sufficient  
22 funds available to the National Division to enable the National Divi-  
23 sion to timely pay from such funds specified bills and payroll in be-  
24 half of the System Division/Federation. Absent sufficient funds, in-  
25 cluding dues payments received on behalf of the System but not yet  
26 processed, payment of the System Division/Federation bills and pay-  
27 roll will not be made by the National Division. A System Division/  
28 Federation may provide the National Division with written pre-au-  
29 thorization to withdraw funds from the System Division/Federation  
30 funds that are maintained by the National Division for the sole pur-  
31 pose of eliminating shortfalls that may occur in the future. The Sys-  
32 tem Division/Federation will be immediately advised in writing of  
33 such withdrawals.

34  
35 **Sec. 9.** Negotiation and Adoption of System Division or Fed-  
36 eration Collective Bargaining Agreements. The BMWED, acting  
37 through its duly selected and authorized Officers, committees, or rep-  
38 resentatives, has full and sole authority to represent all employees  
39 who are members of the BMWED in the negotiating, interpreting  
40 and applying of agreements covering wages, hours, and other condi-  
41 tions of employment, made and entered into under the provisions of  
42 the Railway Labor Act or the National Labor Relations Act; to repre-  
43 sent such employees in all conferences, negotiations, or other pro-  
44 ceedings with the management; to appear and represent all such  
45 employees before any tribunal authorized to consider or adjust claims  
46 arising out of the interpretation or application of such agreements,  
47 and to adjust, compromise and settle all such claims.

48  
49 The duly authorized committee of the Joint Protective Board,  
50 acting in accordance with the System Division or Federation Consti-  
51 tution and/or Bylaws, shall have the power, with the approval of the  
52 National Division President or his designated representative, to en-  
53 ter into agreements with company officials with respect to wages

and terms of employment of the men they represent. Said rules and agreements, may be tentatively initialed by the General Chairman or General Chairmen involved, pending approval by the National Division President or his designated representative. Upon approval, such agreement may be signed and shall be binding upon all members employed on the company or companies. As it relates to collective bargaining following a moratorium on issues involving wages, rules and benefits, Joint Protective Boards shall not begin negotiations with company officials until the schedule to be presented has been approved by the National Division President or his designated representative, and a fund collected to defray the expenses incurred by the Board during the pendency of negotiations. Such preparatory arrangements are not mandatory for other negotiations.

The National Division will, subject to its own discretionary limitations, bear the expense of all negotiations in the changing of rules and wage conditions after same have been referred to the National Mediation Board, Board of Arbitration or other lawfully constituted body by the System Division or Federation, and will pay for and provide such System Division or Federation with a copy of any written proceedings taken before any such body. The National Division will not be required under the provisions of this paragraph to pay any part of the salary or expenses of any Officer of a System Division or Federation in the United States under the provisions of the Railway Labor Act, the National Labor Relations Act or subsequent acts.

Any System Division or Federation shall have the right to include in its Bylaws a provision which mandates the General Chairman and/or Joint Protective Boards to alter or amend the language of collective bargaining agreements and to submit any proposed agreements made by such General Chairman and/or Joint Protective Boards to affected rank and file for ratification or rejection.

**Sec. 10.** Violation of Collective Bargaining Agreements. If any of the rules or agreements negotiated and adopted as provided in Section 9 of this Article are violated by any member of any Grievance Committee, he shall be immediately removed from office by the National Division President subject to the provisions of Article III, Section 8.

Any Local Lodge authorizing any member or Grievance Committee to do any act or enter into any agreement by letter or otherwise whereby the provisions of said rules or agreements would be violated shall, upon conviction thereof, be suspended and its charter revoked by the National Division President subject to the provisions of Article III, Section 8.

The General Chairman shall refer any charges of said violations to the National Division President for appropriate action under Article III, Section 8, subject to the terms of the Merger Agreement.

**Sec. 11.** Adjustment of Grievances with Management. Any individual represented by the BMWED, believing that he has been

1 unjustly dealt with by a company representative or otherwise ag-  
2 grieved, shall govern himself according to the terms of agreement in  
3 force on the position on which employed. Each respective System  
4 Division and Federation has established procedures for the handling  
5 of claims and grievances which are best suited to the needs of the  
6 membership represented through such System Divisions and Fed-  
7 erations. These procedures, which have been established to conform  
8 with applicable claim and grievance rules, should be adhered to by  
9 BMWED members and committees in the handling of grievances. It  
10 is recognized that the General Chairman or his duly authorized rep-  
11 resentative is empowered to initiate and handle grievances of any  
12 nature at any time to protect the interests of the membership. Ex-  
13 penses incurred in connection with the handling of grievances by a  
14 Local Lodge Grievance Committee shall be defrayed by the Local  
15 Lodge. Expenses incurred in connection with the handling of griev-  
16 ances by the System Division or Federation shall be defrayed by the  
17 System Division or Federation.

18  
19 The General Chairman shall carefully and impartially examine  
20 all grievances and other matters referred to him and proceed to ad-  
21 just the same upon the basis of equity and justice, and every honor-  
22 able means shall be exhausted in trying to effect an amicable settle-  
23 ment of the matter in dispute. A settlement effected between the ap-  
24 propriate Officer of the company and the General Chairman will  
25 definitely dispose of the matter at issue.

26  
27 **Sec. 12.** National Division Assistance in Adjustment of Griev-  
28 ances with Management. When a Joint Protective Board appeals to a  
29 National Division Officer for aid in adjusting grievances, the Board  
30 shall endeavor to have a distinct understanding as to the time and  
31 place of meeting with the company representative making due al-  
32 lowance for the convenience of both parties.

33  
34 If the National Division President receives notification for aid in  
35 adjusting grievances, he shall meet with or deputize a National Division  
36 Officer to meet the Joint Protective Board or such Committee as is  
37 authorized by said Board, and efforts to reach an amicable adjustment  
38 of the grievance shall be renewed. Failing in this, the Joint Protective  
39 Board or such Committee as is authorized by said Board may, with the  
40 sanction of the National Division President and through the procedure  
41 prescribed by him, ascertain the wishes of the membership respecting  
42 a strike as provided in Section 13 of this Article.

43  
44 **Sec. 13.** Authorization of System Strikes. System strikes shall  
45 be authorized by the procedure outlined in Paragraph (a) or (b) of  
46 this Section 13.

47  
48 (a) Ballots shall be prepared concisely stating the matter in dis-  
49 pute, the efforts made to adjust such dispute, the results of such ef-  
50 forts, and the question as to whether or not members should concert-  
51 edly withdraw from service until the said dispute is adjusted. Such  
52 ballots shall then be submitted on the System or company affected  
53 for referendum vote by the membership. If two-thirds of the mem-

bers in good standing on said company vote in favor of such withdrawal, the National Division President, with the approval of a majority of the Joint Protective Board and the National Division Officers, may order a strike of all employees affected, subject to the terms of the IBT Constitution.

(b) All Local Lodges on the company or companies affected shall be convened in regular or special meeting through the issuance of a special notice advising such Lodges as to the time, place and purpose thereof, at which time they shall be fully informed as to the matter or matters in dispute and the handling given to date. The members in good standing in attendance at each meeting shall then be empowered to cast the vote of the Local Lodge for or against the question at issue. The voting strength of the Local Lodge shall be predicated on its paid-up membership in accordance with National Division records. If a majority of the members in attendance vote to withdraw from service until the dispute is adjusted, the vote of the Local Lodge will be recorded as favoring a withdrawal from service if such action becomes necessary. If two-thirds of the members in good standing on the company or companies affected are recorded in favor of such withdrawal, the National Division President, with the approval of a majority of the Joint Protective Board and the National Division Officers, may order a strike of all employees affected, subject to the terms of the IBT Constitution.

**Sec. 14. National and Regional Associations.** National and Regional Associations, are hereby created for the purpose of protecting and promoting the collective bargaining and legislative interests of BMWED through the exchange of information, experience and views among and between their members, and for such other purposes consistent with promoting their members' effective performance of their respective duties.

The National Association shall be composed of all General Chairmen, Vice Chairmen, Assistant Chairmen and Secretary-Treasurers of System Divisions or Federations, or others of comparable title, and all National Division Officers and Appointees. National Division Appointees will be nonvoting members of the National Association.

Regional Associations shall be composed of all the General Chairmen, Vice Chairmen, Assistant Chairmen and Secretary-Treasurers of System Divisions or Federations, or others of comparable title, within a prescribed region, the National Division President, the Secretary-Treasurer, the Vice President or Vice Presidents assigned to such region.

Except for National Division Officers, the salaries and expenses related to attending National and Regional Associations shall be borne by the respective System Divisions or Federations.

For establishment of Regional Associations, the following Regions shall be created:

1 Northeast Region  
 2 Northwest Region  
 3 Southeast Region  
 4

Southwest Region  
 Western Region

5 When it becomes apparent that it is the desire of the members  
 6 to inaugurate a general movement for the improvement of wages or  
 7 general working conditions, the National Division President shall  
 8 convene the National Association for the purpose of considering and  
 9 determining what action shall be taken in connection with such move-  
 10 ment.  
 11

12 It shall be the policy of the BMWED to establish uniform basic  
 13 working rules and rates of pay for members performing comparable  
 14 work.  
 15

16 Effective January 1, 1999, upon acceptance of any new Na-  
 17 tional Agreement applicable to railroads or other companies bargain-  
 18 ing nationally in the United States under this Section and prior to the  
 19 execution thereof, the National Division President or his designated  
 20 representative shall submit a summary of the proposed new agree-  
 21 ment to all active members of the BMWED directly affected by such  
 22 agreement for its ratification or rejection by a majority of ballots  
 23 returned.  
 24

25 **Sec. 15. Right to Copies of Collective Bargaining Agreements.**  
 26 A copy of any collective bargaining agreement adopted pursuant to  
 27 the provisions of Sections 9 or 14 of this Article shall be forwarded  
 28 by the System Division or Federation, National or Regional Asso-  
 29 ciation negotiating such agreement to each constituent System Divi-  
 30 sion or Federation or Local Lodge which has members directly af-  
 31 fected by such agreement; and copies shall be maintained at the prin-  
 32 cipal office of all such System Divisions or Federations and Local  
 33 Lodges available for inspection by any member or by any employee  
 34 whose rights are affected by such agreement.  
 35

36 **Sec. 16. Authorization of National Strikes.** No suspension of  
 37 work of national character shall be sanctioned by the National Divi-  
 38 sion President and National Division Officers unless a strike has been  
 39 authorized by one of the following methods and approved, if neces-  
 40 sary, under the terms of the IBT Constitution:  
 41

42 **1.** In the event of a general dispute covering wages and work-  
 43 ing conditions which cannot be settled through conference or arbi-  
 44 tration, the National Division President may cause ballots to be pre-  
 45 pared, concisely stating the dispute involved, efforts made to adjust  
 46 it and results obtained, and submit the question at issue to all em-  
 47 ployees coming under the jurisdiction of the BMWED on all rail-  
 48 ways or companies affected by the dispute, for a referendum vote as  
 49 to whether or not they will concertedly withdraw from the service of  
 50 the companies until the said dispute is adjusted. If two-thirds of such  
 51 members in good standing vote to withdraw from service, the Na-  
 52 tional Division President, with the approval of the National Division  
 53 Officers, is authorized to order a suspension of work of all members

coming under the jurisdiction of the BMWED on all railroads or companies affected by such dispute; or,

2. If, in the judgment of the General Chairman, it would be preferable to convene the Local Lodges for the purpose of ascertaining whether or not the membership desires to withdraw from service, the method prescribed in Section 13 (b) of this Article may be followed; or,

3. If two-thirds of the members in attendance at a National Division Convention, or at a National Association meeting, vote to concertedly withdraw from the service of the company or companies until the said dispute is adjusted, the National Division President is authorized to order a suspension of work of all members coming under the jurisdiction of the BMWED on all railroads or companies affected by such dispute.

4. Members participating in an authorized work stoppage shall not be ordered back to work unless the dispute has been satisfactorily disposed of.

**Sec. 17. Violations of Strike Calls.** When a suspension of work is ordered under the provisions of the foregoing Sections, the National Division President shall at once cause official notice to be sent to all Local Lodges, stating the causes which led to the same.

All strikes called pursuant to valid authorizations and sanctions as provided in Sections 13 and 16 of this Article are compulsory upon the members of the BMWED. Any member of the BMWED who has been found guilty pursuant to Section 21 of this Article of acting either directly or indirectly, as a strikebreaker during any authorized strike, or failing to comply with a valid strike called by our union or a sister union under the Railway Labor Act or National Labor Relations Act, shall be subject to a minimum fine of \$200.00 per day for each day that the member worked during the strike, and/or a suspension or expulsion. Such member will also be ineligible to hold any union office or position in the BMWED.

A member shall be considered as not being in compliance with a valid strike call by virtue of working at any location on the carrier or company involved, regardless of whether there are pickets at such location.

Distribution of fines levied under provisions of this Article shall be divided equally among the member's Local Lodge, the member's System Division or Federation, National Division and the strike fund.

Should any member of a Joint Protective Board decline to work in harmony with other members of a Board, or refuse to aid in carrying out the instructions of the National Division Officers, or be guilty of conduct unbecoming a member of the BMWED, he may be suspended by a two-thirds vote of the members of such Board and not allowed to be present or take part in the meetings between the Board

1 and the company officials, and report on such conduct made to his  
2 Local Lodge for their action.

3  
4 Any member of a Joint Protective Board who shall divulge any  
5 part of the business or proceedings of such Board to anyone not en-  
6 titled to know, or who shall sign any document presented to him by  
7 any person for the purpose of nullifying his obligations to the  
8 BMWED, shall be deemed guilty of conduct unbecoming a member  
9 of such Board and, upon a two-thirds vote of the Board, he shall be  
10 expelled therefrom and report made to his Local Lodge for their ac-  
11 tion.

12  
13 **Sec. 18.** Special Assessments to Finance Strikes. Special as-  
14 sessments to defray the expenses of authorized work stoppages may  
15 be levied upon all members after approval of the National Division  
16 Executive Board as provided in Article VI, Section 10.

17  
18 The Joint Protective Board is authorized to instruct the National  
19 Division Secretary-Treasurer to levy such assessments in advance,  
20 upon the members employed on the System over which it has juris-  
21 diction, as may be necessary to carry forward their work, and any  
22 member failing or declining to pay such assessment shall stand sus-  
23 pended after the last day of payment mentioned in the call. The Na-  
24 tional Division Secretary-Treasurer shall issue to each Local Lodge  
25 and System Division or System Federation Secretary-Treasurer a  
26 receipt for monies thus paid.

27  
28 The National Division President in conjunction with the Ex-  
29 ecutive Board shall have authority to use such funds raised by such  
30 assessments for payment of strike benefits and health and welfare  
31 benefits to our members who are on strike or withholding service  
32 observing other picket lines. All other strike related expenses must  
33 come out of the general fund.

34  
35 During the continuance of an authorized suspension of work  
36 participating members who are unemployed because of such strike  
37 shall be exempt from the payment of the special assessment subject  
38 to the terms of the Merger Agreement.

39  
40 **Sec. 19.** Strike Benefits. Members out on authorized strikes or  
41 locked out by management shall be paid such amounts for their re-  
42 lief as the funds of the National Division may warrant, which pay-  
43 ment shall terminate upon the date the strike or lockout is termi-  
44 nated. Members receiving such benefits shall register each day. Strik-  
45 ing members securing employment elsewhere shall be excluded from  
46 all strike benefits.

47  
48 **Sec. 20.** Unauthorized Strikes. Any member or members will-  
49 fully causing a strike or participating therein which has not been  
50 authorized as provided in Section 13 or 16 of this Article shall be  
51 guilty of misconduct and subject to expulsion from the BMWED  
52 after charges and trial by their Local Lodges as provided in these  
53 Bylaws or the Merger Agreement.

**Sec. 21.** Charges and Trials by System Divisions or Federations. 1  
Charges and trials by System Divisions or Federations shall be con- 2  
ducted in accordance with Article XIX of the IBT Constitution, sub- 3  
ject to the terms of the Merger Agreement. Any provision of existing 4  
System Division or Federation Constitutions and/or Bylaws which is 5  
inconsistent with these requirements or the Merger Agreement shall 6  
be of no force and effect. 7

**Sec. 22.** Consolidation of System Divisions or Federations. 8  
When two or more System Divisions or Federations are consolidated 9  
and operated as one unit, the Joint Protective Boards on such System 10  
Divisions or Federations may consolidate or federate in order to 11  
facilitate the representation of the members thereon, in the following 12  
manner. 13

When two or more System Divisions or Federations of approxi- 14  
mately equal mileage and importance are consolidated, the Joint Pro- 15  
tective Boards on such Systems may meet in joint session. At such 16  
joint session, existing Constitutions and/or Bylaws shall be suspended 17  
and all Officers' positions declared vacant, and a new Constitution 18  
and/or Bylaws suitable for the government of the Consolidated Sys- 19  
tem Division or Federation shall be adopted and new Officers elected. 20  
21  
22

Where a small System Division or Federation is being consoli- 23  
dated or absorbed by a large System Division or Federation, the Sys- 24  
tem Organization on such small absorbed System may become af- 25  
filiated with the System Organization on the large absorbing System 26  
and shall be governed by the Constitution and/or Bylaws in effect on 27  
such larger System Division or Federation with respect to represen- 28  
tation and otherwise. 29  
30  
31

In all cases of consolidations of two (2) or more System Divi- 32  
sions or Federations, the funds of those which consolidate shall re- 33  
vert to the System Division or Federation in which they are consoli- 34  
dated; however, all records shall become the property of and be re- 35  
turned to the National Division for such distribution as may be ap- 36  
propriate. 37  
38

In all cases of abandonment of a System Division or Federa- 39  
tion, the funds and records shall be returned to the National Division 40  
in accordance with the procedure provided in Article XVIII, Section 41  
2, for dissolution of Local Lodges. 42  
43  
44

## ARTICLE XX 45

### Amendments 46

**Section. 1.** These Bylaws may be altered, amended or repealed 47  
in its entirety by a majority vote of the delegates present at the Na- 48  
tional Division Convention after written notice of proposed amend- 49  
ments, which shall specify the Articles and Sections intended to be 50  
changed, which have been timely submitted for publication in the 51  
52  
53

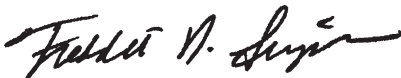
1 official trade journal of the BMWED in advance of the National Di-  
2 vision Convention; provided, however, that the last such notice is  
3 printed thirty (30) days before said National Division Convention;  
4 and provided, further, that if, in the usual course of any regular Con-  
5 vention of the National Division, three-fourths of the delegates  
6 present, shall agree on the proposed alterations or amendments to  
7 the these Bylaws or the repeal in its entirety thereof, such changes  
8 may be made without the above required notice.  
9

10 When changes in our National Division Bylaws are required to  
11 comply with Federal laws, the National Division President and the  
12 National Division Secretary-Treasurer, with the approval of the  
13 National Division Officers, will be authorized to make the required  
14 changes during the interim between National Division Conventions.  
15 Such change(s) must comply with the IBT Constitution, subject to  
16 the terms of the Merger Agreement.  
17

18 **Sec. 2.** Any proposed alterations, amendments or changes in  
19 the Bylaws which are to be submitted to the Convention must be  
20 referred to the Bylaws Committee when such Committee convenes  
21 prior to the National Division Convention as provided in these By-  
22 laws.  
23

24 **Sec. 3.** A copy of the report of the Bylaws Committee shall be  
25 placed in the hands of each delegate to the National Division Con-  
26 vention not later than the close of the opening day's session of the  
27 Convention.  
28

29 The primary purpose of the National Division Convention shall  
30 be to conduct the important business of the BMWED which involves  
31 the National Division's Bylaws, and amendments thereto, Reports  
32 of the National Division Officers, Reports of the Committees pro-  
33 vided for by the National Division Bylaws and discussion involving  
34 the welfare of the BMWED. Effective with the convening of the  
35 National Division's next Regular Convention, all of the above af-  
36 fairs will be presented to and moved on by the assembled delegates  
37 before any other business may be brought before the Convention.  
38  
39  
40

41 

42  
43  
44 Freddie N. Simpson  
45 National Division President  
46  
47  
48

49 

50  
51  
52 Perry K. Geller, Sr.  
53 National Division Secretary-Treasurer

**INDEX  
AND  
CROSS  
REFERENCE  
OF  
BMW Division  
BYLAWS**



## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
-A-			
Abandonment of System Divisions or Federations	XIX	22	65
AFL-CIO			
Affiliation with	XVIII	17	52
Conventions of, Delegates	XVIII	17	52
Conventions of, President	XVIII	17	52
Delegates to AFL-CIO	XVIII	17	52
Agency Fee Payer	XV	5	33
Agreements			
Collective Bargaining, Adoption of by Approval of President	III	16	9
Collective Bargaining, Inauguration of Movement, National Association	XIX	14	61
Collective Bargaining, Rights to Copies of	XIX	15	62
Collective Bargaining, Violation of	XIX	10	59
National Division Employees	VII	4	18
National	XIX	14	61
National and Regional	III	16	9
National, Distribution of, President	III	16	9
National, Ratification of	XIX	14	61
System Divisions or Federations, Negotiations and Adoption of, Approval by President	XIX	9	58
Union Shop, Violation of by Member, Citation	XV	5	33
Allowances, Expenses and Salaries, Officers, Local Lodge	XVIII	12	48
Amendments or Changes in Bylaws			
Bylaws	XX	1	65
Printed in Journal	XX	1	65
Submission to Committee, prior to Convention	XX	2	66
Appeal Board	IX	1	19
Decisions on Matters of Appeal, from Local Lodges	III	2	6
From System Divisions or Federations	III	2	6
Application			
For Membership, New Members	XV	2	31
For Unemployment Card	XVI	2	37
Forms, Membership Request	XV	2	31
Application for Charters			
Local Lodge	XVIII	1	42
Appointed Positions	III	5	7
President's Department	III	4	7
Secretary-Treasurer's Department	V	11	13
Assessments, Dues, Fees and Revenue			
National Division	XV	3	32
System Divisions or Federations	XV	3	32
Assessments			
Levy of – Secretary-Treasurer	V	8	13
Receipts – Secretary-Treasurer	V	2	11

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Special – by Executive Board	VI	10	16
Special – to Finance Strikes	XIX	18	64
Local Lodge by National Division – President’s Approval	XVIII	5	44
Assignment of Members– Local Lodges	XVII	2	38
Assignment of Territories– Vice Presidents	IV	2	10
Associations			
National – Establishment of	XIX	14	61
Regional – Establishment of	XIX	14	61
Audit – of Books and Accounts of any National Division Officer, System Division or Federation or Local Lodge by Secretary-Treasurer	V	12	13
Audit Reports			
Furnishing of	VI	8	15
National Division – Available for Inspection	V	3	11
Audits and Financial Reports– Local Lodges	XVIII	8	45
Audits – Quarterly at Headquarters by CPA’s	VI	8	15
Auditors			
National Division – Salaries of Traveling – Employment of by Secretary-Treasurer	V	11	13
Traveling – Qualifications of	V	10	13
Authority and Duties of Officers			
Local Lodges	XVIII	13	48
System Divisions or Federations of the Executive Board	XIX	6	56
of the President	VI	5	14
of the BMWED	III	17	10
of the Trustees	I	4	2
of the Trustees	VI	11	16
Authority			
Vested in National Division between Conventions	I	3	1
Authority and Power			
Executive Board, National Division President, Secretary-Treasurer, Vice Presidents – Interim	VI	5	14
Authorization			
of legal services	X	1	19
of National Strikes	XIX	16	62
of System Strikes	XIX	13	60
<b>-B-</b>			
Backdated Dues Payments	V	15	13
Ballots			
Convention – Preservation of	I	4	2

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Beneficiary			
Death Benefits	XIII	10	27
BMWED and IBT Merger Agreement			
National Division	I	2	1
Officers	I	3	1
Vacancy in a National Division	I	7(b)	4
Fiscal Year of National Division	I	12	5
Board of Trustees – or Executive Board			
Salary, Method of Payment	VII	3	18
Bonds			
National Division Officers, Organizers and Representatives	XIV	1	29
Local Lodge Officers, Organizers and Representatives	XIV	3	30
Books and Papers of National Division Officers			
Access of by Executive Board	VI	8	15
Books			
Death Benefit Department	XIII	2	24
Books, Monies and Documents of the BMWED			
Deliver to Successor by Secretary-Treasurer	V	9	13
Books of the BMWED			
Secretary-Treasurer	V	1	11
Bylaws – National Division			
Amendments to	XX	1	65
Interpretation of	III	2	6
Bylaws – System Divisions or Federations			
Subject to Approval of National Division President	II	1	5
-C-			
Call			
Presidential, of Executive Board	VI	7	15
Calling Special Conventions			
President	I	8	4
Calls to Fill Vacancies			
National Division President or Secretary-Treasurer	I	7	3
Other National Division Offices	I	7	3
Campaign Literature			
National Division Office, Distribution of	I	4	2
Cancellation of Surety Bonds			
President	III	9	8
Secretary-Treasurer	V	16	13
Candidate			
National Division Office, Rights	I	4	2
Cards			
Life Membership	XVI	4	38
Retiree	XVII	4	39
Transfer, Local Lodges	XVII	3	39
Unemployment	XVI	2	37
Withdrawal	XVII	4	39

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Charges and Trials			
of National Division Officers	VIII	1	19
Local Lodges	XVIII	16	52
System Divisions or Federations	XIX	21	65
Charters			
Local Lodge, Application For	XVIII	1	42
Revoke by President	III	8	7
Check Stubs			
Dues Receipts	XVI	1	36
Citation Notice			
Union Shop Agreement, Members, Dues Not Accepted	XV	5	33
Union Shop Agreement, Non-Members, Dues Not Accepted	XV	5	33
Civil Courts	IX	2	19
Civil or Criminal Proceedings			
Fines In, Executive Board	VI	13	17
Committees			
Bylaws	III	14	9
Convention, Appointment of	III	15	9
Credentials Committee, Appointment of	III	14	9
Resolutions	III	14	9
Reviewing, re: Appealed Death Benefit Claims	XIII	10	27
Communications, Department of	XI	1	20
Consolidation of System Division or Federations	XIX	22	65
Constitution and Bylaws, System Divisions and Federations			
Approval by National Division President	II	1	5
Governing Laws	XIX	3	53
Convening of National Division Officers, General Chairmen, Vice Chairmen, Assistant Chairmen and Secretaries of System Divisions and Federations by President	III	12	8
Convention, National Division Committees, Appointment of	III	15	9
Date	I	5	3
Delegates, Ex Officio, National Division Officers	XVIII	14	50
Delegates, Ex Officio, System Division or Federation Officers	XVIII	14	50
Delegates, Qualifications	XVIII	14	50
Delegates to Local Lodges	XVIII	14	50
Regular or Special, Assist in Arrangements, Secretary-Treasurer	V	4	12
Report of Secretary-Treasurer	V	4	12
Site, Selection of	I	5	3
Special Call of, President	I	8	4
Special, Representation	I	10	5
Special, Voting	I	9	5
Conventions			
AFL-CIO, Appointment of Delegates to Legislative Department	XVIII	17	52
	XII	3	20

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
System Divisions or Federations	XIX	7	57
System Divisions or Federations, Delegates to	XIX	4	54
System Divisions or Federations, Delegates to, Local Lodges	XVIII	15	52
Credentials			
National Division Convention	XVIII	14	50
Credentials of Delegates			
Preservation of, Convention	I	4	2
Custody of Property			
Funds, Securities, Papers, Records, Books and Documents, Death Benefit Department	XIII	2	24
 -D-			
Death Benefit Claims			
Proof of Death	XIII	5	25
Reviewing Committee	XIII	10	27
Death Benefit Department			
Closing Date	XIII	13	28
Delinquent Payments, Eligibility, Restrictions and Effect	XIII	6	25
Reviewing Committee	XIII	10	27
Death Benefit Rights			
Forfeit of	XV	5	33
Death Benefits			
Amount of	XIII	3	24
Amount of, New or Regional Members, After age 50	XIII	4	24
Beneficiary	XIII	9	26
Eligibility of Members	XIII	6	25
Expelled Member, Forfeit of	XIII	7	25
Forfeit of	XIII	6	25
Member Rights, Retiree Membership card or Unemployment Card	XIII	8	26
Payment of	XIII	3	24
Reinstatement of	XV	5	33
Reinstatement of, Retired Members	XV	5	33
Reinstatement of, Rights	XIII	6	25
Delegates			
AFL-CIO Conventions	XVIII	17	52
Ex Officio, National Division Officers	I	6	3
Ex Officio, System Division of Federation Officers	XVIII	14	50
Qualifications of	XVIII	14	50
Local Lodge, Nomination and Election of	XVIII	14	50
Votes	I	6	3
System Division or Federation Conventions, Election of by Local Lodge	XIX	4	54
System Division or Federation Joint Protective Board, Meetings or Conventions, Election of by Local Lodge	XVIII	15	52

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Departments, National Division			
Communications	XI	1	20
Death Benefit	XIII	1	24
Education	XI	1	20
Legislative	XII	1	20
Organizing	XI	1	20
Safety	XI	1	20
Strategic Coordination and Research	XI	1	20
Disability of President	III	11	8
Disbursements and Expenditures of the BMWED,			
Secretary-Treasurer	V	3	11
Dispensation, Initiation Fees, by President	XV	2	31
Dispensations	III	3	7
Dissolution of Local Lodges	XVIII	2	42
Distribution of Campaign Literature for			
National Division Candidates	I	4	2
Distribution of Initiation Fees	XV	2	31
Division Grievance Committees, Establishment of	XIX	1	52
Documents, Death Benefit Department	XIII	2	24
Documents of the BMWED, Secretary-Treasurer	V	1	11
Dues			
Cut Off Date, National Division	XV	3	31
National Division, Dues and Assessments	XV	3	31
Increase of Local Lodge, Method	XV	4	33
Member Delinquent, Union Shop Agreement	XV	5	33
Monthly, National Division	XV	3	31
Monthly, Local Lodge	XV	3	31
Monthly, System Division or Federation	XV	3	31
Not Accepted, After Citation Notice,			
Union Shop Agreement, Member	XV	5	33
Odd Cents, System Division or			
Federation, to Local Lodge	XV	3	31
Payment of by Members not under			
Union Shop Agreement	XV	5	33
Retired Members	XV	3	31
Local Lodge	XV	3	31
Local Lodge, Uniform	XV	3	31
System Division or Federation, Increase of,			
Method	XV	4	33
System Division or Federation, Uniform	XV	3	31
System Division or Federation	XV	3	31
Dues and Initiation Fees, Increase of,			
National Division	XV	4	33
Dues, Fees, Revenue and Assessments			
Local Lodge	XVIII	5	44
Dues Payments			
Backdated	V	15	13
Backdating of	V	16	13
Dues Receipts			
Annual	XVI	1	36
Check Stubs	XVI	1	36

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Monthly	XVI	1	36
Official Issuance of, Secretary-Treasurer	V	2	11
Secretary-Treasurer	V	13	13
Duties and Authority of Officers			
Local Lodge	XVIII	13	48
Discharge of as Imposed by Applicable Law	V	3	11
Executive Board	VI	3	14
Legislative Director	XII	8	21
Members	XVII	6	41
Officers, System Divisions or Federations	XIX	6	56
President	III	1	6
Secretary, Executive Board	VI	9	15
Vice Presidents	IV	1	10
-E-			
Education Department	XI	1	20
Election of			
Delegations to National Division Convention,			
Local Lodge	XVIII	14	50
National Division Officers	I	4	2
Legislative Representatives, or Vice	XII	3	20
Officers, Executive Board	VI	1	14
Officers, System Divisions or Federations	XIX	5	54
Eligibility			
Appointed Positions (Auditors)	V	10	13
For Retired Members to Participate, Defined	XVII	4	39
National Division Organizers and			
Representatives	III	6	7
Members, Death Benefits	XIII	6	25
Membership	XVII	1	38
Officers-			
National Division	I	4	2
Local Lodge	XVIII	9	45
System Divisions or Federations	XIX	5	54
Emblems, Use of	XVI	3	38
Endorsing State Candidates	XII	12	23
Executive Board			
Assessments, Special	VI	10	16
Audit Reports	VI	8	15
Authority, Additional	VI	14	18
Authority of	VI	5	14
Books and Papers of National Division			
Officers, Access to	VI	8	15
Duties, Additional	VI	14	18
Duties of	VI	3	14
Election of Officers	VI	1	14
National Division Officers, Accountable to	VI	5	14
Meeting Called by President	VI	7	15
Meetings of	VI	6	15
Members, National Division, Vacancy	I	7	3

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Members, Regions	I	4	2
Policies to be Adopted in the Interim			
Between Conventions	VI	5	14
Quorum	VI	2	14
Records of, by Secretary	VI	9	15
Report to Convention	VI	4	14
Salary	VII	3	18
Special Assessments	VI	10	16
Trustees	VI	11	16
Vacancy of Chairman	VI	9	15
Expelled Member, Forfeit of Death Benefits	XIII	7	25
Expelled Membership, Notification of	XVII	5	40
Expenditures of the BMWED			
Secretary-Treasurer	V	3	11
Expenditures			
Executive Board	VI	12	17
Expenses			
National Division Officers or Representatives	VII	5	19
Handling Grievances, Who Will Pay	XIX	11	59
Salaries, Allowances of Officers, Local Lodges	XVIII	12	48
-F-			
Federation Officer			
Suspension by President	III	8	7
Fees, Assessments, Dues and Revenue	XV		30
Increase of	XV	4	33
Initiation, Distribution of	XV	2	31
Local Lodge	XVIII	5	44
Receipts, Secretary-Treasurer	V	2	11
Financial and Audit Reports			
Local Lodges	XVIII	8	45
Fines			
of Officers or Members of BMWED in			
Violation of the L.M.R.D.A.	VI	13	17
Fines			
of Members failing to comply with valid strikes	XIX	17	63
Fiscal Year			
National Division and Subordinate Bodies	I	12	5
Forfeit of Death Benefits	XIII	6	25
Funds			
Candidate for National Division Office	I	4	2
Death Benefit Department	XIII	2	24
National Division Dues	XV	3	31
National Division Secretary-Treasurer	V	1	11
Of the BMWED Secretary-Treasurer	V	1	11
Of the BMWED, Use of to Pay Fines of			
Officers or Members of	VI	13	17
Remit to National Division by System Division			
or Federation Secretary-Treasurers	XV	6	35

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Remitted by Local Lodge Secretary-Treasurers	XV	7	36
State and Provincial Legislative Department, National Division Dues	XV	3	31
Surplus of the BMWED, Investment of in Securities, Secretary-Treasurer	V	5	12
System Divisions or Federations, Investment and Expenditure of	XIX	8	57
<b>-G-</b>			
Good Standing			
Extension due to			
Sickness or Disability	XVI	2	37
Legal strike	XVI	2	37
Reduction in force	XVI	2	37
Life membership	XVI	4	38
Maintenance and Meaning of	XVII	7	41
Reinstatement	XIII	6	25
Governing Laws			
Local Lodges	XVIII	4	43
System Division or Federation			
Joint Protective Boards	XIX	3	53
Government			
Of Protective Department, System Divisions and Federations	XIX	1	52
Of Local Lodges	XVIII	4	43
Grievance Committees			
Convening of by President	III	9	8
Grievances, Adjustment of	XIX	11	59
<b>-H-</b>			
Hiring Provision	III	4	7
<b>-I-</b>			
IBT Rail Conference	I	1	1
Incapacitation			
National Division Officers	I	7	3
National Division President	I	7	3
Initiation Fees	XV	2	31
Initiation Fees, Dispensation of	XV	2	31
Insuring of National Division Representatives	III	13	9
International Brotherhood of Teamsters	I	1	1
Interpretation of Bylaws	III	2	6
Investment and Expenditure of Funds			
Local Lodges	XVIII	7	44
System Divisions or Federations	XIX	8	57

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
-J-			
Joint Protective Boards			
Convening of, by President	III	8	7
Establishment of	XIX	1	52
Meetings	XIX	7	57
Membership Participation	XIX	2	53
Jurisdiction and Supervision			
National Division	II	1	5
Local Lodges	XVIII	3	43
-L-			
Labor-Management Reporting and Disclosure Act			
Violation of, Fines	VI	13	17
Legal Services, Authorization of	X	1	19
Legal Title of All Property of the BMWED	VI	11	16
Legislation, State	XII	8	21
Legislative Convention	XII	3	20
Legislative Representative and Directors	XII	3	20
Legislative Department	XI	1	20
Levy of Assessments	V	8	13
Life Membership Cards	XVI	4	38
Life Membership	XVI	4	38
Local Lodge			
Affiliation with AFL-CIO	XVIII	17	52
Application for Charters and			
Formation of Lodges	XVIII	1	42
Assignment of Members	XVII	2	38
Assessments	XVIII	5	44
Audits and Financial Reports	XVIII	8	45
Authority and Duties of Officers	XVIII	13	48
Charges and Trials by	XVIII	16	52
Charter, Revoke, by President	III	8	7
Convening of by President	III	8	7
Delegations, Nomination and Election,			
National Division Convention	XVIII	14	50
System Division or Federation Conventions	XVIII	15	52
Dissolution of	XVIII	2	42
Dues	XV	3	31
Election of Officers			
Retention of Ballots and Records	XVIII	9	45
Formation of	XVIII	1	42
Funds, Investments and Expenditures of	XVIII	7	44
Governing Laws	XVIII	4	43
Jurisdiction	XVIII	3	43
Local Legislative Representative	XII	3	20
Membership Meetings	XVIII	6	44
Nomination and Election of Officers	XVIII	9	45
Property and Funds of, National Division	XVIII	2	42
Quorum	XVIII	6	44

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Regulation for Government of by National Division	II	2	6
Representation and Election of Delegates National Division Convention	XVIII	14	50
System Division or Federation Joint Protective Boards	XVIII	15	52
Salaries, Allowances and Expenses, Officers	XVIII	12	48
Secretary-Treasurer, Remittance of Funds	XV	7	36
Transfer of Membership	XVII	3	39
Vacancy of Office	XVIII	11	48
Lodge Records Secretary-Treasurer	V	2	11
Lodges, New Outfits For	XV	1	30
Loss of Active Membership Withdrawal Cards	XVII	4	39
-M-			
Maintenance of Good Standing	XVII	7	41
Meetings Executive Board	VI	6	15
Joint Protective Boards and/or Conventions	XIX	7	57
Membership, Local Lodges	XVIII	6	44
Members Assignment of Local Lodges	XVIII	2	42
Delinquent in Dues and Assessments, Union Shop Agreement	XV	5	33
Deputized by President to Represent Him	III	5	7
Duties of	XVII	6	41
Forfeit of Death Benefits Rights	XV	5	33
Not Under Union Shop Agreement, Payment of Dues	XV	5	33
Membership Active, Loss of, Withdrawal Cards	XVII	4	39
Application For, New Members	XV	2	31
Card, Retiree	XVII	4	39
Eligibility	XVII	1	38
Expelled, Notification of	XVII	5	40
Meetings, Local Lodges	XVIII	6	44
Participation, Joint Protective Boards	XIX	2	53
Privileges of	XVII	8	41
Transfer of, Local Lodges	XVII	3	39
Merger Agreement BMWED and IBT	I	1	1
Military Service	XIII	15	29
Minutes Convention, Preservation of	I	4	2
Missing Payments	V	14	13
Monies, Books and Documents	V	9	13
Monies and Securities	V	5	12

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Monthly Dues			
National Division	XV	3	31
Receipts	XVI	1	36
Local Lodge	XV	3	31
System Divisions or Federations	XV	3	31
-N-			
National Agreements			
Ratification	XIX	14	61
National Division			
Assistance in Adjustment of Grievances	XIX	12	60
Audit Reports, Available for Inspection	V	3	11
Bylaws, Amendments to	XX	1	65
Clerical Forces and Other Employees, Salaries	VII	4	18
Consist of	I	3	1
Convention	I	5	3
Dues and Assessments	XV	3	31
Executive Board Members, Vacancies	I	7	3
Fiscal Year	I	12	5
Funds, Remitted by System			
Division or Federations	XV	6	35
Jurisdiction and Supervision	II	1	5
National Division Officers			
Accountable to Executive Board	VI	5	14
Nomination and Election of	I	4	2
Charges and Trials of	VIII	1	19
Delegates – Ex Officio – National			
Division Conventions	XVIII	14	50
Eligibility of	I	4	2
Incapacitation of	I	7	3
Officers and Personnel – Salaries	VII	1	18
Officers or Representatives – Expenses	VII	5	19
Salaries	VII	1	18
Suspension of	III	7	7
Term of Office	I	4	2
Vacancies	I	7	3
National Division Organizers			
Appointment of	III	6	7
Qualifications of	III	6	7
National Division Quorum	I	11	5
National Division, Regulations for Government of Local Lodges	II	2	6
National Division Representatives, Insured, by President	III	13	9
National Division Special Convention, Representation	I	10	5
National Division, System Division or Federation Officers, Suspension of by President	III	8	7
National Strikes			
Authorization of	XIX	16	62

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Negotiations	XIX	14	61
Adoption of System Division or Federation			
Collective Bargaining Agreement	XIX	9	58
Nomination and Election of			
Delegates, National Division Convention			
Local Lodges	XVIII	14	50
Delegates to System Division or Federation			
Boards, Local Lodges	XVIII	15	52
Officers, National Division	I	4	2
Officers, Local Lodges	XVIII	9	45
Officers, System Divisions or Federations	XIX	5	54
Non-Members			
Violation, Union Shop Agreement,			
Citation Notice	XV	5	33
-0-			
Officers			
Authority and Duty of, Local Lodges	XVIII	13	48
Election of, Executive Board	VI	1	14
Executive Board	VI	1	14
National Division, Nomination and			
Election of	I	4	2
Salaries	VII	1	18
Nomination and Election, Local Lodges	XVIII	9	45
Salaries, Allowances and Expenses,			
Local Lodges	XVIII	12	48
Local Lodge			
Consist of	XVIII	9	45
Qualifications of	XVIII	9	45
System Divisions or Federations			
Authority and Duties of	XIX	6	56
Consist of	XIX	5	54
Delegates, Ex Officio to National			
Division Convention	XVIII	14	50
Election of	XIX	5	54
Eligibility of	XIX	5	54
Term of Office, Local Lodge	XVIII	10	48
Vacancy of, Local Lodge	XVIII	11	48
Official Dues Receipts			
Annual, Monthly, Check Stubs	XVI	1	36
Issuance of, Secretary-Treasurer	V	2	11
Organization			
Consist of	I	1	1
Organization and Composition			
System Divisions or Federations			
Joint Protective Boards	XIX	1	52
Organizers			
National Division, Appointment of	III	6	7
Organizing, Department of	XI	1	20

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
-P-			
Papers and Books			
of National Division	VI	8	15
Papers			
Death Benefit Department	XIII	2	24
Of the BMWED	V	1	11
Participation of Retired Members	XVII	4	39
Payment of Death Benefits	XIII	3	24
Payment of Dues			
Members Not Under Union Shop Agreement	XV	5	33
Payments			
Missing	V	14	13
Personal Property of the BMWED	V	1	11
Policies Adopted Between Conventions	VI	5	14
Preamble			xii
President, National Division			
Additional Duties	III	17	10
Adoption of Collective Bargaining Agreements	III	16	9
Appointed Positions	III	5	7
Appointment of Committees	III	14	9
	III	15	9
Approval of			
Agreements, System Divisions or Federations	XIX	9	58
Constitution and Bylaws, System Division			
Officers or Representatives	XIX	3	53
Expenses of National Division Officers			
or Representatives	VII	5	19
Use of Emblems, Badges or Regalia	XVI	3	38
Assignment of			
Vice Presidents	IV	2	10
Assistant to	III	5	7
Authority of	III	17	10
Authorization of			
Legal Services, with Executive Board	X	1	19
System Strikes	XIX	13	60
Convening of			
Executive Board	VI	7	15
National Division Officers, General Chairmen,			
Vice Chairmen, Assistant Chairmen and			
Secretary-Treasurers of System Divisions			
and Federations	III	12	8
Grievance Committees	III	8	7
Joint Protective Boards	III	8	7
Local Lodges	III	8	7
Decide All Controversies Appealed	III	2	6
Delegates to			
AFL-CIO, Conventions	XVIII	17	52
Deputizing Any Member to Represent Him	III	5	7
Disability of	III	11	8
Dispensations, Special	III	3	7
Duties	III	1	6

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
General Supervision	III	1	6
Incapacitation of	I	7	3
Interpretation of Bylaws, National Division	III	2	6
National Strikes, Authorization of	XIX	16	62
Power to Convene	III	8	7
Reports	III	1	6
Revoke Charter of any Local Lodge	III	8	7
Special Conventions, Calling of	I	8	4
Strike Benefit Funds, National Division Dues	XV	3	31
Strikes			
National, Authorization of	XIX	16	62
System, Authorization of	XIX	13	60
Suspension of any National Division, System			
Division or Federation Officers	III	8	7
Unable to Preside at any Session of			
National Division	III	11	8
Privileges of Members	XVIII	5	44
Privileges of Membership	XVII	8	41
Proceedings of National Division	V	1	11
Property of the BMWED			
Executive Board	VI	11	16
Secretary-Treasurer	V	1	11

### -Q-

Qualifications			
Membership			
Local Lodges	XVIII	5	44
Delegates to National Division Convention	XVIII	14	50
National Division Organizers	III	6	7
Legislative Representatives	XII	6	21
Officers			
National Division	I	4	2
Local Lodge	XVIII	9	45
System Divisions or Federations	XIX	5	54
Traveling Auditors	V	10	13
Quarterly Audits at Headquarters			
by CPA's	VI	8	15
Quarterly Dues			
Retired Members	XV	3	31
Quorum			
Executive Board	VI	2	14
Local Lodge	XVIII	6	44
National Division	I	11	5

### -R-

Rail Conference, IBT	I	1	1
Ratification of National Agreements	XIX	14	61
Receipts			
Dues, Fees and Assessments	V	2	11

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Record of Proceedings of National Division			
Secretary-Treasurer	V	1	11
Records			
BMWED, Secretary-Treasurer	V	1	11
Convention, Preservation of	I	4	2
Death Benefit Department	XIII	2	24
Executive Board	VI	9	15
Regional Association			
Consist of	XIX	14	61
Establishment of	XIX	14	61
Regular or Special Conventions Regulations	V	4	12
For Government of Local Lodges			
by National Division	II	2	6
Reinstatement of			
Death Benefits	XV	5	33
Death Benefits, Retired Members	XV	5	33
Rights, Death Benefits	XIII	6	25
Relatives			
Hiring of	II	3	6
Remittance Reports			
Unreasonable Delay	V	16	13
Remittances			
by Local Lodge Secretary-Treasurer,			
When, How and Where Defined	XV	7	56
by System Division or Federation Officers,			
When, How and Where Defined	XIX	6	56
Removal of Officers or Representatives			
by President, Cancellation of Surety Bond	III	9	8
Reports			
Audit and Financial, Local Lodges	XVIII	8	45
of Bylaws Committee, to Convention	XX	3	66
to Convention, Executive Board	VI	4	14
Legislative Directors	XII	8	21
President	III	1	6
Secretary-Treasurer	V	4	12
of Superintendent of Death Benefit Department	XIII	12	28
Vice Presidents	IV	3	10
Representation			
Special Convention, National Division	I	10	5
Representation and Election of Delegates			
to System Division or Federation Joint			
Protective Board Meetings or Conventions,			
Local Lodges	XVIII	15	52
Representatives			
Legislative, or Vice, Election of by Local	XII	3	20
Resolution and Credentials Committee			
Appointment of	III	14	9
Retention			
of Credentials, Ballots, Minutes and Records			
Pertaining to Election of National Division			
Officers	I	4	2

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Retired Members			
Defined, Concerning Participation	XVII	4	39
Forfeit of Death Benefits	XV	5	33
Membership Card, Issuance of	XVII	4	39
Membership or Unemployment Card, Death Benefit Rights	XIII	9	26
National Division Dues	XV	3	31
Reinstatement of Death Benefits	XV	5	33
Rights of	XVII	4	39
Revenue	XV	1	30
Reviewing Committee			
Death Benefit Claims	XIII	10	27
Revoke			
Charter of Local Lodge by President	III	8	7
Rights			
Candidate for National Division Office to Copies of Collective	I	4	2
Bargaining Agreements	XIX	15	62
Members Holding Unemployment Card	XVI	2	37
Member, Military Service, Death Benefit Department	XIII	15	29
-S-			
Safety, Department of	XI	1	20
Salaries			
Appointed Positions			
President	III	4	7
Secretary-Treasurer	V	11	13
Clerical Forces and Other Employees, National Division	VII	4	18
Executive Board or Board of Trustees, Method of Payment	VII	3	18
President, Vice President, Secretary-Treasurer, Method of Payment	VII	2	18
Salaries, Allowances and Expenses			
Local Lodge Officers	XVIII	12	48
Salaries and Expenses			
Legislative Representatives	XII	11	23
Secretary-Treasurer			
Additional Duties	V	17	14
Assessments, Levy of	V	8	13
Audit of Books and Accounts of any National Division Officer, System Division or Federation or Local Lodge	V	12	13
Auditors, Traveling Employment of	V	10	13
Bonds, Provided For	XIV	4	30
Books of the BMWED	V	1	11
Call, Special Election	I	7	3
Charter, Cards, Receipts, Membership and Lodge Records	V	2	11

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Checks Signed and Countersigned	V	6	12
Countersign and Seal all Charters, Cards and Certificates of the BMWED	V	2	11
Credentials			
Delegates and Ballots, Minutes and Records, Convention, Preservation of	I	4	2
National Division Convention	XVIII	14	50
Deposit of Monies and Securities of the BMWED	V	5	12
Disbursements and Expenditures of the BMWED	V	3	11
Discharge Duties Imposed by Applicable Law	V	3	11
Documents of the BMWED	V	1	11
Dues Payments, Backdated	V	15	13
Dues Receipts	V	13	13
Expenditures of the BMWED	V	3	11
Funds of National Division	V	1	11
Issue Official Receipts for Fees, Dues and Assessments	V	2	11
Missing Payments	V	14	13
Official Circulars	V	7	12
Papers of the BMWED	V	1	11
Power and Authority with President and Executive Board	VI	5	14
President, Vice Presidents, Salaries, Method of Payment	V	2	11
Property of the BMWED	V	1	11
Record of Proceedings of National Division	V	1	11
Record of the BMWED	V	1	11
Regular or Special Conventions of National Division	V	4	12
Remittance Reports	V	16	13
Report to the Convention	V	4	12
Local Lodge, Remittance of Funds	XV	7	36
Successor	V	9	13
Superintendent, Death Benefit Department	XIII	2	24
Surplus Funds of the BMWED, Investment of in Securities	V	5	12
Surety Bond	V	16	13
System Division or Federation Funds Remitted to National Division	XV	6	35
Traveling Auditors	V	10	13
Unreasonable Delay of Remittance Reports	V	16	13
Vacancy, Filling of	I	7	3
Sovereign Body, BMWED	I	2	1
Special Assessments by Executive Board	VI	10	16
to Finance Strikes	XIX	18	64
State and Provincial Legislative Department Funds			
National Division Dues	XV	3	31
Purpose	XII	1	20
Strike Benefits	XIX	19	64
Strikes Fines, Violation of	XIX	17	63

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
National, Authorization of	XIX	16	62
Special Assessments to Finance	XIX	18	64
Strike Calls, Violation of	XIX	17	63
Systems, Authorization of	XIX	13	60
Unauthorized	XIX	20	64
Superintendent			
Death Benefit Department	XIII	1	24
Property, Funds, Securities, Papers, Records, Books and Documents, Custody of	XIII	2	24
Reports of	XIII	12	28
Secretary-Treasurer	XIII	2	24
Supervision and Jurisdiction			
National Division	II	1	5
Supervision, General	III	1	6
Surety Bonds			
Cancellation of by Secretary-Treasurer	V	16	13
Coverage Canceled, Removal from Office by President	III	9	8
Suspension of			
National Division Officers	III	7	7
System Division or Federation Officers, by President	III	8	7
System Divisions or Federations			
Abandonment of	XIX	22	65
Agreements, Adoption of	XIX	9	58
Charges and Trials by	XIX	21	65
Consolidation of	XIX	22	65
Constitution and Bylaws			
Adoption of and Approval of by President	XIX	3	53
Approval by National Division President	II	1	5
Convention of	XV	4	33
Dues and Assessments	XV	4	33
Increase of, Method	XV	4	33
Monthly	XV	3	31
Uniform	XV	3	31
Election of Officers, Rentention of Records and Ballots	XIX	5	54
Funds	XIX	8	57
Governing Laws	XIX	3	53
Government of Protective Department	XIX	1	52
National Division, Jurisdiction Over	II	1	5
Joint Protective Boards, Establishment of	XIX	1	52
Membership Participation	XIX	2	53
Odd Cents, Local Lodge Dues	XV	3	31
Officers			
Authority and Duty of	XIX	6	56
Consist of	XIX	5	54
Election of	XIX	5	54
Eligibility of	XIX	5	54
Organization and Composition	XIX	1	52
Secretary-Treasurer, Remitting Funds to National Division	XV	6	35

## Index and Cross Reference of BMWED Bylaws

Subject	Art.	Sec.	Page
Strikes, Authorization of	XIX	13	60
Suspension of Officer by President	III	8	7
-T-			
Teamsters			
International Brotherhood of	I	1	1
Term of Office			
National Division Officers	I	4	2
Local Lodge Officers	XVIII	10	48
System Division or Federation Officers	XIX	5	54
Title of Property of the BMWED	VI	11	16
Transfer Cards			
Local Lodges	XVII	3	39
Transfer of Membership			
Local Lodges	XVII	3	39
Traveling Auditors			
Employment of by Secretary-Treasurer	V	10	13
Qualifications of	V	10	13
Trials, Charges and			
National Division Officers	VIII	1	19
Local Lodges	XVIII	16	52
System Divisions or Federations	XIX	21	65
Trustees			
Authority of	VI	11	16
Consist of	VI	11	16
Executive Board	VI	11	16
Legal Title to All Property of the BMWED	VI	11	16
-U-			
Unauthorized Strikes	XIX	20	64
Unemployment Cards			
Application for	XVI	2	37
Entitlement to	XVI	2	37
Members Holding, Rights of	XVI	2	37
Return to Service, When to Resume Paying Dues	XVI	2	37
When Void	XVI	2	37
Unemployment, Life Membership Cards, Emblems,			
Badges and Dues Receipts	XVI		36
Uniform Dues			
Local Lodges	XV	3	31
System Divisions or Federations	XV	3	31
Union Shop Agreement			
Members, Delinquent, Dues and Assessments	XV	5	33
Non-Members, Violation of, Citation Notice	XV	5	33
Violation of, Citation of Members	XV	5	33

## Index and Cross Reference of BMWED Bylaws

---

Subject	Art.	Sec.	Page
-V-			
Vacancies			
Chairman, Executive Board	VI	9	15
National Division Vice Presidents and Executive Board Members	I	7	3
Less Than Three Months Before National Division Convention	I	7	3
President or Secretary-Treasurer, Filling of State or Provincial Legislative Directors	I	7	3
Local Lodge Officers	XVIII	11	48
Vice Presidents			
Assignment	IV	2	10
Duties	IV	1	10
Salaries, Payment of	VII	2	18
Regions	I	4	2
Reports	IV	3	10
Violation of Collective Bargaining Agreements	XIX	10	59
Violation of Strike Calls	XIX	17	63
Votes			
National Division Convention			
Delegates	I	6	3
Delegates, Ex Officio, National Division Officers	I	6	3
Voting			
Special Conventions	I	9	5
-W-			
Wages, Rules and Working Conditions			
Uniform, Deviation From, President	III	8	7
Withdrawal Cards	XVII	4	39
Issuance of	XVII	4	39
Loss of Active Membership	XVII	4	39



# RESOLUTIONS

of the  
**Brotherhood of  
Maintenance of Way  
Employes Division**

of the  
**International Brotherhood  
of Teamsters**

*Revised and Amended at the Second Regular Convention  
of the National Division held in the city of  
Las Vegas, Nevada  
June 21-23, 2010*





**RESOLUTION NO. 1**

**RE: BMWED - IBT IN THE FOREFRONT OF RAIL LABOR  
(REAFFIRMED)**

WHEREAS, The ongoing and future contract negotiations are of the utmost importance to the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters; and

WHEREAS, It is important that the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters be the leading participant in rail labor's struggle for full employment, fair wages and dignity on the job; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record to request the National Division President to take all reasonable steps to ensure that the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters will be in the forefront of the rail labor unions on issues of full employment, fair wages and dignity on the job.

**RESOLUTION NO. 2**

**RE: ARTICLE XIX - CONTRACT APPROVAL  
(REAFFIRMED)**

WHEREAS, Article XIX, Section 9 of the National Division Bylaws restricts a system from beginning negotiations with railway officials until the schedule to be negotiated has been presented to and approved by the National Division President or his designated representative; and

WHEREAS, Article XIX, Section 14 states that it shall be the policy of the Brotherhood to establish uniform basic rules and rates of pay for members performing comparable work; and

WHEREAS, Article III, Section 8 of the National Division Bylaws states that the National Division President shall have the power to suspend from office any National Division or system division or federation officer who, without having obtained the President's permission, deviates from any uniform wages or rules and working conditions policy that has been or shall be established; and

WHEREAS, The general chairmen, on a day-to-day basis, have contact with carrier officers; and

WHEREAS, Many times the carrier or the Organization wishes to discuss changes in wages, rules and working conditions; and

WHEREAS, Sometimes it would be beneficial to the members we represent if we could initial an agreement at that time if the system division or federation officer only knew what the National Division policy was on wages, rules and working conditions; Therefore, be it

RESOLVED, That National Division continue its policy concerning wages, rules and working conditions; and, be it further

RESOLVED, That such policy and any changes in such policy be distributed to each general chairman; and, be it further

RESOLVED, That a system division or federation can negotiate with carrier officers without first getting National Division approval concerning changes in wages, rules and working conditions so long as those negotiations do not involve changes in wages, rules and working conditions below the standard set by National Division; and, be it further

RESOLVED, That if such negotiations result in a tentative agreement with the carrier, that the general chairman will be authorized to initial such agreement pending the approval of the National Division President or his authorized representative.

### **RESOLUTION NO. 3**

#### **RE: HONORING OF UNION PICKET LINES**

##### **(REAFFIRMED)**

WHEREAS, The members of the Brotherhood recognize that only through solidarity with their sister unions can we expect to prevail in our just demands with the railroads; and

WHEREAS, The primary method to show solidarity with other railway unions is to respect and honor their picket lines; and

WHEREAS, The Brotherhood can instruct a member to respect and honor the picket lines of another union subject to prevailing law. The Brotherhood can and must encourage each of its members to respect and honor the picket lines of another union; Therefore, be it

RESOLVED, That it shall be the policy of the Brotherhood to honor the picket lines of unions on strike. For clarification, the Brotherhood considers all locations on the lines of a railroad to be picketed where such lawful strike action has been taken by a union whether or not a picket sign is physically present; and, be it further

RESOLVED, That it shall also be the policy of this Brotherhood to represent, to the best of our ability and means, any member of our Brotherhood who has been subjected to any disciplinary action by a carrier as a direct result of having voluntarily honored a union's picket line; and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters reaffirm this policy of honoring picket lines when a sister union is on strike.

### **RESOLUTION NO. 4**

#### **RE: UNEMPLOYMENT BENEFITS**

##### **(REAFFIRMED)**

WHEREAS, Members of our Organization drawing unemployment benefits are faced with the continued rise in the cost of living; and

WHEREAS, The present daily benefits thereof are not sufficient to meet today's high cost of living; and

WHEREAS, The continued rise in inflation has placed extreme hardships on our members; Therefore, be it;

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record requesting that said daily benefits be increased to the amount consistent with the current cost of living; and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention urge our National Division President to take this matter into consideration for handling in an expeditious manner.

### **RESOLUTION NO. 5**

#### **RE: RAILROAD EMPLOYEES' MEDICAL RECORDS**

#### **(REAFFIRMED)**

WHEREAS, Railroad employees do not pay into state workers' compensation funds; and

WHEREAS, Railroad employees are ineligible for state workers' compensation benefits; and

WHEREAS, State workers' compensation acts provide that an employee receiving workers' compensation benefits automatically grants release of confidential medical information concerning his/her injury to his/her employer as a condition of receiving benefits; and

WHEREAS, The Railroad Unemployment Insurance Act does not require such medical disclosure to the railroad employer as a condition of receiving Railroad Sickness Benefits; and

WHEREAS, The Federal Employers' Liability Act provides railroad employers with unlimited liability for job-related injuries to railroad employees; and

WHEREAS, Medical practitioners, clinics and hospitals rarely understand the differences between medical information release requirements of the job-related injury compensation programs for non-railroad and railroad employees; and

WHEREAS, Railroad claims agents frequently illegally obtain confidential medical information about injured railroad employees by knowingly and falsely asserting to the medical care providers that the injured railroad employee is covered by the information release provisions of state Workers' Compensation Acts; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record instructing BMWED - IBT-endorsed State Representatives and Senators to introduce and/or support legislation requiring:

1. All licensed medical practitioners, clinics, hospitals and other medical facilities to carry out a program to educate all of their employees with access to medical records that railroad employees are not covered by the Workers' Compensation Acts and that medical information cannot be released without the written consent of that employee.
2. Automatic suspension or revocation of the operating license(s) of any medical practitioner, clinic, hospital or medical facility which releases any medical records of any railroad employee to his/her employer or that employer's agent without the employee's prior written consent.
3. Immediate notification of the railroad employee affected at his/her last known address of the identity of any individual or corporation to whom his/her medical records, or any portion thereof, are released.
4. Felony penalties including mandatory minimum prison sentence for any railroad employer's officer or agent who attempts to obtain any portion of any other railroad employee's medical records by asserting that he is acting under state workers' compensation statutes and/or that the employee whose records are being requested is covered by state workers' compensation benefits.
5. Any medical practitioner, clinic, hospital or other medical facility to immediately notify the State Attorney General of any request made for any portion of any railroad employee's medical records under the pretense of workers' compensation coverage to allow prompt investigation and prosecution by the appropriate enforcement agency.

## **RESOLUTION NO. 6**

### **RE: INSURANCE - FURLOUGHED EMPLOYEES**

#### **(REAFFIRMED)**

WHEREAS, Furloughed employees lose their health insurance and other benefits after four months of furlough; and

WHEREAS, These employees are least able to afford to pay the premiums to continue coverage through their furlough period; Therefore, be it

RESOLVED, That the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters attempt to negotiate a contract to continue insurance benefits to all furloughed employees holding seniority under a BMWED - IBT Agreement.

## **RESOLUTION NO. 7**

### **RE: CONTRACTORS TO PAY RAILROAD RETIREMENT TAXES**

#### **(REAFFIRMED)**

WHEREAS, The contracting out of work is one of the most important issues facing our membership; and

WHEREAS, Thousands of our members have lost their jobs on account of contractors performing Maintenance of Way duties and are unable to continue to provide a decent standard of living for themselves and their families; and

WHEREAS, The contractor's forces are not required to pay into the Railroad Retirement system; and

WHEREAS, The National Carriers Conference Committee has announced through past Section 6 notices that they have a work exit strategy to eliminate the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters' forces; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters instruct the National Division President and the IBT General President to do everything possible in order to see that all contractors and their employees are required to pay into the Railroad Retirement system.

### **RESOLUTION NO. 8**

#### **RE: SHORT LINES**

#### **(REAFFIRMED)**

WHEREAS, The Staggers Act deregulating the railroad industry was passed with the support of rail labor; and

WHEREAS, The Surface Transportation Board (STB) has chosen to reinterpret the Staggers Act to permit carriers to divest themselves of property to newly formed carriers without paying protective benefits which have historically been required under the Interstate Commerce Act; and

WHEREAS, Carriers across the United States are taking advantage of this new interpretation of the Interstate Commerce Act by divesting themselves of property to newly formed carriers, causing our Brothers and Sisters to lose jobs or be transferred to the new carrier at reduced pay and benefits and without union representation; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record requesting the National Division President and all system division and federation general chairmen to negotiate agreements to provide any active, furloughed or transferred employee with a successorship agreement and a protective agreement which minimizes the adverse affect of such transactions.

### **RESOLUTION NO. 9**

#### **RE: JOB STABILIZATION**

#### **(REAFFIRMED)**

WHEREAS, The drastic reduction in Maintenance of Way forces on railroads and relocation of employees is a matter of grave concern to our

Brotherhood because of the unsettling effects that they have on our members, as well as the resultant reduction in employment levels; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters reaffirm our desire to secure improved protection for Maintenance of Way employees, not only for the benefit of the individual employee, but also for the well-being of rail transportation in the United States; and, be it further

RESOLVED, That we direct our National Division and system officers to do everything within their power to secure the jobs of the Brotherhood's members through the negotiation of improved agreements and inclusion of proper safeguards in appropriate laws.

#### **RESOLUTION NO. 10**

#### **RE: FEDERAL EMPLOYERS' LIABILITY ACT**

#### **(REAFFIRMED AS AMENDED)**

WHEREAS, The Nation's railroads have initiated a assault to repeal the Federal Employers' Liability Act (F.E.L.A.); and

WHEREAS, Through the carriers' efforts, many of our Nation's Senators and Representatives have been led to believe that an inferior state no-fault workers' compensation should replace F.E.L.A.; and

WHEREAS, With the help of many of our elected friends of labor in both the House and Senate, and the superior efforts of our appointed law firms; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters commend and encourage our elected friends and legal firms for their untiring and continuing efforts to protect and preserve F.E.L.A.; and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters pledge our support to our law firms and elected officials by continuing to contact and write all of the Senators and Representatives who believe that F.E.L.A. should be repealed; and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record empowering our National Division President to join our elected friends and F.E.L.A. firms in protecting rail labor's F.E.L.A. rights.

## **RESOLUTION NO. 11**

### **RE: F.E.L.A. EVALUATION FORM (REAFFIRMED)**

WHEREAS, At times our members experience on-the-job injuries and at times even fatalities and, as a result, these members or their survivors have cause to seek out legal counsel for recovery under the auspices of F.E.L.A.; and

WHEREAS, It is the desire of the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters to provide its membership with a list of designated and approved names of law firms for their use if they so desire; and

WHEREAS, To insure that when any member does utilize a legal firm included on such list for that purpose, they will continue to receive the utmost professional, courteous and responsive legal assistance at the most reasonable fee allowable in a consistent manner coast to coast; Therefore, be it

RESOLVED, That each BMWED - IBT-designated and approved law firm provide, to each and every Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters member or their survivors retaining same, an approved form on the date the retainer agreement is signed for the purpose of personally evaluating that firm's legal assistance and service to such member or their survivors during the handling of that member's legal case; and, be it further

RESOLVED, That such approved form shall be completed at the conclusion of such member's legal case by such member or their survivors and mailed to National Division, with a copy to the respective general chairman, and that National Division shall retain and file such evaluations by corresponding approved law firms. Such file to be reviewed annually by the National Division Executive Board to determine if the members' or their survivors' evaluations deem that legal firm's assistance and representation as acceptable, and if any emerging pattern to the contrary exists, appropriate action will be undertaken; and, be it further

RESOLVED, Such form shall be clearly and explicitly spelled out that such member or their survivors do not, if at all possible, refer to such monetary settlement award, as such evaluation does not concern itself with that matter.

## **RESOLUTION NO. 12**

### **RE: NON-DESIGNATED LAW FIRMS (REAFFIRMED)**

WHEREAS, It has long been the policy of this Brotherhood to select reputable law firms of high standards to represent this Organization and its members; and

WHEREAS, These law firms have always been welcome to attend Brotherhood of Maintenance of Way Employes Division of the Interna-

tional Brotherhood of Teamsters' meetings such as National Division Conventions, National Association meetings, Regional Association meetings and other National Division-sponsored functions; and

WHEREAS, In recent times, representatives of other law firms who are not recognized as appointed legal counsel and who were not invited by National Division Officers of this Brotherhood are showing up at some of the scheduled aforementioned functions, sponsoring hospitality rooms and attending Brotherhood receptions; Therefore, be it

RESOLVED, That any uninvited firms or representatives of non-designated firms who willfully attend said functions without invitation from the National Division President or his designated representatives will cause their firms to not be considered now or in any future time for appointment to represent this Brotherhood and its members.

### **RESOLUTION NO. 13**

#### **RE: DESIGNATED (F.E.L.A.) COUNSEL**

#### **(REAFFIRMED)**

WHEREAS, The United States Supreme Court has recognized the compelling need and constitutional right of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters to protect our members' rights under the Federal Employers' Liability Act and related statutes by, among other things, establishing legal aid programs to advise workers who are injured to obtain legal advice and to recommend specific lawyers; and

WHEREAS, The membership relies on its elected officers to administer this constitutionally protected legal aid program and to advise members how to seek and retain competent and fair legal counsel having demonstrated expertise in these matters; and

WHEREAS, The Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters has exercised its constitutional right to provide its injured members such advice and specific recommendations by creating a system of designated legal counsel committed to our members' best interest and who faithfully maintain and carry out the Brotherhood's legal aid program by:

(a) Explicitly agreeing to participate in this constitutionally protected professional relationship pursuant to Brotherhood standards of fairness and accountability;

(b) Demonstrating continuing proven expertise in the complex statutory protection embodied in F.E.L.A.;

(c) Agreeing to charge reasonable fees, keep necessary expenses to a minimum, and to provide free advice to any member regarding his or her injury;

(d) Actively supporting and participating in Brotherhood conferences, legislative activities, education/training programs and other lodge meet-

ings or activities as requested by Brotherhood Officers; and

WHEREAS, The United States Supreme Court has also declared that lawyers accepting employment within our designated counsel system also share the Brotherhood's constitutional right and protection in carrying out the Brotherhood's plan for contacting and advising injured workers to obtain legal advice and to recommend specific Brotherhood-approved lawyers; and

WHEREAS, The Brotherhood has a compelling need and interest in strengthening the protective benefits of the designated counsel system and eliminating the possibility of mistaken impressions harmful to our legal aid program; and

WHEREAS, Allowing non-designated legal counsel to be present or participate before, during or after any sanctioned union activity, meeting, or function would breach the constitutionally protected professional relationship established between the Brotherhood, its members, and designated legal counsel; and would also mislead members who may mistakenly believe that non-designated legal counsel are approved by the Brotherhood and share the same relationship and commitment to the Brotherhood as designated legal counsel as outlined above; Therefore, be it

RESOLVED, That it shall be the policy of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters that only properly designated legal counsel and their authorized representatives be invited to participate in or otherwise be present before, during or after meetings, social activities or other functions of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters National Division, system divisions/federations, or subordinate lodges; and, be it further

RESOLVED, That it shall also be the policy of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters that, along with Brotherhood Officers themselves, only designated legal counsel, or their staff, be authorized by the Brotherhood to initiate contact with any member who may require information concerning the advisability of obtaining legal advice, or advice recommending specific lawyers employed within this constitutionally protected legal aid program.

#### **RESOLUTION NO. 14**

#### **RE: SOLIDARITY: LEGISLATIVE AND PROTECTIVE DEPARTMENTS**

#### **(REAFFIRMED)**

WHEREAS, The legislative arena has a tremendous impact on issues which traditionally have fallen under the jurisdiction of the Protective Department of the Brotherhood, and likewise, the activities of the Protective Department seriously impact the issues facing the Legislative Department; and

WHEREAS, The collective efforts and consensus building between the Legislative and Protective Departments are required to advance all issues which impact on our ability to represent our members; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters call for a greater unity to advance the issues which face our members in general to a successful conclusion.

### **RESOLUTION NO. 15**

#### **RE: ANNUAL SICK LEAVE**

##### **(REAFFIRMED)**

WHEREAS, There are Maintenance of Way employees who do not have annual sick leave agreements; Therefore, be it

RESOLVED, That the National Division President exert his best efforts to obtain agreements providing an adequate number of paid sick leave days for all Maintenance of Way employees which would not interfere with the present Supplemental Sickness benefits.

### **RESOLUTION NO. 16**

#### **RE: WORK SEASON**

##### **(REAFFIRMED)**

WHEREAS, Many of our members are employed seasonally; and

WHEREAS, Much of their seasonal work could be performed over a longer work season; and

WHEREAS, A longer work season would help our members accumulate more months of service for step rate increases, and extended employment benefits; and

WHEREAS, A shorter standard work week would allow our members more time off while serving to extend the work season; Therefore, be it

RESOLVED, That the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters attempt to negotiate a shorter standard work week with no reduction in pay.

### **RESOLUTION NO. 17**

#### **RE: OPERATION LIFESAVER**

##### **(REAFFIRMED)**

WHEREAS, The Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters is concerned with the improvements and maintenance of railroad grade crossings; and

WHEREAS, The Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters' efforts in the

engineering of grade crossings and their assurance of proper visibility is essential in prevention of many train/vehicle accidents; and

WHEREAS, The Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters' members recognize the potential dangers to trespassers, fishing off railroad bridges, crossing through railroad cars in yards, and children playing around and on railroad tracks as well as throwing objects at passing trains; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters endorse and support the grade crossing safety program known as "Operation Lifesaver;" and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters encourage our membership to become "Operation Lifesaver" presenters, in hopes of eliminating deaths to young children around railroad tracks, and at countless train/vehicle collisions each year. If just one life is saved in making "Operation Lifesaver" presentations, then the time spent is well worth it.

#### **RESOLUTION NO. 18**

##### **RE: NEW POSITIONS AND VACANCIES - NATIONAL DIVISION**

##### **(REAFFIRMED AS AMENDED)**

WHEREAS, It is the wishes of the delegates assembled at this Second Regular National Division Convention to reaffirm Resolution No. 23 of the 43rd Grand Lodge Convention regarding the advertising of jobs at National Division; Therefore, be it

RESOLVED, By the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters, that all new positions and vacancies, except those subject to reappointment of the current employee and those not covered by the election process of our Constitution, be advertised in the *BMWED Journal* and on the BMWED Website so that our membership who wish to apply for these jobs may do so.

#### **RESOLUTION NO. 19**

##### **RE: NATIONAL WORKER'S MEMORIAL**

##### **(REAFFIRMED AS AMENDED)**

WHEREAS, Railroad and industrial management has adopted oppressive cost-cutting measures in the industry that has brutalized working conditions for BMWED members and has resulted in tremendous profits for the owners and the overpaid managers; and

WHEREAS, This downsizing has resulted in management creating working conditions and work procedures with the cooperation of their allies in the government regulatory agencies, particularly with the FRA which

have left scores of hard-working BMWED members dead since 1988 in the United States and Canada, and many more mutilated; and

WHEREAS, The sweat and blood which our members have spilled on the railroad tracks to create a life for themselves and their families is directly related to the corporate greed of the owners and the bonus-hungry railroad managers; and

WHEREAS, This slaughter is responded to by railroad management with a callous disregard to the truth of this situation, which results in railroad management defrauding and insulting our dead and mutilated Brothers and Sisters and responding to the situation; and

WHEREAS, Our Union will not permit the further insults of management to continue; Therefore, be it

RESOLVED, That the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters institute a system of honoring and recognizing those members of our Union who lost their lives in the line of duty in FRA reportable accidents; and, be it further

RESOLVED, That their contributions and sacrifice to our Brotherhood be acknowledged and that their families are made aware of our appreciation with a permanent reminder for them in the form of a memorial brick, purchased by the National Division and engraved with the name and Lodge number of their loved one, to be permanently enshrined in the National Workers Memorial, a new monument to fallen workers on the grounds of the National Labor College in Silver Spring, MD; and, be it further

RESOLVED, That the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters present to the families of all Brothers and Sisters who were members and lost their lives on the job since January 1, 2010, an official certificate documenting the location and placement of a memorial brick in their loved ones honor; and, be it further

RESOLVED, That the National Division President request from all general chairmen the names of all Brothers and Sisters who were members and lost their lives on the job in FRA reportable accidents beginning January 1, 2010, and that their names and all that may follow be displayed in a place of honor as part of the National Worker's Memorial in Silver Spring, MD; and, be it further

RESOLVED, In the event any member of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters is killed while on duty for their respective employer, at least one system officer from the deceased's respective system federation and the National Division President, or one of his or her agents, should make every effort possible to attend the funeral of the deceased member.

## **RESOLUTION NO. 20**

### **RE: THE VETERANS' PLEDGE**

#### **(REAFFIRMED AS AMENDED)**

WHEREAS, A fundamental principle in representative democracy holds that the people elected representatives must be permitted to advance the legislative preferences of their constituents; and

WHEREAS, The House Rules Committee, which serves the House by framing debate on legislation when bills are taken up on the House floor, is always bypassed in Veterans' Affairs; and

WHEREAS, All bills emerging from the House Veterans' Affairs Committee are exempt from floor amendment because they are treated as non-controversial and placed on the Suspension of the Rules Calendar; and

WHEREAS, There are very few members of the House who sit on the Veterans' Affairs Committee, leaving the majority of House members with virtually no opportunity to advance the legislative interests of their veteran constituents on the House floor; and

WHEREAS, The cost of each veteran bill is very expensive, and the VA budget is in the billions; and

WHEREAS, Important legislation offering judicial review is often sidetracked, and only modest legislation to provide compensation for those affected by Agent Orange was passed; and

WHEREAS, Many other important health care issues are being side-tracked such as Post Traumatic Stress; Therefore, be it

RESOLVED, That the National Legislative Department shall, to the extent possible, contact all candidates for elective office of the United States House of Representatives and seek their pledge that, if elected, they will do whatever is necessary to represent the issues of the veterans.

## **RESOLUTION NO. 21**

### **RE: ORGAN DONORS**

#### **(REAFFIRMED)**

WHEREAS, There are members whose families are in dire need of an organ donation; and

WHEREAS, Unless there are more who will step forward and donate organs people will surely perish; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters be encouraged and encourage our Brothers and Sisters to be organ donors.

## **RESOLUTION NO. 22**

### **RE: RETIREES**

#### **(REAFFIRMED AS AMENDED)**

WHEREAS, At the present time, IBT has established a program that encourages retirees' participation; Therefore, be it

RESOLVED, That the delegates of the Second Regular National

Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters encourage all BMWED retirees to participate and contribute in the IBT Retiree Affairs Program and the newly established TEAM (Teamster Education and Mobilization) Fund.

### **RESOLUTION NO. 23**

#### **RE: R.U.I.A. - MILITARY SERVICE**

##### **(REAFFIRMED)**

WHEREAS, Numerous railroad employees have served their country honorably and well in various branches of the armed forces for periods in excess of twenty (20) years; and

WHEREAS, These military veterans receive military retirement pay as partial compensation for their long military service; and

WHEREAS, If these veterans work for non-military employers, they can become eligible for state unemployment benefits in case of layoff and for workers' compensation in case of injury; and

WHEREAS, The Railroad Unemployment Insurance Act (R.U.I.A., Section 4, A-1, ii) prohibits payment of railroad unemployment benefits or railroad sickness benefits to otherwise eligible railroad employees who are now receiving military retirement pay for twenty (20) years or more of military service; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters solicit all BMWED-IBT endorsed U.S. Representatives and Senators to introduce and/or support legislation amending the Railroad Unemployment Insurance Act to allow railroad employees collecting military retirement pay to also be eligible for railroad unemployment and insurance benefits if they otherwise meet the qualifications of these benefit programs; and, be it further

RESOLVED, That a report will be made to each Brotherhood of Maintenance of Way Employees Division National Association meeting concerning the Brotherhood's progress in implementing this resolution.

### **RESOLUTION NO. 24**

#### **RE: PROVIDING BENEFITS FOR SURVIVING SPOUSE(S)**

##### **AND DEPENDENT(S)**

##### **(REAFFIRMED)**

WHEREAS, With current rules and regulations governing Railroad Retirement benefits for a surviving spouse(s) and dependent(s), there is and has been a void in concern with the interim between the death of the member and qualifying retirement age of the surviving spouse(s) and dependent(s); and

WHEREAS, A surviving spouse(s) of a Maintenance of Way railroad worker who is less than 60 years of age, who does not care for dependent

children under the age of 18 or disabled children, and who is not disabled, is not entitled to any annuity under current law of the U.S. Railroad Retirement Act; and

WHEREAS, The surviving spouse(s) and dependent(s) of a Maintenance of Way railroad worker that are not covered by continuation of the negotiated medical coverage; and

WHEREAS, The surviving spouse(s) and dependent(s) who fall under such circumstances are placed in a financial situation whereby they may very well become destitute; and

WHEREAS, This Organization has a history of protecting surviving family members of our Brothers and Sisters; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters encourage the National Division President to do whatever is within his power to obtain benefits for surviving spouse(s) and dependent(s).

#### **RESOLUTION NO. 25**

#### **RE: NATIONAL VACATION AGREEMENT**

#### **(REAFFIRMED)**

WHEREAS, The stress and pressure on Maintenance of Way employees in the workplace has been increasing in recent years; and

WHEREAS, Paid time off for the Maintenance of Way employees has become increasingly important to the membership; and

WHEREAS, The National Vacation Agreement for non-operating employees has not been substantially changed since 1971; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record directing the National Division President and negotiating committee to seek improvements in the National Non-operating Vacation Agreement providing for a decrease in the number of qualifying years for vacation and an increase in the number of vacation days allowed; and, be it further

RESOLVED, That the National Vacation Agreement be amended to provide that an employee working less than his qualifying period will receive vacation on a pro-rated formula based on actual number of days of compensated service in the calendar year.

#### **RESOLUTION NO. 26**

#### **RE: S.T.B. AUTHORIZATION:**

#### **REFORMS TO PROTECT WORKERS AND THE PUBLIC INTEREST**

#### **(REAFFIRMED)**

WHEREAS, With Surface Transportation Board (S.T.B.)

reauthorization legislation possible this year, Congress has the opportunity to rein in the power that mega-rail carriers exercise over workers, shippers and communities. Workers' rights and job security must be enhanced, safety must take on added importance, and Congress must end the outrageous practice of discarding private union contracts at the mere request of merging railroads. Unfortunately, the S.T.B. has typically adopted and implemented policies that ignore these concerns and the effect they have on railroad employees and the overall public interest; and

WHEREAS, Since the passage of the Staggers Act in 1980, the nation has witnessed an unprecedented consolidation in the rail industry that has left thousands of workers out of jobs and has vested unprecedented market power with a few mammoth rail carriers. While the S.T.B. has a statutory obligation to consider "the interests of rail carrier employees" affected by proposed mergers, not a single proposed transaction has been rejected or significantly altered because of employee concerns. Workers are promised generous *New York Dock* benefits, but in reality the railroads fight making these protective payments every step of the way by using long, drawn out legal proceedings to delay or escape fulfilling their obligations to employees; and

WHEREAS, Not only has the S.T.B. refused to protect employees, but it has used a tortured interpretation of law to cancel out collective bargaining agreements made between employees and railroads who later argue that the agreement interferes with a pending merger or acquisition. The S.T.B. has extended its authority to justify almost any change that the carriers request even if it is far removed from what is required to complete a transaction. If the nation's rail carriers want to make changes to private collective bargaining agreements, then they should do what every other company with a collective bargaining relationship must, sit down with the employees and negotiate an agreement. Transportation labor calls on the Congress to finally put a stop to the practice of a federal agency trampling on the private contract rights of thousands of taxpayers who work on America's railroads; and

WHEREAS, We are also concerned about the lack of attention that has been paid to ensuring that rail transactions are completed in a manner that will not jeopardize the safety of workers and the public at large. We need only look at the problems that Union Pacific experienced as it attempted to complete its merger with Southern Pacific to understand the terrible impact a merger can have on safety. The S.T.B. has recently entered into rule making designed to ensure that the safety concerns of rail transactions can be fully evaluated before approval is granted. While we support imposing new safety requirements on merging railroads, we suspect that there will be attempts to weaken this rule by excluding certain transactions or limiting the amount of information that rail carriers must provide. It must be recognized that the S.T.B. has an obligation to ensure that the transactions it approves, regardless of the size or type of applicant involved, will not put workers or the general public at further risk; and

WHEREAS, Shippers and their employees who are dependent on rail transportation also find themselves at the mercy of virtual rail monopolies. Transportation labor has long maintained that the reduction of competition in the rail industry causes devastating job cuts, harms the economy and communities, and is contrary to sound transportation policy. The massive consolidation also threatens the motor carrier sector where hundreds of

thousands of our Brother and Sister Teamsters are employed. While operators in competing transportation modes fight over market share, the gains on one side always come at the expense of workers on both sides as carriers play the cut throat game of downsizing and squeezing more out of fewer employees; and

WHEREAS, As rail mergers and other transactions continue to reduce transportation options and market power is further concentrated, it is increasingly important that the role of the S.T.B. be reexamined. While transportation labor continues to evaluate proposals to increase competition or address shipper-carrier issues, we know from first-hand experience that massive and unrestrained consolidation in the railroad industry without regard to the needs of shippers, communities and employees, and to the transportation system itself, has been disastrous. We will continue to be mindful of this fact as Congress considers rail competition proposals; and

WHEREAS, Some have suggested that the S.T.B., as currently structured, is simply incapable of fulfilling its public interest obligations and should be disbanded with its responsibilities parceled out to other government agencies. While this is not a new proposal, it has surfaced again because many believe the S.T.B. may have outlived its purpose or is too close to the industry that it is charged with overseeing. Transportation labor is seriously examining such a proposal. Meanwhile, to help guard against potential conflicts of interest, we propose that S.T.B. members be subjected to a "revolving door" policy curtailing their participation in the industry once their service terminates; and

WHEREAS, It is clear that Congress must take every opportunity to force the S.T.B. to perform its statutory responsibility to protect the public interest and ensure that protections embodied in statute are carried out in practice, and that voices other than railroad executives are heard. Workers, shippers, communities, and state and local governments deserve nothing less; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters direct the National Division President to urge all U. S. Representatives and Senators to introduce and/or support legislation that will put a stop to the Surface Transportation Board's practice of granting the carriers the authority to make wholesale changes to privately negotiated labor agreements; and, be it further

RESOLVED, That this legislation include provisions that would require the Surface Transportation Board to use the same standards for reviewing mergers as the Justice Department uses when reviewing mergers in other sectors of private industry; and, be it further

RESOLVED, That Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters will work with the rest of rail labor to promote any non-violent means necessary to promote legislation that would rein in the power of large railroads; and, be it further

RESOLVED, That Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters will advance the views expressed in this statement to the current Administration and to the House and Senate authorizing committees.

**RESOLUTION NO. 27**

**RE: ORGANIZING**

**(REAFFIRMED)**

WHEREAS, There are millions of workers in the U.S., Canada and Mexico who suffer abuses by their employers because they are unrepresented; and

WHEREAS, It is the obligation of all good trade unionists to bring the benefits and protections of unionism to the unrepresented workers; and

WHEREAS, The strength of a labor union, thus its ability to deliver improvements in working conditions and standards of living to its members is directly linked to its size and growth potential; and

WHEREAS, The Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters membership's future is directly linked to the long term viability of their Union; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters direct the Organizing Department to put a plan together in accordance with the current National Division Constitution and Bylaws that will result in bringing Union benefits to our unrepresented Brothers and Sisters and result in real growth of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters; and, be it further

RESOLVED, That the National Division President and the Executive Board review and modify said plan and authorize expenditures to meet the goal of bringing the benefits of union representation to the unrepresented and of sustaining real growth of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters.

**RESOLUTION NO. 28**

**RE: NATIONAL TRANSPORTATION STRIKE FOR COLLECTIVE BARGAINING RIGHTS AND JUSTICE FOR TRANSPORTATION WORKERS**

**(REAFFIRMED)**

WHEREAS, The right of American transportation workers to organize unions, bargain collectively and to engage in concerted action is severely restricted, and at times forbidden by the laws of government of the United States and the various judicial and legislative bodies, and that the current imbalance in labor laws which favors organized management needs to be corrected and reversed; and

WHEREAS, This imbalance in labor laws serves to deny workers the right to join unions and further serves to restrict the ability of unions to bargain for our fair share of the tremendous value which we produce; and

WHEREAS, There is a willingness among our elected politicians and judges at all levels of government to function as the servants of organized

management and to insure that the laws function in a manner to preserve and enlarge the wealth of our employers at the expense of our jobs, working conditions and standard of living to the extent that if the present laws are not sufficient to protect the money of organized management, these same political servants will pass new legislation or issue new injunctions to insure that strikes are broken and that the transfer of the value produced by our labor is continued without interruption into the accounts of our employers; Therefore, be it

RESOLVED, That the Legislative Department draft legislation that will insure the right of workers to organize and be represented by a union and that this right includes, but is not limited to, card check recognition and the right to submit first contracts to binding arbitration when so requested by the union, the banning of all scabbing and the use of replacement workers, that no worker may be discharged without just cause, repeal of the Taft-Hartley law, criminal sanctions for employers who engage in unfair labor practices and mandatory imprisonment for those individuals who implement such illegal policies, an unrestricted right to strike and other such protections that emerge from our discussions on these topics with our sister organizations; and, be it further

RESOLVED, That this strike be maintained despite any order of any agency or department of the government or the judiciary to the contrary until such time as it is resolved with satisfactory legislation; and, be it further

RESOLVED, That in the event that any court and/or executive agency interprets the law in a manner that conflicts with the clear language of the proposed legislation as interpreted by organized labor or Congress in any way amends or repeals the law without the specific approval of organized labor, that the national transportation strike will resume until the conflict is resolved.

## **RESOLUTION NO. 29**

### **RE: ORGAN DONOR COVERAGE**

#### **(REAFFIRMED)**

WHEREAS, Organ, tissue and bone marrow donation is an unselfish act, done in the spirit of true union compassion and solidarity; and

WHEREAS, Our members and families should not have to make material sacrifices when they take this action; and

WHEREAS, Our current health benefit coverage does not include payment for medical care for organ, tissue and bone marrow donation; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record and request the National Division President to take all reasonable steps to make health coverage available to all donors who choose to make organ, tissue and bone marrow donations part of our health coverage.

**RESOLUTION NO. 30**

**RE: SUPPORT FOR RAIL LABOR COALITIONS**

**(REAFFIRMED)**

WHEREAS, The need for greater numbers of union railroad members to unite for a common cause; and

WHEREAS, It is important to make other unions aware of our struggles and the ever present possibility of government intervention when forced to use self help; and

WHEREAS, It has become increasingly important to support labor-friendly candidates for every office from school boards to the United States Presidency; and

WHEREAS, The number of union railroad members has dramatically decreased over the past two decades and this has created a need for more solidarity, cooperation and coordination between crafts at the local level; and

WHEREAS, The need exists to create and display unity for the good of all working people; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters go on record as supporting and encouraging rail labor coalitions so long as they are formed for the good of all rail labor.

**RESOLUTION NO. 31**

**RE: ATTENDANCE OF LODGE MEETINGS**

**(REAFFIRMED)**

WHEREAS, The grassroots members have a strong desire to have an opportunity to communicate directly with our National Division; Therefore, be it

RESOLVED, That the National Division President, Secretary-Treasurer and Vice Presidents attend as many lodge meetings as their schedules permit.

**RESOLUTION NO. 32**

**RE: DISTRIBUTION TO DELEGATES OF  
PROPOSED RESOLUTIONS**

**(REAFFIRMED)**

WHEREAS, It may be beneficial for the delegates to review the resolutions the committee did not adopt; Therefore, be it

RESOLVED, That all future National Division Convention resolutions submitted to the Resolutions Committee 45 days prior to the convention will be distributed to the delegates with the Committee's recommendation upon registration at the convention.

### **RESOLUTION NO. 33**

#### **RE: IMPACT OF HEALTH AND WELFARE PLANS FOR CANADIAN MEMBERS COVERED UNDER U.S. NATIONAL AGREEMENTS**

**(REAFFIRMED)**

WHEREAS, Canadian members working in Canada for American carriers are covered by U.S. National Agreements including Health and Welfare plans; and

WHEREAS, Many of these same plan benefits and agreements can not or do not work effectively for the Canadian members, and sometimes to their detriment; Therefore, be it

RESOLVED, That the National Division, in its mandate to negotiate contracts for benefits and agreements, keep in mind the impact and outcome they have on our Canadian members working for American carriers.

### **RESOLUTION NO. 34**

#### **RE: FIGHT DISCRIMINATION ON RAILROAD AND INDUSTRIAL PROPERTIES**

**(REAFFIRMED)**

WHEREAS, The Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters has an obligation to represent all its members equally; and

WHEREAS, Railroad and industrial properties across the United States and Canada have practiced and continue to practice discrimination; and

WHEREAS, Discrimination by the railroads and industries has caused hardship and mental anguish to our members and is designed to divide our members against each other; and

WHEREAS, Several lawsuits against discrimination have been filed on behalf of our Brotherhood members; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record to fight discrimination on railroad and industrial properties across the United States and Canada with all of the commitment of which we are capable, within the context of financially prudent allocation of resources.

**RESOLUTION NO. 35**

**RE: ROLL OF HONOR MERIT AWARDS**

**(REAFFIRMED AS AMENDED)**

WHEREAS, The *BMWED Journal* publishes a Roll of Honor indicating merit awards for years of membership in the Brotherhood in 10-year increments; and

WHEREAS, Our Brothers and Sisters take pride in their Union membership; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record that the Roll of Honor Merit Awards continue to be awarded in 10-year increments, by National Division, as follows: At 10 years, a certificate, and thereafter the appropriate Merit Award.

**RESOLUTION NO. 36**

**RE: DUES DEDUCTIONS**

**(REAFFIRMED)**

WHEREAS, The carriers have furloughed many members causing the Brotherhood to raise dues locally, nationally, and on the system level to keep our services to our members; and

WHEREAS, Dues and assessments have increased over the years along with donations to the IBT DRIVE (Democratic Republican Independent Voter Education); and

WHEREAS, Dues, assessments, and donations all being taken out of one check a month can be a financial strain on some members' personal finances; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record requesting that the Brotherhood attempt to negotiate a system that would allow all dues deductions, assessments, and donations be taken out in equal installments each pay period in a month.

**RESOLUTION NO. 37**

**RE: ELIMINATION OF CAMP CAR/TRAILER LODGING**

**(REAFFIRMED)**

WHEREAS, There are railroads which persist in the archaic and repugnant practice of lodging Maintenance of Way employees in camp cars/trailer facilities; and

WHEREAS, Carriers often choose to locate these lodging facilities in close proximity of live, heavily used main tracks and/or railroad yards and/or highway or street road crossings, thereby greatly inhibiting our members' ability to receive a complete night's rest; and

WHEREAS, These lodging facilities do not provide our members with proper privacy or individual space; and

WHEREAS, These lodging facilities often require our members to stand in line to utilize an insufficient number of shower and washing facilities; and

WHEREAS, These lodging facilities are often not equipped with operating toilets, forcing our members to continually relieve themselves in rented outdoor facilities often in adverse weather conditions; and

WHEREAS, The members of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters who are required to reside in these lodging facilities have often brought to our attention the inequities in being lodged in such a subhuman and obnoxious fashion; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record as requesting the National Division President, National Division Officers, and all parties involved in negotiating with any railroad company, which still utilizes camp car/trailer facilities, to actively pursue agreements which would permanently eliminate the use of camp cars/trailers for lodging our members.

### **RESOLUTION NO. 38**

#### **RE: LAWS AND REGULATIONS GOVERNING COMPANY-PROVIDED LODGING FACILITIES**

#### **(REAFFIRMED AS AMENDED)**

WHEREAS, The Norfolk and Southern Railway Company persists in the archaic and repugnant practice of lodging Maintenance of Way employees in camp car/trailer facilities; and

WHEREAS, There are currently federal, state and local laws, regulations and ordinances which can be applied to these type of lodging facilities; and

WHEREAS, These facilities often are located in areas which, because of the high noise levels, greatly affects our members' ability to sleep at night; and

WHEREAS, These facilities are often maintained in an unhealthy, unsanitary and unsafe fashion; and

WHEREAS, The carrier provides meals to our members prepared on site which are reported to be of poor quality, unhealthy, and unappetizing; and

WHEREAS, These facilities normally fail to provide indoor restroom facilities or sufficient sanitation facilities for members required to live in these lodgings; Therefore, be it

RESOLVED, That we now request that the National Division President use all resources at his disposal to insure that all laws, regulations, and ordinances pertaining to these types of facilities are closely monitored by the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters, and all necessary steps are taken to insure enforcement thereof; and, be it further

RESOLVED, That the National Division President instruct the Director of Government Affairs and all state legislative directors to actively support and work to establish legislation which would serve to relieve the intolerable living conditions members of the Brotherhood are currently subjected to until such time as the practice of housing our members in these types of facilities has been eliminated; and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record as requesting the National Division President, National Division Officers, and all parties involved in negotiating with any railroad company, which still utilizes camp car/trailer facilities, to actively pursue agreements which would permanently eliminate the use of camp cars/trailers for lodging our members.

### **RESOLUTION NO. 39**

#### **RE: ENJOIN THE RAILROAD RETIREMENT BOARD TO COLLECT RAILROAD RETIREMENT TAXES FROM CONTRACTORS**

**(REAFFIRMED)**

WHEREAS, Maintenance of Way workers and their respective carriers are compelled to pay Railroad Retirement taxes; and

WHEREAS, Contractors performing Maintenance of Way work are not paying Railroad Retirement taxes; and

WHEREAS, The carriers are saving millions of dollars by not contributing to the Railroad Retirement system when they contract out Maintenance of Way work; and

WHEREAS, This unacceptable practice has caused the Railroad Retirement system to be shorted of untold millions of dollars; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters encourage the National Division President and the IBT General President to do whatever is within their power to seek legislation to allow the United States Railroad Retirement Board to require Railroad Retirement taxes from the carriers and contractors when Maintenance of Way work is contracted out.

**RESOLUTION NO. 40**  
**RE: CONTRACTING OUT**  
**(REAFFIRMED)**

WHEREAS, The unacceptable practice of contracting out has been utilized by many carriers for buildings and rehabilitation projects, which properly should be performed by Maintenance of Way forces, has been one of the most offensive elements in the drastic reduction of our membership; and

WHEREAS, The practice of contracting out has been utilized by many carriers even when they had regular employees available or were in the position to hire additional employees in the Maintenance of Way departments; and

WHEREAS, This unacceptable practice has not only resulted in the decimation of our membership, causing this Brotherhood undue financial strain, but also in the serious deterioration of the railroad right-of-ways, facilities and equipment in both the United States and Canada, because no attention is paid to tracks, bridges, buildings and work equipment until they are almost unable to be used due to the lack of regular Maintenance of Way forces; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters reaffirm our outraged opposition to this practice which deprives our members of work; and, be it further

RESOLVED, That we empower the National Division President and the IBT General President to explore every conceivable method, including negotiated rules, legal means, legislative bans and all other conceivable means to end this unacceptable practice; and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters implore the IBT General President, National Division President, National Division Officers, systems, federations, local lodges and every member to be diligent in our ongoing struggle fighting contracting out of Maintenance of Way work.

**RESOLUTION NO. 41**  
**RE: BMWED - IBT ANNUAL SCHOLARSHIP AWARD**  
**(REAFFIRMED)**

WHEREAS, The Brotherhood of Maintenance of Way Employees Division needs to educate members and their dependents to advance its agenda of protecting and preserving the rights of workers; and

WHEREAS, The Brotherhood of Maintenance of Way Employees Division is an aggressive leader in rail labor that is steadfast in its beliefs; and

WHEREAS, The leadership of the Brotherhood of Maintenance of Way Employes Division understands the need for quality education to promote trade unionism; Therefore, be it

RESOLVED, That the Brotherhood of Maintenance of Way Employes Division will maintain a committee that will award annually two (2) scholarships to a member or their dependent, with preference given to those furthering their education in the study of labor-related subjects; and, be it further

RESOLVED, That the committee will establish and revise as necessary the criteria for the awarding of an annual BMWED scholarship; and, be it further

RESOLVED, That the delegates to the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division approve the funding necessary to award such annual BMWED scholarship; and, be it further

RESOLVED, That the delegates to the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division direct the National Division Executive Board to approve the funding necessary to continue the BMWED Scholarship program, and each scholarship shall be awarded annually in November to a BMWED member or dependent, with preference given to those applicants furthering their education in the study of labor-related subjects. Each annual scholarship shall be in the amount of \$2,000.00.

#### **RESOLUTION NO. 42**

#### **RE: BMWED - IBT SUPPORT OF LONG-TERM VIABILITY OF AMTRAK**

#### **(REAFFIRMED)**

WHEREAS, The future of Amtrak is uncertain and to a great extent many influences within the federal government, railroad and private industry have initiated policy that is detrimental to all of the workers in the many unions represented at Amtrak; and

WHEREAS, The Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters is a substantial part of the workforce affected and has worked diligently to oppose any policy that adversely affects its members; and

WHEREAS, The effects of drastic changes in the structure of the company, train routes or congressional mandates pertaining to labor could further devastate Amtrak and its workers, adversely affect other workers in the railroad industry, and jeopardize the stability of the Railroad Retirement system; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters call on the leadership to commit the resources necessary to remain diligent and prevail in the struggle with those whose purpose is to destroy the quality of life and standard of living of the workers on Amtrak.

**RESOLUTION NO. 43**

**RE: ARTICLE XVII, SECTION 6**

**(REAFFIRMED)**

WHEREAS, A few of the important objectives of this Brotherhood as prescribed in the preamble of our Bylaws are “to exalt the character and increase the ability of its members,” and “to use all honorable means to secure the passage of laws beneficial to our membership ...”; and

WHEREAS, There have been resolutions submitted which make personal attacks against fellow Brothers; and

WHEREAS, Article XVII, Section 6 states, in part, that it shall be the duty of every member to “ ... recognize any member in good standing as a Brother and never speak falsely against or vilify the character of a member.”; Therefore, be it

RESOLVED, That the Resolutions Committee will not entertain and therefore will not distribute any resolution that is in contradiction with the above.

**RESOLUTION NO. 44**

**RE: RETIREMENT INSURANCE**

**(REAFFIRMED)**

WHEREAS, The type of work performed by BMWED - IBT members is very physical and has led to physical disability and disabling occupational illness; and

WHEREAS, The cost of medical and prescription insurance is so expensive that it is almost unobtainable for our retired or disabled members and their spouses and dependents; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters encourage the National Division President to do whatever is within his power to obtain improved benefits for our retired and disabled members and their spouses and dependents.

**RESOLUTION NO. 45**

**RE: RAILROAD RETIREMENT TIER 2 C.O.L.A. INCREASES**

**(REAFFIRMED)**

WHEREAS, The railroad retirement system is solvent in the foreseeable future; and

WHEREAS, Railroad workers pay extra for their Tier 2 benefits; and

WHEREAS, Railroad retirees are losing buying power every day; Therefore, be it

RESOLVED, That BMWED Local 2825 hereby directs the Burlington Northern System Federation and the National Division to expend every effort to ensure that the Tier 2 benefits of railroad retirees are increased every year by at least the rate of inflation.

**RESOLUTION NO. 46**

**RE: CONSOLIDATION OF SERVICES IN THE  
RAIL CONFERENCE**

**(REAFFIRMED AS AMENDED)**

WHEREAS, The BMWED has merged with the International Brotherhood of Teamsters into the Teamsters Rail Conference; and

WHEREAS, The BLE has merged with the International Brotherhood of Teamsters, into the Teamsters Rail Conference; and

WHEREAS, The membership and officers of the BMWED are reaching maturity in age to the point a large portion of members and officers will be retiring in the next 5 to 10 years and the National Division Officers are on record that a long range plan for BMWED, BLET and the Teamsters Rail Conference needs to be adopted with this in mind; and

WHEREAS, The delegates to the Second BMWED National Division Convention desire unity in the rail industry among all Rail Unions; and

WHEREAS, The delegates at this Quadrennial Convention foresee additional benefits to be derived from negotiating with the BLET for the purpose of identifying and reducing duplicate services provided by the individual Divisions; Therefore, be it

RESOLVED, The delegates to this Convention go on record stating unequivocally that we believe many services to our members can be enhanced and accomplished by building the Teamsters Rail Conference into a streamlined efficient conference; and, be it further

RESOLVED, The delegates assembled here at the Second BMWED Convention go on record to instruct the National Division, through its duly elected officers, to make every effort to form a long range plan with BLET that takes into account the attrition rate of both Divisions, merges and/or coordinates departments or services for the purpose of promoting Rail Conference unity and providing better services more efficiently; and, finally be it

RESOLVED, That this resolution be made part of the record of this Convention and a copy forwarded to IBT General President Hoffa, IBT Secretary-Treasurer Keegel, Rail Conference Director John Murphy, the principal officers of BLET and to the Teamsters Rail Conference Convention.

**RESOLUTION NO. 47**

**RE: OCCUPATIONAL DISABILITY EARNINGS**

**(REAFFIRMED AS AMENDED)**

WHEREAS, Our injured Brothers and Sisters who have been forced by railway injury to "Occupational Disability" under the Railroad Retire-

ment Act are currently limited in earnings to \$770.00 per month to offset medical costs; and

WHEREAS, Medical cost have went through the roof, and \$770.00 per month which has not been adjusted since 2008 covers only a fraction of their medical insurance costs; therefore, be it

RESOLVED, That the National Division Legislative Department use all means to change the law to raise the \$770 per month to \$1,200 per month which sum will be adjusted annually by the National Consumer Price Index.

### **RESOLUTION NO. 48**

#### **RE: "SUCCESSORSHIP RIGHTS"**

##### **(REAFFIRMED)**

WHEREAS, The railway carriers disregard of their employees well-being and quality of life when they are considering a line sale or lease; and

WHEREAS, The stress on our members and their families when they see others doing their former jobs in the community where they live, while they have to travel many miles to continue to work under their agreement; and

WHEREAS, "Successorship Rights" legislation would prevent these disastrous consequences from happening; Therefore, be it

RESOLVED, That the National Division through its Legislative Department make "Successorship Rights" a priority over the next four years, or until successfully implemented; and, be it further

RESOLVED, That the National Division solicit the support of our fellow IBT in making this an issue; and, be it further

RESOLVED, that the National Division solicit the support of our IBT Rail Conference associates.

### **RESOLUTION NO. 49**

#### **RE: O.S.H.A. STANDARDS**

##### **(REAFFIRMED)**

WHEREAS, The 7-29-91 Imposed Agreement requires the Carriers to provide washroom facilities sufficiently proportionate for the crew size including tepid water, sanitary soaps [and/or solvents] and toweling adequate for the number of employees; and

WHEREAS, There are no reasonably enforceable provisions to provide for adequate washrooms (toilets) on away from headquarter work; and

WHEREAS, Despite the many efforts made to work with the Carriers to resolve these fundamental humanitarian needs, and where it falls mostly on deaf ears; and

WHEREAS, In an industry worth over \$60 billion per year; and

WHEREAS, We can put an astronaut on the moon, we should be able to have provided to our members these simplest of human needs; Therefore, be it

RESOLVED, That the National Division make it a priority of our Legislative Department to seek implementation of laws or regulations, and/or amendments to laws or regulations, and to provide for extraordinary fines against Carriers who fail to provide these human needs of our traveling members.

### **RESOLUTION NO. 50**

#### **RE: SUPPORT OUR TROOPS, VETERANS AND THEIR FAMILIES**

##### **(REAFFIRMED)**

WHEREAS, As we currently have troops in harms way in Afghanistan, Iraq and other locations throughout the world; and

WHEREAS, As many of our members have family members and friends currently serving in harms way or have already served; and

WHEREAS, As our troops currently serving and those who served before them deserve the support of all Americans; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters go on record supporting those men and women currently serving in the military and those who have served in the past.

### **RESOLUTION NO. 51**

#### **RE: OBSERVANCE OF MARTIN LUTHER KING, JR. HOLIDAY (ADOPTED AS AMENDED)**

WHEREAS, The third Monday in January is recognized by the Federal Government and all fifty states as a holiday in honor of Dr. Martin Luther King, Jr.; and

WHEREAS, November 2, 1983, over twenty-five years ago, President Ronald Reagan signed into law recognizing the third Monday in January as a National Holiday in honor of Dr. Martin Luther King, Jr.; and

WHEREAS, There has been several attempts by the National Division President and the negotiating committee to secure this day as a paid holiday for Maintenance of Way employees; and

WHEREAS, Some twenty-six years later, Dr. Martin Luther King, Jr. Holiday is not a paid holiday for Maintenance of Way employees; and

WHEREAS, The National Holiday Agreement for Maintenance of Way employees has not truly added a paid holiday since 1983; and

WHEREAS, The Committee on Diversity believe in order for Maintenance of Way employees to celebrate the life of Dr. Martin Luther King, Jr. with service to their communities, this issue must be resolved favorably during this round of negotiations; Therefore, be it

RESOLVED, The Committee on Diversity for the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters go on record requesting the National Division President and the negotiating committee to use whatever means they deemed necessary in adding Martin Luther King, Jr. Day as a paid holiday to the National Agreement for Maintenance of Way employees.

### **RESOLUTION NO. 52**

#### **RE: PAID TIME FOR UNION ACTIVITIES**

**(ADOPTED AS AMENDED)**

WHEREAS, Many MOW employees are forced to travel excessive distances for work opportunity; and

WHEREAS, Travel for work makes it impossible for many employees to participate in any union activities; and

WHEREAS, Employees and Unions have the basic right to meet and organize. This excessive travel interferes with that right; Therefore, be it

RESOLVED, That the National Division President will seek to make agreement with the carriers that provides for two hours paid time off per month for union activities, such as attending a sanctioned Union Meeting.

### **RESOLUTION NO. 53**

#### **RE: INSURANCE FOR RETIRED BMWED MEMBERS**

**(ADOPTED)**

WHEREAS, BMWED members are required to work until 65 or to 60 with 30 years' service for retirement that does not include full medical benefits; and

WHEREAS, The nature of Maintenance of Way work is such that it takes a heavy physical toll on our members that impacts their health long after they retire; and

WHEREAS, Retired Employees are having to pay increasingly higher premiums for supplemental major medical coverage; Therefore, be it

RESOLVED, That the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters attempt to negotiate to continue employee insurance benefits (GA-23000 or its successor) for all retired BMWED members.

**RESOLUTION NO. 54**

**RE: CONTINUED GOOD STANDING FOR  
UNEMPLOYED MEMBERS  
(ADOPTED)**

WHEREAS, Many of the elected officers of the National Division, Systems, Federations, and Locals are nearing the retirement age; and

WHEREAS, The leadership of the National Division has encouraged the Systems, Federations and Locals to promote more participation and encourage our younger members to take a more active role in the governing of their Locals, Systems and Federations; and

WHEREAS, The younger members of the Systems, Federations and Locals are subjected to periods of unemployment due to seasonal layoffs and are unable to meet the conditions of a member in good standing as enacted in the IBT Bylaws; Therefore, be it

RESOLVED, That the delegates to the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record in support of seeking the necessary changes to the IBT Constitution and Bylaws to allow unemployed members to remain in good standing for all purposes requiring that a member be in good standing for, such as holding office, voting for officers and voting during local lodge meetings; and, be it further

RESOLVED, That the delegates of this Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters direct the National Division Officers to submit a Bylaws change during the IBT Convention to be held in 2011 to attain the changes necessary to allow our younger Brothers and Sisters the opportunity to serve this great Brotherhood.

**RESOLUTION NO. 55**

**RE: ARIZONA SENATE BILL 1070 - IMMIGRATION  
(ADOPTED)**

WHEREAS, The Arizona legislature passed SB1070, which the Arizona Governor, Jan Brewer, signed into law on April 23, 2010, and with a stroke of a pen set the clock back on a generation of civil rights gains; creating a situation which is contrary to the basic human rights of working individuals and should not be tolerated; and

WHEREAS, SB 1070 requires the police “when practicable” to detain people they “reasonably suspect” are in the country without authorization; allows the police to charge immigrants with a state crime for not carrying immigration documents; creates a private right of action to sue cities upon belief that the government has a policy or practice that restricts immigration law enforcement; and makes it a crime to stop on a public street to attempt to hire a temporary worker; and

WHEREAS, SB 1070 will inevitably lead to racial profiling,

jeopardizes public safety, and creates a wedge between law enforcement and ethnic communities; and,

WHEREAS, President Barack Obama has stated that SB 1070 threatens “to undermine basic notions of fairness that we cherish as Americans, as well as the trust between police and their communities that is so crucial to keeping us safe”; and,

WHEREAS, The people targeted by SB 1070 are not strangers. Everyone who looks Latino — citizens, legal permanent residents, temporary visa holders, or undocumented — will be a primary target under this law; and,

WHEREAS, With the passage of SB 1070, Arizona has once again chosen to isolate itself from the rest of the nation as it did two decades ago when it refused to observe Martin Luther King Jr. Day; now, Therefore, be it

RESOLVED, That unless and until Arizona rescinds SB 1070 or it is deemed to be unconstitutional, the BMWED urges BMWED National Division, System Federations and Local lodges to the extent practicable to avoid holding any BMWED union sanctioned meetings within the state of Arizona, (2) to avoid where practicable the purchasing of any products or services provided by or manufactured by any Arizona based company, and (3) to review existing contracts for the purchase of goods and services with companies headquartered in Arizona and explore opportunities to discontinue those contracts consistent with the terms of those contracts and principles of fiscal responsibility; and, be it further

RESOLVED, That unless and until Arizona rescinds SB 1070 the BMWED encourages all Federations and members to refrain from doing business with the State of Arizona or holding or participating in any conventions or conferences in Arizona, and also urges BMWED members to avoid engaging in tourism in the State of Arizona; and, be it further

RESOLVED, that a copy of this Resolution be provided to the International Brotherhood of Teamsters, and all other Organizations who are members of the Change To Win Coalition with our encouragement that they may adopt a similar resolution, and to the Governor of the State of Arizona.

## **RESOLUTION NO. 56**

### **RE: WORKERS’ MEMORIAL DAY**

#### **(ADOPTED)**

WHEREAS, Every year on April 28<sup>th</sup> the Labor Movement observes Workers’ Memorial Day to remember workers who have been killed or injured on the job; and thirty years ago, Congress passed the Occupational Safety and Health Act that promised every worker the right to a safe work place; and

WHEREAS, Every year more than 10,000 American workers are killed on the job and tens of thousands more are permanently disabled and mil-

lions injured and another 100,000 workers die from cancer, lung disease and other diseases related to toxic chemical exposure at work; and concerned Americans are determined to prevent these tragedies by:

1. Organizing Workers' Memorial Day on April 28<sup>th</sup>, a day chosen by the trade union movement as a day to remember these victims of workplace injuries and disease; and
2. Renewing our efforts to seek stronger safety and health protections, better standards and enforcement and fair and just compensation; and
3. Rededicating our efforts to improving safety and health in every American workplace; and
4. Establishing a Right to Act Law to prevent workplace injury and death; and, therefore, be it

RESOLVED, That all workers stand up and demand that our present laws and funding be maintained to the highest standards to make our workplaces and environments safe; and, be it further

RESOLVED, That the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters does everything within its capacity to make April 28<sup>th</sup>, Workers' Memorial Day, a success in the United States; and, be it further

RESOLVED, That this convention encourages all affiliates to engage in activities of support in their local communities; and, be it further

RESOLVED, That this convention seeks to make Workers' Memorial Day a national and state holiday.

#### **RESOLUTION NO. 57**

#### **RE: PASSENGER RAIL RATE FOR AMTRAK WORKERS**

#### **(ADOPTED)**

WHEREAS, The average rate of pay for passenger rail workers in the United States is on the average 11-15% greater than the rates of pay for Amtrak workers; and

WHEREAS, Amtrak workers build and maintain some of the most complex rail infrastructure found anywhere in the world, usually at night and beside trains traveling over 100 miles per hour. Amtrak workers provide a service that is critical to the well being and security of the economy,

the environment and the American people; and

WHEREAS, Amtrak workers tend to live and work in areas of the United States with the highest cost of living; and

WHEREAS, For the last thirty years Amtrak workers have been forced to bargain with a federal government that has been hostile to their rights and legitimate demands for fair treatment. Many times this government attempted to eliminate the Union altogether. This made a fair valuing of Amtrak labor impossible to achieve; and

WHEREAS, During the same period other passenger rail workers often negotiated with state governments that were not hostile to their continued existence and negotiated agreements that provided for, on average, wages that are currently 11-15% greater than those paid on Amtrak; and

WHEREAS, The BMWED has entered into a coalition called the Passenger Rail Labor Bargaining Coalition (PRLBC), with four other Unions representing Amtrak workers, whose principle demand is to restore parity in wages between Amtrak workers and other passenger rail workers; Therefore, be it

RESOLVED, That this Second Regulation National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record endorsing the PRLBC, and their demand for wage parity for Amtrak workers, and offer every assistance possible to ensure the success of the PRLBC.

## **RESOLUTION NO. 58**

### **RE: STOP NORFOLK SOUTHERN'S ILLEGAL HARASSMENT OF INJURED WORKERS**

**(ADOPTED)**

WHEREAS, Norfolk Southern Railroad has a policy of systematically harassing, terrorizing and intimidating workers and their families who become injured while on the job; and

WHEREAS, Norfolk Southern Railroad claims to have one of the best injury records in the industry but these injury reports are false because management systematically engages in practices that makes workers afraid to report their injuries; and

WHEREAS, The actions and practices of Norfolk Southern management with respect to their injured workers are illegal and deplorable and must be corrected; Therefore, be it

RESOLVED, That this Second Regulation National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record condemning Norfolk Southern management for these policies of harassment and intimidation and that all efforts and resources be expended to bring these practices to a swift end and managers specifically responsible for the intimidation and harassment be held personally responsible; and, be it further

RESOLVED, That a copy of this resolution shall be printed in the

BMWED Journal with an article about the problem along with the BMWED's efforts to stop the harassment and that various government agencies responsible for safety enforcement be provided a copy of this resolution; and, be it further

RESOLVED, That a copy of this resolution shall be sent to the President and CEO of Norfolk Southern with a copy to each member of the Board of Directors and senior management.

### **RESOLUTION NO. 59**

#### **RE: CORRECT WAGE INEQUITIES ON NORFOLK SOUTHERN**

**(ADOPTED)**

WHEREAS, On Norfolk Southern Railroad (NS), BMWED workers receive different rates of pay for performing the same work and working in the same job classification; and

WHEREAS, The basic premise of any trade union organization is equal pay for equal work; and

WHEREAS, Despite repeated attempts by the BMWED to negotiate a fair resolution of this problem with NS management, they continue to insist on this unfair system of compensation; and

WHEREAS, The BMWED has served NS management with a notice to correct this wage inequity, demanding that all rates of pay on the property be adjusted to a uniform system-wide rate at the highest rate paid to any classification on the NS property; and

WHEREAS, National Division President Simpson has stated that this issue must be resolved before the current wage and rules movement is concluded; Therefore, be it

RESOLVED, That this Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters go on record supporting this demand to bring wage equality to the NS members of the BMWED and applaud the efforts of President Simpson for his leadership on this issue.

### **RESOLUTION NO. 60**

#### **RE: UNIFORM APPLICATION OF RANDOM DRUG AND ALCOHOL REGULATIONS**

**(ADOPTED)**

WHEREAS, Section 412 of the Railroad Safety Improvement Act of 2008 (RSIA) mandates random drug and alcohol testing by October 2010 for all employees of railroad carriers and contractors and subcontractors to railroad carriers who perform maintenance-of-way activities; and

WHEREAS, Section 412 of the RSIA is unambiguous in its intent to cover all railroad employees, including members of the Brotherhood of Maintenance of Way Employees Division (BMWED), who perform maintenance-of-way activities for railroad carriers; and

WHEREAS, Section 412 of the RSIA is equally unambiguous in its intent to cover all contractors and subcontractors who perform maintenance-of-way activities for railroad carriers regardless of contractor size or union representation; and

WHEREAS, The risks and dangers of alcohol and drug use in the railroad workplace are identical for railroad employees and contractor/subcontractor employees performing maintenance-of-way activities; and

WHEREAS, There are thousands of railroad contractors and subcontractors performing maintenance-of-way activities each day on Class 1, Class 2, and Class 3 railroads and passenger railroads nationwide; and

WHEREAS, The dangers and risks inherent to maintenance-of-way activities are identical whether performed by railroad employees or railroad contractors/subcontractors; and

WHEREAS, Railroad contractors and subcontractors perform maintenance-of-way activities on and adjacent to live tracks, often working side-by-side with BMWED-represented railroad employees; and

WHEREAS, The Brotherhood of Maintenance of Way Employees Division of the Teamster Rail Conference supports a drug and alcohol free railroad workplace; Therefore, be it

RESOLVED, That the BMWED and the Teamster Rail Conference will exercise every legislative, political, regulatory and legal means to assure that random drug and alcohol testing laws are uniformly applied to all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities; and, be it further

RESOLVED, That the BMWED will exercise its right to engage in any concerted activity necessary to compel a uniform application of the law for the protection of our members, members of our sister rail unions, contractor employees, and the communities served by rail; and, be it finally

RESOLVED, That a copy of this Resolution be forwarded to the Secretary of Transportation, the Chairman and Ranking Member of the House Transportation and Infrastructure Committee, and the FRA Administrator.

## **RESOLUTION NO. 61**

### **RE: REPEAL OF TAFT-HARTLEY ACT**

**(ADOPTED)**

WHEREAS, The American working class has been oppressed for decades by an anti-Union law; and

WHEREAS, The Brotherhood of Maintenance of Way Employees Division and our International body, The Brotherhood of Teamsters have long demonstrated the commitment and the ability to stand up for their members and all working people; and

WHEREAS, We as a Labor Organization have many tools and resources available to us in our endeavors to advance the American Labor Movement; and

WHEREAS, The working class has advanced in many aspects through the legislative efforts of trade Unions; and

WHEREAS, Closed shop agreements have proven to be very beneficial to our Union and as “right to work” provisions have had very detrimental effects on our Union; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters implore the President of the BMWED and all National Division Officers to use whatever measures that are needed to repeal the Taft-Hartley Act.

### **RESOLUTION NO. 62**

#### **RE: SENIORITY RETENTION**

**(ADOPTED)**

WHEREAS, Employees who choose to go to Carrier exempt positions and pay a seniority retention fee not only retain seniority, they accumulate seniority and have the opportunity when they return to the ranks to gain seniority on a roster in which they previously held no seniority; Therefore, be it

RESOLVED, That BMWED Local 735 directs National Division and System/Federation Officers to amend Agreements so that employees who choose to go to Carrier exempt positions and pay seniority retention fees do not have the opportunity if they return to the ranks to establish seniority on a roster in which they previously held no seniority.

### **RESOLUTION NO. 63**

#### **RE: HEALTH CARE FOR RETURNING CARRIER EXEMPTS**

**(ADOPTED)**

WHEREAS, An ever increasing amount of Carrier exempt employees have been returning to Maintenance of Way positions for various reasons, one being to obtain retiree health care benefits through our nationally negotiated GA-46000 Plan; and

WHEREAS, Those employees who choose to go to Carrier exempt positions, while on those positions, do not sacrifice any wage increases in the collective bargaining process in order to retain and upgrade our GA-46000 Plan; Therefore, be it

RESOLVED, That those employees who choose to go to Carrier exempt positions and later choose to return to the ranks with less than twelve

(12) months until retirement be required to pay a fee equal to twelve (12) months of employee health care payments into our Health Care Fund at the time such employee returns to the ranks.

**RESOLUTION NO. 64**

**RE: IN SUPPORT OF**

**THE RAIL LABOR BARGAINING COALITION**

**(ADOPTED)**

WHEREAS, There are numerous craft unions that make up Rail Labor; and

WHEREAS, The craft unions of Rail Labor share a community of interest in negotiating strong collective bargaining agreements for their respective memberships, and

WHEREAS, The railroad industry has historically exploited Rail Labor by negotiating separately with each craft union as a means to divide Rail Labor; and

WHEREAS, A house divided cannot stand; Therefore, be it

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters recognize the leadership of BMWED President Freddie N. Simpson in uniting Rail Labor at the bargaining table through the establishment of the Rail Labor Bargaining Coalition (RLBC); and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record in support of the RLBC and encourage all the craft unions of Rail Labor to join the Coalition and stand united at the bargaining table for the benefit of all rail workers; and, be it further

RESOLVED, That the delegates of the Second Regular National Division Convention of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters go on record commending President Simpson for his leadership and his continuing efforts to build solidarity among the craft unions and strengthen Rail Labor's collective bargaining efforts through the Rail Labor Bargaining Coalition.

**RESOLUTION NO. 65**

**RE: BOYCOTT OF BRITISH PETROLEUM**

**(ADOPTED)**

WHEREAS, We believe that the explosion and fire that killed 11 workers on the deep water horizon was a direct result of cost cutting efforts by British Petroleum (BP); and

WHEREAS, In addition to those deaths, as a result of corporate greed, countless wild creatures have lost their lives and continue to do so for the foreseeable future; and

WHEREAS, The economic impact to those who live on the Gulf Coast is and will be devastating; and

WHEREAS, The only thing corporations understand is the almighty dollar; Therefore, be it

RESOLVED, That the members of this Brotherhood should boycott BP gas stations and not buy gas or oil from BP; and, be it further

RESOLVED, That we may buy such things from independent BP stations that do not profit BP as a corporation but will help the independent owners of said stations so as not to put the blameless out of business; and, be it further

RESOLVED, That a copy of this resolution be sent to the Chairman of the Board of Directors of (BP) British Petroleum.

# **MERGER**

# **AGREEMENT**

between  
**Brotherhood of  
Maintenance of Way  
Employes**

and  
**International Brotherhood  
of Teamsters**





The Brotherhood of Maintenance of Way Employes (BMWWE) and the International Brotherhood of Teamsters (IBT) enter into this Merger Agreement subject to approval and ratification as required by their respective Constitutions.

**WHEREAS**, after considering several potential merger partners, the Grand Lodge Officers of the BMWWE voted unanimously to pursue merger discussions with the IBT; and

**WHEREAS**, the Unions determined that the merger agreement should be discussed and negotiated through a Joint Committee procedure in which both Unions would participate; and

**WHEREAS**, a Joint Committee composed of representatives of the BMWWE and the IBT have met over an extended period, and the representatives have become familiar with the operations of each Union and its various subordinate organizations and have mutually agreed upon the terms set forth in this Merger Agreement and in the Bylaws of the IBT Rail Conference, and the Bylaws of the Brotherhood of Maintenance of Way Employes (a Division of the IBT Rail Conference); and

**WHEREAS**, representatives from both Unions have determined that the terms and conditions set forth in this Merger Agreement, the Bylaws of the IBT Rail Conference and the Bylaws of the Brotherhood of Maintenance of Way Employes (a Division of the IBT Rail Conference) [all of which are incorporated by reference and are a part of this Merger Agreement] guarantee to the BMWWE, its subordinate bodies and its members maximum autonomy within the structure of the IBT; and

**WHEREAS**, the BMWWE Grand Lodge Officers and the members of the Joint Committee believe that a merger with the IBT will give the BMWWE strength and resources to enable it to better represent its members and to negotiate strong contracts; and

**WHEREAS**, the Joint Committee members from both Unions recommend approval of this agreement, the incorporated bylaws and the merger they represent;

**NOW, THEREFORE, BE IT RESOLVED** that the parties agree to the following terms and conditions to govern the merger of the BMWWE and the IBT subject to the approval procedures set forth in the Constitutions of each Union; and

**BE IT FURTHER RESOLVED** that the terms of this Merger Agreement and the Brotherhood of Maintenance of Way Employes Division (BMWED) Bylaws shall govern in the event of any conflict or inconsistencies with the Rail Conference Bylaws or the IBT Constitution as provided in paragraph 1.4.

## **GENERAL PRINCIPLES**

1.1. Purpose. The purpose of this Agreement is to provide for the merger of the BMWWE and the IBT; to maintain for the BMWWE, its subordinate

bodies and its members, the autonomy available within the structure established by this Merger Agreement, the IBT Constitution and the Rail Conference bylaws; to gain for the BMW E and its members the strength and resources available both from the International Brotherhood of Teamsters and from cooperation and coordination with IBT Local Unions and other affiliates throughout the United States, Canada and Puerto Rico; to enable BMW E to better serve and represent its members and to secure stronger contracts for its members; to join the IBT Rail Conference; and to allow the BMW E to expand its jurisdiction and membership to include, but not be limited to, all maintenance of way workers, contractors, suppliers and manufacturers within the Rail and related industries.

1.2. Overview. On the effective date of the Merger, the BMW E and its subordinate bodies in the United States will become known as the Brotherhood of Maintenance of Way Employees Division (BMWED) and will become affiliated with the IBT Rail Conference as a Craft Division. The BMWED and its subordinate bodies will maintain the same control over their assets, contracts and affairs that they have prior to the merger, limited only by the provisions of this Merger Agreement. All officers of all BMW E bodies (Grand Lodge, System Federations and Divisions, Local Lodges and State Legislative Boards) holding office immediately before the effective date of the merger will maintain those offices in accord with the applicable bylaws, and elections in each body will be conducted as currently scheduled, provided that the first BMWED Convention and the first elections of BMWED national officers will be held in June 2006 and every four years thereafter. The IBT Rail Conference is an umbrella organization designed to coordinate activities on behalf of members within the Rail Industry in the United States including all members of the BMWED and the Brotherhood of Locomotive Engineers and Trainmen (BLET) in the United States and any rail union with independent jurisdiction that may merge with the IBT in the future. The BMWED will initially designate four representatives to serve as members of the policy committee of the IBT Rail Conference. The Merger Agreement also provides a transition with respect to certain governing provisions of the IBT Constitution, with respect to the payment of per capita by BMWED to the IBT, and with respect to the assumption by IBT of certain BMW E administrative and other functions. The Merger Agreement guarantees the parties the right to withdraw from the merger during a two-year period following approval through the procedures set forth in paragraph 4.28, below.

1.3. Relationship of BMWED and IBT Departments. The BMWED will remain the certified representative of its members and shall continue to negotiate and administer collective bargaining agreements on behalf of its members. The IBT will support and assist BMWED with respect to Legislative Affairs, Negotiations, Arbitrations, Legal Affairs, Health and Safety, Organizing, Employee Protection, Strategic Planning, Education, and all other matters. The BMWED National President will retain authority over the Arbitration Office currently located in Chicago, Illinois, including the appointment of BMWED's member to the Third Division of the National Railroad Adjustment Board.

1.4. Relationship of Controlling Documents. In the event of any conflict or inconsistency, this Merger Agreement shall govern over the BMWED

Bylaws, all subordinate BMWED affiliate bylaws, the IBT Constitution and the IBT Rail Conference Bylaws; and the Merger Agreement and the BMWED Bylaws shall govern over the IBT Constitution and the IBT Rail Conference Bylaws.

1.5. Ratification. This merger is subject to the approval of each Union in accord with the procedures established by their Constitutions.

## **RAIL CONFERENCE**

2.1 Rail Conference. The IBT Rail Conference was created to coordinate activities on behalf of Craft Division members within the Rail Industry in the United States. The Bylaws of the IBT Rail Conference are incorporated as part of this Merger Agreement.

2.2. Rail Conference Jurisdiction. The jurisdiction of the Rail Conference consists of employees working in the Rail Industry or organized within a Craft Division of the Rail Conference. The Craft Divisions within the Rail Conference shall have jurisdiction in accord with traditional craft lines. The Brotherhood of Locomotive Engineers and Trainmen (BLET) became a Craft Division in the IBT Rail Conference as a result of its merger with the IBT. The BMWED will also become a Craft Division within the IBT Rail Conference and will represent all maintenance of way track and structures personnel and other BMWED organized employees.

2.3. Rail Conference Headquarters and Offices. The headquarters and office of the Rail Conference is located at the IBT headquarters building in Washington, D.C.

2.4. Rail Conference Policy Committee. The Policy Committee is the principal governing body of the Rail Conference between conventions. The Policy Committee is comprised of representatives from each of the Craft Divisions affiliated with the Rail Conference. Each Craft Division affiliated with the Conference shall be entitled to one Member on the Policy Committee for the first 10,000 active members (or any fraction thereof), plus one additional member for each additional 10,000 active members (beyond the first 10,000 members) or fraction thereof. Members to the Policy Committee are chosen by the executive board or equivalent body of each affiliated Craft Division either upon affiliation with the Rail Conference or prior to each regular Rail Conference Convention. Once chosen by the appropriate Craft Division executive board or equivalent body, Policy Committee Members shall serve until the next regular Conference Convention. Initially the BMWED shall be entitled to four members on the Rail Conference Policy Committee. The initial BMWED Policy Committee members shall be the National Division President, the National Division Secretary-Treasurer and additional members as determined by the National Division Officers.

2.5. Rail Conference Convention. The Rail Conference will hold its first Convention at or about the time of the 2006 IBT Convention and every four years thereafter at a time and place set by the Rail Conference Policy Committee.

2.6. Rail Conference Per Capita. Operations of the Rail Conference shall be supported initially by the IBT by a per capita of \$0.25 per member per month for 30 consecutive months from the effective date of this merger agreement to be allocated from the per capita rate paid to the IBT by the BMWED. The delegates at the first Rail Conference Convention shall continue or change the per capita rate and, beginning with the 31st consecutive month, the per capita shall be paid by the BMWED directly to the Conference and separate from any other per capita. These funds shall be maintained and controlled by the Rail Conference in accordance with the Rail Conference Bylaws. Should the delegates to the Rail Conference Convention change the per capita from the initial \$0.25 per member per month prior to the expiration of the 30 month period from the effective date of the merger agreement, the BMWED will contribute the difference or receive a refund from the IBT.

2.7. Rail Conference Operations. As provided by its Bylaws, the Rail Conference shall coordinate the activities of its affiliated Craft Divisions. The expenses of the Rail Conference shall be paid by the Rail Conference as funded by the Craft Divisions except as otherwise explicitly provided in this Merger Agreement.

## **BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION**

3.1. Brotherhood of Maintenance of Way Employes Division. On the effective date of the merger, the BMWED shall become the Brotherhood of Maintenance of Way Employes Division (BMWED), a Division of the IBT Rail Conference, and will be governed by the BMWED Bylaws which are incorporated by reference and are a part of this Merger Agreement. The BMWED Bylaws are designed to establish and continue within the IBT as much of the existing structure and operation of BMWED and its subordinate bodies as is consistent with the IBT Constitution.

3.2. BMWED Jurisdiction. The jurisdiction of the BMWED shall consist of the jurisdiction of the BMWED as it exists on the date of this Agreement as well as any other employees that may be organized by BMWED specifically including maintenance of way track and structures personnel who are not direct employees of a common carrier by rail.

3.3. BMWED Headquarters and Office. The headquarters and office of the BMWED shall be located at such place as the BMWED may determine in accordance with its Bylaws.

3.4. BMWED Officers. The initial officers of the BMWED will be the same as the officers of the BMWED in office immediately before the merger and shall thereafter continue in office and be elected in accordance with the BMWED Bylaws.

3.5. BMWED Convention. The BMWED shall hold its first Convention in the month of June 2006 and every four years thereafter.

3.6. BMWED Dues. BMWED dues shall be determined and adjusted

as provided by the BMWED Bylaws and in accordance with the requirements of federal law.

3.7. BMWED Operations. As provided by its Bylaws, the BMWED shall have responsibility and authority over the activities of its affiliated System Federations and Divisions, Local Lodges and State Legislative Boards. Except as explicitly modified by the BMWED Bylaws or this merger agreement, the BMWED shall retain and maintain the same responsibility and authority as the BMWED with respect to BMWED operations and subordinate bodies.

3.7.1. Control of Assets and Funds. The BMWED shall retain and maintain control of all BMWED assets and funds. All BMWED subordinate bodies shall retain and maintain control of their respective predecessor BMWED subordinate bodies' assets and funds.

3.7.2. Benefit Plans. The BMWED shall retain and maintain control of any existing BMWED benefit plans, shall continue to participate in current benefit plans, and shall in the future determine its participation in any such plans in accordance with its bylaws.

3.7.3. Employees and Consultants. The BMWED shall have authority and responsibility to hire, supervise and direct its own employees and establish their benefits and other terms and conditions of employment. The BMWED shall have authority and responsibility to engage its own attorneys, accountants, consultants and other vendors.

3.7.4. Collective Bargaining Agreements. The BMWED shall be the successor to and shall continue to hold the certifications and recognitions currently held by the BMWED and shall have complete authority to negotiate and administer collective bargaining agreements pursuant to those certifications and recognitions. The BMWED will be provided full access to, and the support of the various IBT Departments in pursuit of its collective bargaining goals and strategies.

3.8. Initiation Fees, Dues, Assessments and Per Capita. Initiation fees, dues, assessments and any other financial obligations between and among the BMWED and its subordinate bodies shall be as provided in the BMWED Bylaws. The parties agree that the IBT per capita payment in effect on the effective date of this merger agreement will be paid by the BMWED National Division and will not increase a member's current monthly payments. Beginning the first full month following the effective date of this merger, the BMWED shall pay a monthly per capita to the IBT International Union based upon the average hourly rates of pay applicable to each class listed below. The monthly per capita shall be \$10.36 for members under standard contracts, \$8.21 for members under non-standard contracts and \$6.05 for members under non-rail contracts based upon the average hourly wage rate for each class. The average hourly rate will be recalculated in December of each subsequent year for each class and the per capita (calculated in accord with Article X of the IBT Constitution for each class) will become applicable the following January.

(1) The term "standard contract" means a contract between BMWED

and a rail carrier classified as Class I under applicable Surface Transportation Board regulations or a rail carrier providing intercity rail passenger or commuter rail service.

(2) The term “nonstandard contract” means a contract between BMWED and a rail carrier classified as either Class II or Class III under applicable Surface Transportation Board regulations.

(3) The term “non-rail contract” means a contract between BMWED and an employer other than a rail carrier.

(4) The “average hourly rate” for each class enumerated herein shall be as follows:

(a) Standard Contracts: the “average straight time hourly rate as provided in Article XV of the BMWED Bylaws;

(b) Nonstandard Contracts: the weighted average straight time hourly rate paid to BMWED members employed by Class II or Class III carriers;

(c) Non-Rail Contracts: the national average hourly earnings for Manufacturing employees as determined by the Bureau of Labor Statistics.

3.9. Functions/Costs Assumed by IBT. In order to insure that BMWED will be able to pay the per capita due to the IBT without increasing BMWED members’ monthly payments, the IBT agrees to pay all AFL-CIO, TTD and Rail Labor Division per capita on behalf of BMWED following the effective date of this merger. The IBT will assume the cost of operating the BMWED National Legislative Department and the BMWED State Legislative Directors, BMWED Department of Strategic Coordination and Research, BMWED Department of Safety and Education, BMWED Department of Organizing, and the BMWED Department of Communication. As appropriate, this will include moving the personnel of these BMWED Departments into the IBT Headquarters Building to work cooperatively with the corresponding Departments of the IBT.

If the parties find it mutually appropriate to integrate these personnel and functions into existing IBT Departments, the former BMWED Directors shall be designated as BMWED Coordinators and any vacancies in these positions shall be filled from among candidates proposed by the BMWED in accord with the BMWED Bylaws subject to the approval of the General President of the IBT. Such Departmental integrations shall be performed in a transparent and seamless manner. The salaries and benefits of all incumbent BMWED employees so integrated shall be no less than the salaries and benefits in effect immediately preceding such integration.

The IBT also shall provide office space in the IBT Headquarters Building for the BMWED Washington Office including the National Legislative Office; bear the expense for publishing the BMWED Journal six times each year; and subsidize BMWED expenses for outside legal counsel.

As provided in Section 3.7, the financial and administrative services and functions currently performed by the BMWED for itself and its U.S. affiliates relative to dues remittance, investments, expenses, benefits, insurance, payroll, governmental filings, etc., shall continue to be performed by the BMWED National Division. Should these financial and administrative services and functions be, at a future date, transferred by mutual agreement to the IBT or IBT Rail Conference, such transfers shall be performed in a transparent and seamless manner. For the BMWED, any decision to transfer these financial and administrative services and functions shall be approved in accordance with the BMWED bylaws.

## **SPECIFIC PROVISIONS**

4.1. Continued Cooperation. IBT and BMWED will continue to cooperate during the approval/ratification process with respect to all matters of mutual interest including, but not limited to, negotiations, safety and education, legal, communications, legislation, organizing, representation and issues pending before the National Mediation Board.

4.2. Effective Date. The Merger shall become effective on January 1, 2005, and the BMWED Bylaws will become effective on that date.

4.3. BMWED Bodies. All System Divisions/Federations, Local Lodges, and other groups, who are affiliates of the Brotherhood of Maintenance of Way Employees, shall, on the effective date of the Merger, become part of and remain affiliated with the Brotherhood of Maintenance of Way Employees Division of the IBT Rail Conference.

4.4. Membership. On the Effective Date, all BMWED members will become and be considered IBT members.

4.5. Officers. All officers of all BMWED bodies (National Division, System Federations and Divisions, Local Lodges and State Legislative Boards) holding office immediately before the effective date of the merger shall thereafter continue in office and be elected in accordance with the applicable BMWED or System Federation/Division Bylaws.

4.6. Charters. All charters issued by BMWED will be considered as having been issued by IBT. IBT will issue replacement or duplicate charters upon request. IBT will issue charters to all BMWED System Federations and Divisions. The BMWED Bylaws will otherwise govern the issuance of charters within the BMWED and the IBT will issue charters for subordinate bodies within the BMWED, provided that the issuance of such charters is consistent with the provisions of the applicable bylaws.

4.7. Transition to IBT Constitution. Except as otherwise provided by this Merger Agreement or in the BMWED Bylaws, the provisions of the IBT Constitution shall apply on and after the effective date of this merger.

4.8. Eligibility to Vote. The provisions of the IBT Constitution concerning eligibility to nominate, second and vote will become effective for the BMWED on January 1, 2006.

(NOTE: The IBT Constitution provides that members are eligible to nominate and vote only if, as of the date of nominations or election, they are members in good standing through the month prior to the nominations meeting or election. The issuance of unemployment cards or withdrawal cards by the BMWED does not satisfy the requirement to maintain member in good standing status under the IBT Constitution for the purpose of eligibility to vote.)

4.9. Eligibility to Run for Office (IBT “Continuous Good Standing” Rule). The provisions of the IBT Constitution concerning eligibility to run for office will become effective on January 1, 2006. For the purpose of determining eligibility to run for office only, all BMWED bodies will be treated as “newly chartered” on January 1, 2006 and the provisions of Article II, Section 4(b), of the IBT Constitution will be applied.

(NOTE: The IBT Constitution provides that members are eligible to run for election only if they are “in continuous good standing . . . and actively employed in the craft . . . for a period of twenty-four (24) consecutive months prior to the month of nomination” (IBT Constitution, Article II, Section 4(a)(1)). In general, “continuous good standing” means the timely payment of dues for each of the twenty-four months during the applicable period together with no interruptions in active membership during that period. Timely payment of dues is accomplished by actually paying dues for the month by the last business day of that month. This requirement is also satisfied if a member is on dues checkoff and has earnings during the month from which dues could have been deducted. In “newly chartered” affiliates, Article II, Section 4(b), of the IBT Constitution reduces the twenty-four month period to “at least half of the period of time since the [affiliate] was separately chartered.”

As an example, for nominations held in September 2006 within the former BMWED, a member will be eligible to run only if he has maintained continuous good standing for four months (one-half the eight-month period from January 1, 2006, through August 2006) ending with the month before nominations. This means that the member must have paid his or her dues on time in May, June, July and August of 2006. The issuance of unemployment cards or withdrawal cards by the BMWED will not satisfy the requirement to maintain member in good standing status under the IBT Constitution for the purpose of eligibility to run for office.)

4.10. Elections. All elections within the former BMWED shall be conducted in accord with the procedures set forth in the applicable BMWED or System Federation/Division Bylaws. Effective for all nominations conducted after January 1, 2006, appeals concerning eligibility shall be handled in accord with Article XXII, Section 5(a), of the IBT Constitution. All other appeals and disputes with respect to elections held within the BMWED shall be handled in accord with the applicable provisions of the BMWED or System Federation/Division Bylaws.

4.11. Eligibility of BMWED Local Lodge Secretary-Treasurers. All BMWED Local Lodge Secretary-Treasurers shall be required to pay full dues and assessments beginning January 1, 2006, and the provisions of Article II, Section 4(b), of the IBT Constitution will be applied. Nothing in

this Merger Agreement or the IBT Constitution prevents the Local Lodge from reimbursing the Local Lodge Secretary-Treasurer a monthly amount equivalent to full dues and assessments, or a portion thereof, provided such reimbursement is approved in accordance with the BMWED Bylaws and is in compliance with applicable law. Provided that full dues and assessment are properly paid, Local Lodge Secretary-Treasurers holding office as of the effective date of the merger shall remain eligible to continue to run for and hold such office even though they may not be actively working at the craft.

4.12. Charges and Appeals. All internal union charges and appeals filed before the Effective Date will be handled under the provisions, rules and procedures in effect prior to the Merger. All internal union charges and appeals filed after the Effective Date will be handled under the provisions, rules and procedures established by the BMWED Bylaws and the IBT Constitution. For the purpose of applying the provisions of Article XIX of the IBT Constitution (Trials and Appeals) within the BMWED and unless otherwise appropriate, the initial hearing will be held by the Local Lodge or System Federation/Division within which the charge arises. The initial appeal shall be to the BMWED National Division regardless of the body who issued the decision for which appeal is taken. Time limits shall be as set forth in the BMWED Bylaws, except that the time limits provided in Article XIX shall apply with respect to appeals to the IBT General Executive Board and the IBT Convention. The IBT General Executive Board shall not entertain any appeal from any collective bargaining matter or administrative matter decided by the BMWED. On all other matters, appeals from the BMWED National Division shall be to the IBT General Executive Board and, if appropriate, to the IBT Convention as provided in the IBT Constitution. Decisions appealed to the IBT shall be sustained unless inconsistent with this Merger Agreement, the IBT Constitution or applicable law.

4.13. Trusteeships. During the 24-month period following the effective date of the merger, trusteeships may only be imposed on BMWED affiliated bodies with the consent of the National President of the BMWED. The BMWED will not be placed in trusteeship during this period. Upon expiration of the 24-month period, in the event that the IBT General President should determine that conditions exist that would warrant imposing a trusteeship on any BMWED affiliate he shall consult with the National President of the BMWED, as the case may be, and seek his assistance in resolving the problems before exercising his authority under Article VI, Section 5, of the IBT Constitution. This shall not prevent the IBT General President from taking immediate action where, in his discretion, the facts indicate the existence of a situation that is imminently dangerous to the BMWED affiliate, the BMWED, the IBT or any IBT affiliate. In such a situation the BMWED National President shall be fully informed of the imposition of the trusteeship and the reasons such action was necessary.

4.14. Ratification of Contracts. Collective bargaining agreements within the BMWED shall be ratified in accordance with the provisions of the BMWED Bylaws.

4.15. Joint Council Affiliation. BMWED System Federations and Divisions and other affiliates will not be required to be affiliated with IBT Joint Councils. Officers of BMWED System Federations and Divisions and other affiliates will be invited to attend meetings and other functions and events conducted by the Joint Council having jurisdiction over the geographic area in which the System Federations and Divisions or other affiliate is located. BMWED System Federations and Divisions and other affiliates may enter into agreements with the Joint Council having jurisdiction over the geographic area in which the System Federations and Divisions or other affiliate is located on mutually agreeable terms, subject to the approval of the BMWED President and the IBT General President.

4.16. Jurisdictional Disputes. Any jurisdictional dispute that arises within the BMWED shall be resolved in accord with the provisions of the BMWED Bylaws. Any jurisdictional dispute that may arise between any BMWED affiliate and any IBT affiliate will be handled as provided by Article XII, Section 21, of the IBT Constitution with one member of the panel appointed by the BMWED National President and two members appointed by the IBT General President. Notwithstanding the above, any jurisdictional dispute that may properly be submitted to the National Railroad Adjustment Board (NRAB) will not be subject to the provisions of Article XII, Section 21 of the IBT Constitution or this paragraph.

4.17. IBT General Executive Board. The BMWED National President will be considered by the IBT General President for any vacancy that may occur on the IBT General Executive Board. The President of the Rail Conference will attend all meetings of the IBT General Executive Board.

4.18. IBT Convention Delegates. For the purpose of allocating and electing delegates to the IBT Convention in accord with Article III, Section 2, of the IBT Constitution, BMWED System Federations and Divisions shall be treated as Local Unions as provided in this paragraph. Each System Federation and Division having at least 100 active members shall be entitled to one (1) delegate to the IBT for up to the first thousand active members and to one additional delegate for each additional 750 active members or major fraction thereof. System Federations and Divisions with less than 100 active members shall be grouped into three geographic groups: (1) New York, New Jersey, Pennsylvania and the New England States; (2) Minnesota and all states west of the Mississippi River; and (3) the remaining states (Midwest and South). The active members in System Federations and Divisions with less than 100 active members within these designated geographic areas shall be consolidated for the purpose of electing delegates to the IBT Convention and shall be entitled to elect delegates according to the formula set out above and in the IBT Constitution as though they constituted a single Local Union. Delegates to the IBT Convention must satisfy the eligibility requirements set forth in the IBT Constitution and shall be elected in accord with the applicable provisions of the IBT Constitution and the Rules governing the election. Elections for Delegates and Alternate Delegates to the 2006 IBT Convention shall be conducted within the BMWED in March 2006. One month of continuous good standing, the month immediately before nominations, will be required to be eligible to run for Delegate or Alternate Delegate for the 2006 IBT Convention. Five months of continuous good standing (January through

May 2006) shall be required of BMWED members to be eligible to be nominated at the 2006 IBT Convention to run for International Union Office.

The BMWED National President shall be a delegate to the IBT Convention and any officers of the BMWED National Division shall be invited as guests at the IBT Convention.

(NOTE: Article III, Section 2, of the IBT Constitution provides that a Local Union is entitled to one delegate for the first 1000 members or less and one additional delegate for each additional 750 members or major fraction thereof. Delegates are elected at-large in a mail ballot election directly by the membership.

Under the IBT election process, the elections for delegate and alternate delegate are conducted according to guidelines established by the IBT Election Supervisor. Under these guidelines, candidates are nominated and run separately for delegate and alternate delegate. In other words, a candidate must decide whether to run for delegate or for alternate delegate. Nominations may be made by mail and the election is conducted by mail ballot.)

4.19. BMWED Assets. Notwithstanding the provisions of Article XX of the IBT Constitution, all properties, funds and assets, both real and personal, held by the BMWED or any BMWED affiliate shall remain the property, funds and assets of the BMWED or affiliate in the event of withdrawal.

4.20. BMWED PAC Fund. BMWED will merge its Political Action Committee (Maintenance of Way Political League) into the IBT Political Action Committee (IBT D.R.I.V.E. - Democratic, Republican, Independent Voter Education). At least 85% of the funds contributed by BMWED members will be allocated per year for contributions to federal candidates whom the BMWED identifies as significantly affecting Rail Labor concerns of the BMWED membership.

4.21. Designated Counsel (FELA). BMWED National Division will retain exclusive authority to specify designated legal counsel to represent members within the BMWED under the Federal Employer's Liability Act (FELA).

4.22. Organizing. IBT commits to assist BMWED and their affiliates in campaigns to organize employees within the jurisdiction of the BMWED and, in particular, to bring within the jurisdiction of the BMWED all maintenance of way track and structures personnel within the United States.

4.23. System Federation/Division Bylaws. The Bylaws of the BMWED, and the Bylaws of the System Federation or Division, shall be applicable to all lodges within said federation or division. Accordingly, local lodges within the BMWED Division will not be required to adopt Bylaws. System Federation/Division Bylaws shall continue to be applicable, except that (a) any provisions concerning the trial and appeal of internal union charges shall be superseded by the provisions of Article XIX of the IBT Constitution as provided in paragraph 4.12 of this Merger Agreement; (b) any provisions allowing the recall or replacement of any elected officer during his term of

office other than through the procedures of Article XIX of the IBT Constitution shall be without force or effect; (c) any provisions concerning eligibility to nominate, second or run for office, concerning approval of amendments to bylaws, and concerning affiliation with the BMWED shall be governed by the applicable provisions of this Merger Agreement; (d) System Division/Federation secretary-treasurers will be responsible for fulfilling the duties set forth in Article XXIII and other provisions of the IBT Constitution; (e) System Federation/Divisions shall each designate three existing officers or Executive Board members not authorized to sign checks to fulfill the function of trustees as required by Article X, Section 8, of the IBT Constitution.

4.24. Mergers, Consolidations and Disbandments. Notwithstanding any provision of the IBT Constitution, there will be no mergers, disbandments or consolidations of any System Federations/Divisions or Local Lodges within the BMWED except as provided in the applicable BMWED or System Federation/Division Bylaws.

4.25. Strike Fund. The BMWED will continue to maintain its existing Strike Fund in accordance with the BMWED Bylaws and members within the BMWED will not be eligible for Out-of-Work Benefits from the IBT Strike and Defense Fund. BMWED members, the BMWED and BMWED affiliates will remain eligible for other appropriate assistance from the IBT Strike and Defense Fund. Accordingly, the IBT will rebate ten (10) percent of the per capita paid by BMWED.

4.26. Ratification. This Merger Agreement and the incorporated bylaws shall be subject to approval and ratification by the BMWED and the IBT through the procedures set forth in their Constitutions. The parties shall promptly and expeditiously proceed to submit this Merger Agreement and the incorporated bylaws for approval through the procedures set forth in their respective Constitutions. IBT shall be permitted to address BMWED members and officers with respect to this merger and throughout the approval procedure to the fullest extent permitted by the BMWED Constitution.

4.27. Disputes. Any disputes concerning the application or interpretation of the terms of this Merger Agreement shall be initially submitted in writing to the National President of the BMWED and the General President of the IBT or their designated representatives, who shall meet within 10 days of written receipt to attempt to resolve the dispute. Any agreed-upon resolution will be subject to the approval of the BMWED Grand Lodge Officers and the IBT General Executive Board. If the dispute is not resolved within ten (10) days from receipt of the notice of the dispute, either party to the dispute may submit the dispute to final and binding expedited arbitration in accordance with the following procedures:

4.27.1. Arbitration Procedure. The following provisions shall apply for any disputes properly submitted to arbitration under the provisions of the above paragraph 4.27.

4.27.2. The party requesting arbitration (either the IBT General President or the BMWED National President) shall give written notice to arbitrate to

the other which shall contain a clear statement of the question or dispute it proposes to be arbitrated. This notice to arbitrate must be submitted within twenty (20) days from receipt of the notice of the dispute as set forth above.

4.27.3. The IBT General President and the BMWED National President, or their designees, shall attempt to agree upon an arbitrator within ten (10) days of receipt of the notice to arbitrate. If the parties are unable to agree upon an arbitrator, then the parties will select an arbitrator from among the Article XX referees currently designated by the AFL-CIO. The parties will select from this list by alternating strikes until one arbitrator remains with the party requesting arbitration striking first.

4.27.4. The parties will request the arbitrator to hear this matter on an expedited basis, but in no event later than sixty (60) days after notification of the arbitrator of his/her appointment.

4.27.5. The arbitrator shall issue a written decision within thirty (30) days of the close of said hearing.

4.27.6. The decision of the arbitrator shall be final and binding on all parties.

4.27.7. The arbitrator's authority is limited only to decide the question submitted and in no event shall the arbitrator have the authority to add to, subtract from, or modify any terms of the Merger Agreement.

4.27.8. Each Party will pay one-half the cost of the arbitration, and the parties may extend the time limits by mutual written agreement between the BMWED National President and the IBT General President.

4.28. Withdrawal. Either IBT or BMWED may withdraw from this merger at any time within 24 months of the effective date of this merger agreement. BMWED may withdraw from this merger if (a) the Grand Lodge Officers of the BMWED National Division vote by a two-thirds majority to withdraw from the merger at any time during this period and (b) the withdrawal is subsequently approved by a majority of active members in good standing within the BMWED voting in a properly conducted referendum. For the purpose of conducting such a referendum, the parties will designate the American Arbitration Association and the costs will be borne equally between the parties. IBT may withdraw from this merger by action of its General Executive Board.

4.29. Savings Clause. The fact that any provision of this Merger Agreement is held illegal or unenforceable by a court or other tribunal of competent jurisdiction shall not affect the validity or enforceability of any other severable portion of this Agreement.

4.30. Correction of Inadvertent Errors. The parties shall have the power to correct any typographical, grammatical or punctuation errors in any of the documents involved in this Merger, provided that any such change must be consistent with the spirit and intent of the provision involved.

4.31. Amendments. This Merger Agreement may only be amended with

the approval by representative majority vote of the Delegates assembled at a BMWED Convention and subsequently approved by the IBT General Executive Board.

4.32. Headings and Notes. Headings and bracketed paragraphs identified as “NOTES” in this Merger Agreement are intended to explain the general operation of the provisions to which they refer. These headings and “NOTES” do not constitute enforceable provisions of the Merger Agreement and shall not modify the meaning of any provision of this Merger Agreement, the BMWED Bylaws, the IBT Constitution or the Bylaws of IBT Rail Conference.

## CANADA

5.1. Approval of Transfer Agreement. The foregoing terms of this Merger Agreement are applicable to the BMWWE and the IBT in the United States. BMWWE and Teamsters Canada previously entered into a Transfer of Jurisdiction Agreement which transferred BMWWE’s jurisdiction in Canada to the Teamsters Canada Rail Conference – Maintenance of Way Employees Division (TCRC-MWED). It is the intent of the parties that this Merger Agreement shall be submitted to a vote of all active BMWWE members in good standing as of the date of the referendum as required by the BMWWE Constitution and Bylaws, that votes from members of BMWWE affiliated bodies located in the United States and located in Canada shall be separately tallied, that approval of this Merger Agreement by the majority of members voting from BMWWE affiliated bodies located in the United States shall approve this Merger Agreement with respect to the United States, and that approval by a majority of members voting from BMWWE affiliated bodies in Canada shall approve and reaffirm the Transfer Agreement previously entered into between the BMWWE and Teamsters Canada. Notwithstanding any other provision of this Merger Agreement, approval by a majority of members voting from BMWWE affiliated bodies in Canada shall be effective immediately to approve and reaffirm the Transfer of Jurisdiction Agreement. Submitting this Merger Agreement for approval by active BMWWE members in good standing is intended to insure compliance with the requirements of the BMWWE Constitution and Bylaws and such approval is not intended to supersede or interfere with any provision or requirement of Canadian law or the decision of any Canadian governmental or judicial body of competent jurisdiction with respect to BMWWE subordinate bodies or members in Canada.

5.2. General Terms. A copy of the Transfer Agreement is appended to and incorporated in this Merger Agreement. The Transfer Agreement generally provides for the transfer of BMWWE jurisdiction in Canada to the Teamsters Canada Rail Conference Maintenance of Way Employees Division (TCRC-MWED). Teamsters Canada has established the TCRC-MWED for this purpose and to insure that maintenance of way employees in Canada may exercise the right to select their own officers once all legal and other matters concerning the transfer have been resolved and appropriate bylaws have been adopted. In general, the previously agreed upon Transfer Agreement provides:

5.2.1. The BMWÉ transfers its jurisdiction over all of the Canadian territory to the TCRC-MWED and renounces any right to act in Canada in the recruitment of employees, representation of employees, representation of labour organizations or in any other way except as far as it is necessary to further the execution of the Transfer Agreement.

5.2.2. The transfer of jurisdiction includes the transfer of all bargaining rights and obligations that the BMWÉ presently holds, either through certification or voluntary recognition; and all attached rights and obligations whether under a collective agreement or otherwise.

5.2.3. The BMWÉ will transfer to TCRC-MWED all its files and employees attached to its Canadian operations including the files and employees of its affiliates and subordinate bodies.

5.2.4. For a mutually agreed upon transition period, the BMWÉ will continue to pay all salaries and benefits and all expenses related to its Canadian operations including the salaries and benefits of its affiliates and subordinate bodies until the final transfer of assets and liabilities provided for in paragraph 5.2.7.

5.2.5. During the transition period, TCRC-MWED will maintain the structures along the lines of existing local lodges and system federations of the BMWÉ to represent the members locally and these bodies will remain in place until the adoption of official bylaws.

5.2.6. BMWÉ, Teamsters Canada and the TCRC-MWED will collaborate with respect to the execution, application and enforcement of the Transition Agreement.

5.2.7. BMWÉ will transfer certain assets and liabilities of its Grand Lodge related to Grand Lodge operations in Canada, and all of the assets and liabilities of its Canadian subordinate bodies. The Presidents of the BMWÉ and of Teamsters Canada will meet promptly to arrange the details of an orderly transfer of such properties, assets and liabilities to the TCRC-MWED, subject to ratification by the Brotherhood's Grand Lodge Officers, in accordance with the BMWÉ Constitution and Bylaws.

5.2.8. If TCRC-MWED was to discover through due diligence accounting verifications or otherwise that the liabilities referred to in paragraph 5.2.7 exceed the value of the assets there mentioned, TCRC-MWED will retain the right to refuse the transfer of assets and liabilities.

5.2.9. The parties will collaborate for an easy and seamless execution of the Transfer Agreement including the necessary filing of successorship applications with the competent tribunals.

5.2.10. BMWÉ authorizes TCRC-MWED to represent it before the Canada Industrial Relations Board and any other provincial labour commissions to give effect to the present Agreement.



# **RITUAL**

**of the  
Brotherhood of Maintenance  
of Way  
Employes Division**

**of the  
International Brotherhood  
Of Teamsters**





## TO THE LODGE PRESIDENT

This ritual is a guide that should be referred to at every meeting of the Lodge. Its importance should be impressed upon every member.

It is the duty of the President to open the Lodge promptly, to preserve order and discipline during the sessions, and to see that the other officers perform their duties in accordance with applicable laws and our Bylaws and Ritual.

The Bylaws of the Brotherhood are enacted by the members through their regularly elected delegates and are binding upon all members alike. The authority to interpret the Bylaws is vested in the National Division President, and his decision is final, except as provided in the Bylaws. As all members through their chosen representatives had a voice in making the Bylaws, all should aid in their enforcement.

## RULES OF ORDER

1. The Bible shall remain open on the altar while the Lodge is in session.
2. After the Lodge has been duly opened the Conductor will conduct all visiting members to the altar and introduce them. The President will call up the Lodge and welcome the visiting Brothers/Sisters, after which the Conductor will escort the visitors to seats.
3. No Brother/Sister shall interrupt another in their remarks, except to raise a point of order.
4. During opening or closing ceremony, or during the reading of the minutes, the Inner Sentinel will require those in the ante-room to wait until the business is finished, after which they will be permitted to enter.
5. The Conductor will receive and examine visitors who arrive while the Lodge is in session (retiring to the ante-room); if the visitor is found eligible and correct he will be admitted. Conductor will then introduce the visitor, giving the member's name and Lodge number. The President will rise, call up the Lodge and welcome the visitor. No visitor shall be examined during initiation. Every courtesy should be extended to visiting Brothers/Sisters and they should be made to feel that their presence at the meeting is appreciated.
6. The Secretary-Treasurer must fill out all receipts with pen and ink, and must not use a stamp to sign his name.
7. No motion shall be subject to debate until it has been seconded and stated from the Chair. It shall be reduced to writing upon the request of two members.

8. Each member, when speaking, shall stand and respectfully address the President, confining their remarks to the question under debate and avoid all personalities or indecent or improper language.

## OPENING CEREMONY

*The hour of meeting having arrived and a quorum being present, the President will call the Lodge to order by giving one rap of the gavel.*

### **PRESIDENT:**

This Lodge will now come to order. Officers will assume their stations and the Sentinels will see that none but duly qualified persons are permitted to enter. Brother Conductor, you will place the open Bible on the altar after which you will determine if all present are Brothers/Sisters in good standing and entitled to participate in this meeting.

*If necessary, the Conductor will examine Membership Cards, dues receipts or use other appropriate means to determine each person's eligibility after which he reports.*

### **CONDUCTORS:**

Brother President, all present are duly qualified to sit in this meeting.

### **PRESIDENT:**

Thank you, Brother Conductor. Brother Chaplain, will you invoke the blessings of the Supreme Ruler on our deliberation.

### **CHAPLAIN:**

Most Holy and Glorious Ruler of the Universe, the Giver of all good gifts and graces, in Thy name we have assembled, and in Thy name we desire to proceed in all our deliberations. Grant that the sublime principles of our Brotherhood may so subdue every discordant passion within us, so harmonize and enrich our own hearts with Thine own love and goodness, that this Brotherhood may humbly reflect that order and beauty which reign forever before Thy Throne — Amen.

### **ALL RESPOND:**

Amen

### **PRESIDENT:**

Brothers (and Sisters), by the power and authority vested in me, I hereby declare this Lodge open for the transaction of such business as may be properly brought before it. Each Brother/Sister, when speaking, shall stand and respectfully address the President confining their remarks to the question under debate avoiding all personalities and indecent and improper language. Sectarian discussions are strictly forbidden.

## ORDER OF BUSINESS

Introduction of visiting members.

1. Roll Call of officers.
2. Reading minutes of previous meeting.
3. Introduction of new members.
4. Initiation of new members.
5. Secretary-Treasurer's Report:
  - (a) Report of suspended or expelled members
  - (b) Communication, bills and notices
  - (c) Receipts and Disbursements since the last meeting
  - (d) Financial Report of Lodge since last meeting
  - (e) Application for Transfer or Withdrawal Cards
6. Report of Committees.
7. Unfinished business.
8. New business.
9. Health, welfare and sickness benefits.
10. Is any Brother/Sister deceased, sick or otherwise distressed?
11. Political discussion.
12. Safety discussion.
13. Debate - good and welfare of the Brotherhood.
14. Appointment of Committees.
15. Election of officers, delegates, Board members, etc.
16. Installation of officers.

## CLOSING CEREMONY

### **PRESIDENT:**

Brothers and Sisters, I am about to close this Lodge. All matters which have been discussed at this meeting are of a confidential nature and should be treated accordingly. When you again mingle with the outer world, I trust you will remember the principles and lessons imparted here. Let us ever be mindful of the obligations we have taken and constantly strive to extend the principles of brotherly love and unity. Brother Chaplain, we are ready for your parting benediction.

### **CHAPLAIN:**

My brethren, he lives best who does most for humanity, he lives well who walks worthily in the paths of industry, and to him shall the full measure of praise be given: "Well done, thou good and faithful brother." In this parting hour let us not forget the obligation we have assumed, but as we leave this room let it be with a full determination that all our actions through life shall redound to our honor and insure the prosperity of this Brotherhood, and may the Great Ruler above watch over, bless and keep us until our next meeting — Amen.

### **ALL RESPOND:**

Amen.

## **CLOSE MEETING**

If the Lodge has regularly scheduled meetings, the President should announce the date, time and place for the next regular meeting.

## **OBLIGATION**

*Note: Bible should be open and visible to all those swearing the oath of office.*

### **INSTALLING OFFICER:**

Please raise your left hand, place your right hand over your heart and repeat after me:

“I (your name), in the presence of these delegates and members, do solemnly promise that I will perform all the duties of my office as laid down in the Bylaws of the Brotherhood to the best of my ability, for the best interest of the membership as a whole. To all this I pledge my sacred honor.”

### **INSTALLING OFFICER:**

Delegates and members, your officers have been duly obligated to perform their several duties and invested with the badges of their offices; their success depends on their fidelity and your cooperation; work together in harmony at all times.

And now, by authority of the Bylaws of the Brotherhood of Maintenance of Way Employes Division, I declare your officers duly installed and authorized to enter upon the discharge of their several duties for the term for which they have been elected, or until their successors have been elected and installed.

## **PARLIAMENTARY PROCEDURE**

The object of parliamentary procedure is to insure that business is conducted in an orderly manner, with items taken up one at a time and disposed of in a democratic fashion. When a meeting is called to order by the chair, an agenda, or order of business, should be offered for approval. The Ritual of the Brotherhood prescribes the Order of Business to be followed in the absence of a formal agenda being offered for adoption.

The business of a meeting is carried forward by motions. A motion is made from the floor and then followed by debate on the question. Motions must be seconded to be entitled to debate. If the motion is not seconded, the chair is obliged to point out that the motion has failed for lack of a second, and then proceed with the meeting.

In making a motion, the member should rise, face the chair, and signal or call for attention in a manner which will not disrupt the meeting. Once recognized by the chair, the speaker should first state his or her name in order that such information can be recorded in the minutes.

Before a motion has been stated by the chair, the maker has the right to withdraw it, or modify the language. After it has been stated by the chair, the maker cannot withdraw or modify his or her motion without the consent of the assembly, since it belongs to the assembly. Once a motion has been duly made, seconded and is on the floor, it is subject to amendment. The object of an amendment is to change or modify the original motion, without destroying the sense of it.

Amendments to motions are debatable and like motions, require seconding. Discussion on an amendment must be confined to the amendment itself. In taking the vote, after debate, the amendment is first voted upon and then the motion itself voted upon. Sometimes, the nature of the amendment is such that passing or defeating the amendment carries or defeats the motion also. In that event, it is not necessary to take a vote on the original motion.

The question of privilege is the privilege of getting the attention of the chair at once to ask a question, make a point of order, or draw attention to pressing business which cannot wait. Rising to a "Point of Procedure" means that you question the procedure the chair is following - you feel that the chair is acting contrary to regular procedure. Rising to raise a "Point of Order" usually means that you feel a member of the assembly, rather than the chair, has departed from the prescribed procedures and you want the chair to take action.

You should refer to Robert's Rules of Order in the event you require more detailed information relative to specific issues pertaining to parliamentary procedure.





