

BMWED ISSUES CONVENTION CALL

National Division Convention Set for June 21, 2010

The National Division mailed out the official notice of Convention Call to all Local Lodge Secretary-Treasurers on November 4, 2009 and was previously printed in the September/October Issue of the BMWED Journal. The Call Letter is reproduced here with a collection of questions and answers pertaining to the process for BMWED/IBT eligibility to vote, be nominated or be elected to union office;

The purpose of this letter is to advise you that, in accordance with Article I, Section 5, of the Brotherhood of Maintenance of Way Employes Division's Bylaws, the Second Regular National Division Convention of our Brotherhood will convene at the Bally's Hotel & Casino, Las Vegas, Nevada, at 9:00 a.m., Monday, June 21, 2010, for the purpose of reviewing the work and accomplishments of the Brotherhood, to consider legislation for the benefit and advancement of the membership, to amend the National Division Bylaws, to elect officers and to act upon such other business as may properly come before the Convention.

REPRESENTATION

Your attention is directed to Article XVIII, Section 14, Paragraph 1, of the National Division Bylaws, which provides, in pertinent part, that:

"Each Local Lodge in good standing shall be entitled to be represented at the National Division Convention by a delegate or alternate, or a delegate ex officio as set forth in the second paragraph of this Section. However, in the event a Local Lodge elects not to send its own member or delegate ex officio to the National Division Convention, two or more Local Lodges may elect to be represented by a delegate and alternate of another Local Lodge in the BMWED. 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."

EX OFFICIO DELEGATES

Article XVIII, Section 14, Paragraph 2, of the National Division Bylaws governs the selection of ex officio delegates to the National Division Convention and provides, in pertinent part, as follows:

"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."

Article II, Section 4 of the IBT Constitution and Article XVIII, Section 14, Paragraph 3, of the National Division Bylaws set forth the eligibility requirements to run for delegate and alternate to the National Division Convention.

Article II, Section 4(a)(1) of the IBT Constitution states, in part:

"To be eligible for election to any office in a Local Union, a member must be in continuous good standing in the Local Union in which he is a member and in which he is seeking office, and actively employed at the craft within the jurisdiction of such Local Union, for a period of twenty-four (24) consecutive months prior to the month of nomination for said office, and must be eligible to hold the office if elected."

Article XVIII, Section 14, Paragraph 3, of the National Division Bylaws states, in part:

“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.”

Therefore, anyone who seeks to be nominated and elected delegate or alternate delegate to the National Division Convention must be in “continuous good standing” for a period of twenty-four (24) consecutive months prior to the month of nomination, and thereafter maintain member in good standing status to May 1, 2010. In general, “continuous good standing” means the timely payment of dues for each of the 24 months prior to the month of nomination with no late or missing payments during the applicable 24 month period. For newly chartered Local Lodges which have been in existence for less than 24 months, the provisions of Article II, Section 4(b) of the IBT Constitution shall apply.

Retired Local Lodge Secretary-Treasurers holding such office under the provisions of paragraph 4.11 of the merger agreement are not eligible to run for delegate or alternate delegate. Retired state legislative directors holding such office, and all other BMWED retirees (i.e., those not “actively employed at the craft” as required under Article II, Section 4(a)(1) of the IBT Constitution), are also not eligible to run for delegate or alternate delegate.

ELECTION OF DELEGATES AND ALTERNATE DELEGATES

Article XVIII, Section 14, Paragraphs 2, 3, 4 and 5, of the National Division Bylaws, sets forth the procedures by which delegates and alternates to the National Division Convention are elected:

“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. 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.” Article XVIII, Section 14, Paragraph 6, of the National Division Bylaws describes the manner in which Credentials will be issued to delegates and alternates to the National Division Convention:

“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 the Secretary-Treasurer of the Local Lodge. In the event that the office of the Local Lodge Secretary-Treasurer is vacant or the Local Lodge Secretary-Treasurer is elected as a Delegate or Alternate Delegate the President of the Local Lodge would sign the credential. Original credentials shall be given to the duly elected delegates. Duplicate credentials shall be forwarded to the National Division Secretary-Treasurer’s office as soon as possible after the election of the delegates.”

DELEGATE VOTING STRENGTH

Article XVIII, Section 14, Paragraph 7, of the National Division Bylaws prescribes the method by which delegate voting strength will be determined:

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

PROHIBITION AGAINST THE TRANSFER OF VOTES OR CREDENTIALS

You should be advised that the transfer of votes between delegates will not be permitted at the 2010 National Division Convention and that under Article XVIII, Section 14, Paragraph 1, of the National Division Bylaws, no delegate may represent more than five hundred (500) members unless the members are all members of one Local Lodge. Only members in good standing are counted in arriving at a Lodge’s voting strength.

Therefore, care should be exercised in those instances where a member is elected as a delegate representing more than one Local Lodge with combined membership in excess of five hundred (500). Any delegate present at the Convention who was elected as the delegate for more than one Local Lodge will be required to register as the delegate for all such Lodges and will not be permitted to transfer his/her credential to an alternate for such Local Lodge(s), even though the alternate is in attendance and the delegate may be carrying in excess of five hundred (500) votes.

ELIGIBILITY REQUIREMENTS TO VOTE IN LODGE ELECTIONS

Only members in good standing are entitled to vote in the election of a delegate or alternate to the National Division Convention. Retired Local Lodge Secretary-Treasurers holding such office and paying full dues under the provisions of paragraph 4.11 of the merger agreement are also entitled to nominate, second, and vote in the election of delegate and alternate to the National Division Convention.

Retired members who are paying full dues, retiree dues of \$16.00 per year, or National Division dues to protect their death benefit, are not eligible to vote in Lodge elections. Members who have secured a Withdrawal Card after leaving the service of the railroad, being promoted to an official and/or excepted position with the railroad or transferring to another craft, or who are considered an agency or objector fee payer, are not eligible to participate in the election of a delegate or alternate to the National Division Convention even if they are paying full dues.

FIFTEEN-DAY ADVANCE WRITTEN NOTICE REQUIRED

The National Division Bylaws requires that advance written notice by mail to the membership be given of the holding of a meeting for the purpose of nominating and electing delegates and alternates to the National Division Convention at least fifteen (15) days prior to the date of their nomination and election. In calculating the 15-day period, the day the cards are mailed is not counted, but the day of the meeting is counted.

The “Notice of Meeting Card” (Form F-86) must be mailed to all members who are eligible to participate in the election at their last known address. The posting of meeting notices on bulletin boards, tool sheds, etc., or their distribution to members of gangs at the work site, does not satisfy the notice requirements.

If you will provide the National Division or your System office with advance notice of the date of your meeting, we will furnish you with address labels or Notice of Meeting Cards with pre-printed addresses. Prior to mailing, you should check the addresses against your current membership records to insure that all members receive a notice of the meeting, since it may be necessary to hand-address cards for members for whom addresses were not furnished. Addresses for those members who are deceased or individuals who are no longer members of the Brotherhood should be discarded. Article XVIII, Section 6, Paragraph 3, of the National Division Bylaws provides that five (5) members in good standing constitute a quorum for the purpose of transacting Lodge business. Thus, if there are not five (5) members in good standing present at your Lodge meeting which has been designated to elect a delegate and alternate to the National Division Convention, it will be necessary to reschedule the election due to the fact that a quorum was not present.

SECRET BALLOT ELECTION

Your attention is again called to Article XVIII, Section 14, Paragraph 2, of the National Division Bylaws, wherein all delegates and alternates must be elected by secret ballot. This is also a requirement of the Labor-Management Reporting and Disclosure Act of 1959, and must be adhered to.

MAILING OF CREDENTIALS

Credentials will be issued and mailed from the National Division in sufficient time to be in the hands of Local Lodge Secretary-Treasurers prior to January 1 of the year of the National Division Convention, in accordance with Article XVIII,

Section 14.

Early election by the Local Lodges of delegates and alternates is requested in order that the duplicate credentials are received by the National Division Secretary-Treasurer from the Lodge Secretary-Treasurers, twenty (20) days prior to Convention (June 1, 2010), in accordance with Article XVIII, Section 14, Paragraph 7, for the completion of National Division records.

PROPOSALS TO AMEND THE CONSTITUTION

Article XX, Section 1, of the National Division Bylaws, provides that all proposals to alter or amend the National Division Bylaws which are printed in the *BMWED JOURNAL* thirty (30) days before the day the Convention begins, may be enacted by a majority vote of the delegates assembled at the National Division Convention. Therefore, to comply with this requirement, all proposed amendments to the National Division Bylaws that are to be published in the *BMWED JOURNAL* must reach the National Division not later than March 30, 2010. In the case of proposed amendments to the National Division Bylaws which are not published in the *BMWED JOURNAL*, the approval of three-fourths of the delegates is necessary for their adoption.

It is not necessary that resolutions other than those proposing to alter or amend the National Division Bylaws be printed in the *BMWED JOURNAL*. However, such resolutions should be submitted in advance in order that the Resolution Committee can consider them before the Convention convenes and submit a report to the Convention.

All proposals to amend the National Division Bylaws and all resolutions that are to be considered by the Resolution Committee should be mailed to the National Division President.

Copies of this Convention Call were sent to all National Division and System Officers, National Division Appointees, State Legislative Directors and Local Lodge Presidents in the United States and is intended to serve as official notice to all members of the Brotherhood.

BMWED/IBT Eligibility to Vote, Be Nominated or Be Elected to Union Office

FREQUENTLY ASKED QUESTIONS

Q1. I've heard that since we are now under the Teamster's eligibility for elections, twenty four (24) months of Continuous Good Standing (i.e., continuous timely dues payments) are required to be nominated and elected for office, is this true?

A1. Yes, for members of local lodges in existence for more than 24 months, 24 months "Continuous Good Standing" is required. (*Article II, Section 4(a)(1) IBT Constitution*) For members of newly chartered local lodges in existence for less than 24 months, the provisions of Article II, Section 4(b) of the IBT Constitution would apply.

Q2. How are the twenty four (24) months Continuous Good Standing counted?

A2. Starting with the month prior to nomination and the prior twenty three (23) months, all of which must be consecutive. (*Article II, Section 4(a)(1) IBT Constitution, and Paragraph 4.9 of the Merger Agreement*)

Q3. What about a late payment during those twenty four (24) months?

A3. In the case of either a late or missing payment the member would not be eligible for nomination and election. (*Article II, Section 4(a)(1) and Article X, Section 5(c) IBT Constitution*)

Q4. Does this also apply to nominating or voting in the election?

A4. No, you need a minimum of one month good standing; the month prior to the month of nomination (and the month prior to election if nomination and election will be held in different months). A member can restore "good standing" by paying

required dues to the duly accredited Secretary-Treasurer prior to the meeting and commencement of nominations or elections. *(Article X, Section 5(c) IBT Constitution, and Paragraph 4.8 of the Merger Agreement)*

Q5. What if I was on Payroll Dues Deduction and the Carrier didn't take my dues?

A5. In accordance with Article X, Section 5(c) of the IBT Constitution, "a member on dues checkoff whose employer fails to make a proper deduction during any month in which the member has earnings from work performed during the month from which the dues could have been deducted, or has earnings from which the employer normally makes a dues deduction pursuant to the contract or established practice, shall not lose good standing status for that month. In such an event, the Local Union shall notify the member of his employer's failure and payment shall be made by the member within thirty (30) days of said notice in order to retain good standing status. *(Article X, Section 5(c) IBT Constitution)*

Q6. Would a BMWED Unemployment Card cover me for months that I was furloughed?

A6. No, under the Teamster's Constitution an Unemployment Card does not count toward the required twenty four (24) months in calculating Continuous Good Standing. *(Paragraph 4.8 of Merger Agreement)*

Q7. What if I was called up for Active Duty, would those months count when I didn't pay dues?

A7. Under Article II, Section 4(a) of the Teamster Constitution, "Members in a reserve component of the military or National Guard who are called to active service lasting more than thirty (30) days but not more than twenty-four (24) consecutive months, shall be considered to be on Union approved leave of absence without any further action by the Local Union Executive Board. During such leave, the member shall not be obligated to pay dues beginning with the month in which the member commences his active duty..." "The member shall notify the Local Union that he has been released from active service within thirty (30) days and will be responsible for paying his dues beginning with the month following the month of release. In the event the member remains in active service after twenty-four (24) months, the member must pay dues for the month following the expiration of the twenty-four (24) month period in order to remain in good standing." *(Article II, Section 4(a) IBT Constitution)*

Q8. In looking at my dues payment record for the previous twenty four (24) months I see one month that shows "LF", is that OK? Am I eligible to run for office?

A8. No, LF means Late Full Dues. A late payment of dues (LF) breaks your Continuous Good Standing; therefore a LF would not count in calculating the twenty four (24) months of Continuous Good Standing. *(Article II, Section 4(a)(1) and Article X, Section 5(c) IBT Constitution)*

Q9. In looking at my dues record for the previous twenty four (24) months I see several months at the beginning that show "OF", is that OK? Am I eligible to run for office?

A9. No, OF stands for Officials Fee (Seniority Retention Fees). This Fee is different than Full Dues even though it can be the same dollar amount. Persons paying seniority retention (OF) do not have full membership rights nor are they deemed to be "actively employed at the craft" as required under Article II, Section 4(a) (1) of the Teamster Constitution. *(Article XVII, Section 4(a) BMWED Bylaws, and Article II, Section 4(a)(1) of IBT Constitution)*

Q10. If "LF" and "OF" payments don't count toward the twenty four (24) months what other codes don't count?

A10. Other codes that don't count are: F=Fee, RD=Retired Dues, EX=Exempt Dues, LF=Late Full Dues, LU=Late Unemployed Dues, AS=Assessment, UC=Unemployment Card, AF=Agency Fee, UDA=Unemployed Dues & Assessment, LRA=Late Retired Dues & Assessment, WVA=Waived Dues & Assessment, AFA=Agency Fee & Assessment, UD=Unemployed Dues, LR=Late Retired Dues, WV=Waived Dues, DIS=Dispensation, OF=Officials Fee, OB=Objector Fee, RDA=Retired Dues & Assessment,

EXA=Exempt Dues & Assessment, LFA=Late Full Dues & Assessment, LUA=Late Unemployed Dues & Assessment, OFA=Officials Fee & Assessment, OBA=Objector Fee & Assessment, --- = Missing Payment. (*National Division ST Dept.*)

Q11. With all those codes not counting maybe it would be easier if you told me what codes do count toward the twenty four (24) month requirement?

A11. The codes that would count toward eligibility are: FDA=Full Dues & Assessment, FFA=Fee & Full Dues & Assessment, FD=Full Dues, FF=Fee & Full Dues. (*National Division ST Dept.*)

Q12. Once elected, would I have to continue to pay timely dues to remain in office if I was furloughed?

A12. It would depend on what office you were elected to. Under the Teamster's Constitution and the BMWED Bylaws you would not have to pay dues to hold office during furlough but be mindful of the next election and the twenty four (24) month requirement. (*Article XVI, Section 2 BMWED Bylaws, and Article II, Section 4(a)(1) IBT Constitution*) **The exception could be if you were elected to a System, Division or Federation office. Many of the System, Division and Federation bylaws have provisions that you MUST remain in GOOD STANDING during the term of office. Under the BMWED Bylaws GOOD STANDING is the payment of dues on or before the last day of the month in which they were due.** (*Applicable system federation/division bylaws*)

Note: *This document is intended to provide general guidance on issues related to eligibility to nominate, vote and run for office within the BMWED. This document does not constitute an official interpretation of any provision of the BMWED Bylaws or the IBT Constitution. Requests for interpretation of the BMWED Bylaws or the IBT Constitution must be submitted in writing to the BMWED President or the Teamster General President respectively.*