



**To: BLET Advisory Board, General Chairmen & State Legislative Board
Chairmen
BMWED National Division Officers, General Chairmen & State Legislative
Directors**

**From: John Tolman, BLET Vice President & National Legislative Representative
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RE: August Recess legislative issues

If the debt ceiling situation is resolved, Congress will likely be in recess beginning on August 8 and ending after Labor Day. At this time, members of the House of Representatives and Senate will be in their home districts and states conducting meetings, appearing at events and meeting with their constituents.

The Teamsters Rail Conference encourages you to participate in these events, and to discuss several issues of importance with your elected federal officials.

Amtrak

First among these for both BLET and BMWED members is Amtrak. As you know, the recent proposal put forth by Representatives John Mica (R-FL) and Bill Shuster (R-PA) would be disastrous for all railroad workers – not just those working on Amtrak. The proposal would sell off the Northeast Corridor to private operators, and in doing so, would cause the destruction of Amtrak. The Northeast Corridor is profitable, and those profits help enable Amtrak's long-distance routes to survive. Without this infusion of cash, Amtrak will go under and take its 20,000 employees, and eventually, the Railroad Retirement system, with it. While they claim that this will reduce the government's subsidy for passenger rail, this claim, like so many others Representative Mica has made, is disingenuous and this is merely a scheme to destroy Amtrak – a long held goal of his.

Their claims of labor protections in the proposal are also disingenuous. The entities created through this scheme would only be considered rail carriers for the purpose of Title 49, and both Railroad Retirement and the Railway Labor Act (as parts of Title 45) were obviously intentionally omitted. Supporters of the legislation claim it would allow for unionization of employees, but the deliberate omission of U.S. Code Title 45 may mean that these passenger rail workers would be subject to the National Labor Relations Act, which permits states to impose

so-called “right to work” legislation. Moreover, we would have to start from scratch – negotiating simply for the right to form a bargaining unit.

While momentum on the proposal has slowed, it is still alive in the House, and there is a feeling among labor that Representative Mica, because he has received pushback regarding doing it as separate legislation, could attach it to other, vital legislation to improve its chance of passage, similar to the way he is attempting to change aviation and railroad industry representation election rules via FAA reauthorization legislation (see below). BLET and BMWED members are encouraged to urge their elected officials to oppose this outrageous proposal.

NMB

The Federal Aviation Administration Reauthorization legislation passed by the House of Representatives contained a provision that will overturn a National Mediation Board-issued regulation which changed how union organizing campaigns in the rail and aviation industries are conducted. The Senate-passed legislation did not contain this provision, and a stalemate has developed over this issue, and others, while trying to reconcile the two. To date some 4,000 FAA workers have been furloughed and over 90,000 airport construction jobs are at risk.

If the provision is included in the final legislation, it will overturn the rule promulgated by the National Mediation Board last year, which corrected the injustice in the method that union elections are conducted under the Railway Labor Act. Previously, a union needed 50 percent plus one, of eligible voters to win an election but, if an eligible voter did not vote in an election, his or her vote was counted as a “no” vote against representation. Current rules state that only those voting count either way, just like every other election in the United States.

BLET and BMWED members should ask their members of the House and Senate to oppose the provision in the House legislation.

Health Care

As plans to reduce the national debt develop, it has become increasingly apparent that there is a possibility that the exclusion on the taxation of employer provided health care is one of the items on the table. The various plans differ; however, President Obama has declared that everything is on the table, and we cannot count on the White House or the Democrats in Congress to serve as a backstop unless we make our opposition to this known.

Labor negotiated the continuation of this exclusion as part of the Affordable Care Act (health care reform) with an excise tax on high dollar plans beginning later this decade as the substitute, but now it appears that the exclusion may be eliminated altogether.

Rail Conference members should ask their members of the House of Representatives and the Senate to demand that health care not be taxed as part of any deficit reduction plan, and tell them doing this would unfairly place the burden of deficit reduction on the millions of working Americans with employer provided health coverage, including BLET and BMWED members, while continuing tax cuts to the wealthy.

Family and Medical Leave Act amendment

For several years, the BLET has been working to amend the Family and Medical Leave Act in order to ensure BLET members working extra boards and pools qualify for the leave. BLET members are limited by hours of service requirements and also spend compensated and non-compensated time away from their home, deadheading between terminals and to and from trains, which is not considered creditable time spent working under FMLA. Only time spent actually working is considered creditable. As such, some BLET members do not meet the standard of 1250 working hours per year to qualify for FMLA.

In the last Congress, an amendment to FMLA was introduced by Representative Tim Bishop (D-NY) to address this issue, and the BLET is working to get it introduced again. The legislation would allow a railroad worker who is covered by hours of service regulations to qualify for FMLA if they have worked 60% of their monthly guaranteed time or 504 hours. This is similar to provisions already applicable to aviation flight crews and flight attendants.

The BLET urges all Rail Conference members to ask their elected officials to co-sponsor and support this legislation.

Hours of Service Technical Corrections

Some of the Hours of Service changes for locomotive engineers and trainmen contained in the Rail Safety Improvement Act of 2008 were detrimental to levels of fatigue in the industry – exactly the reverse of the situation that Congress intended to change. The BLET has been working to address these issues, and do what Congress intended, through technical corrections to the Act. The legislation was supposed to provide a predictable and defined work-rest period. The proposed corrections would do the following: 24/48/72 hours off duty time will be at the home terminal in order to reset the clock; 24 hours off duty at the HOME terminal that does not match with a full calendar day will reset the clock; a 10 hour call for all unassigned road service is necessary; Train Employees with pre-determined start times will have their hours of service regulated just as the passenger Hours of Service regulations currently being proposed; any interim release must require notification of the crew before going off duty; the law contains no limitation on limbo time for a single duty tour and it should be limited to 2 hours of excess limbo time per duty tour.

Legislation to address these issues was introduced in the previous Congress by former Representative James Oberstar, and the BLET is currently working to get it introduced again. Rail Conference members should ask their Representatives and Senators to support this issue.