

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



NEWS CLIPS

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12/14/2009 Labor

CN/TCRC, BLET and UTU note recent developments

With “renewed” negotiations at a standstill between CN and the Teamsters Canada Rail Conference (TCRC), unresolved wage and benefit issues affecting 1,700 locomotive engineers will be submitted to binding arbitration, the Class I and union announced on Saturday.

As part of a settlement that ended the TCRC’s short strike on Dec. 2, CN and the union had agreed to third-party arbitration of wage and benefit issues if further talks failed to resolve contractual differences.

Canada’s labor minister now will appoint an arbitrator, who will have 90 days to submit a final decision to the minister on a new collective agreement. Negotiations can continue during the arbitration process, but a strike or lockout isn’t permitted by law.

Meanwhile, Ohio Central Railroad and Columbus & Ohio Rail Road Co. workers last week voted in favor of joining the Brotherhood of Locomotive Engineers and Trainmen (BLET). The National Mediation Board certified the election results, bringing 47 train and engine-service employees into the union’s ranks, the BLET said. The short lines are part of the Ohio Central Railroad System, which is owned by Genesee & Wyoming Inc.

In addition, the Southeastern Pennsylvania Transportation Authority and United Transportation Union (UTU) Local 1594 reached a tentative agreement covering Red Arrow Division trolley and bus operators. A ratification vote will be conducted soon, according to the UTU.

12/14/2009 Traffic

U.S. railroads maintain recent traffic momentum; UP sets monthly ag unit train, grain volume records

After posting their strongest traffic figures of the year in November, U.S. railroads got off to a decent start in December.

During the week ending Dec. 5, they originated 284,177 carloads, down 5.4 percent, and 207,242 intermodal loads, down 4.2 percent compared with totals from the same week last year, according to the [Association of American Railroads \(AAR\)](#). In many prior weeks, year-over-year comparisons showed declines of between 10 percent and 20 percent.

Canadian railroads reported weekly volume of 62,576 carloads, down 12.4 percent, and 39,608 containers and trailers, down 13.5 percent. Mexican railroads’ weekly carloads dipped 4.8 percent to 12,393 units, but intermodal volume rose 0.8 percent to 6,241 units.

For more AAR data on North American railroads' traffic for the week ending Dec. 5 and through 2009's first 48 weeks, follow this [link](#).

Meanwhile, [Union Pacific Railroad](#) announced it set a monthly record in November for moving loaded agricultural unit trains. The Class I registered 400 unit trains — 338 carrying grain and soybeans, and 62 carrying grain products — breaking the previous record of 381 set in October 2006.

UP moved 35,588 carloads of grain and soybeans last month — the best November volume since 2007, when the railroad moved 33,797 carloads. The November record of 32,897 units was set in 2002.

UP also moved 12,399 carloads of soybeans, its second-highest monthly volume. The Class I moved a record 16,490 soybean carloads in October.

Court to review employer access to worker messages

The Associated Press
Monday, December 14, 2009 5:02 PM

WASHINGTON -- The Supreme Court said Monday it will decide how much privacy workers have when they send text messages from on their employers' accounts.

The justices intervened in a case from Ontario, Calif., where three police officers and another employee complained that the department improperly snooped on their electronic exchanges, including many that were said to be sexually explicit.

While the case involves government workers, the decision could have broader privacy implications. Many employers tell workers there is no guarantee of privacy in anything sent over their company- or government-provided computers, cell phones or pagers.

Ontario has a similar policy, but a police official also informally told officers that no one would audit their text message use if the officers personally paid for charges above a monthly allowance.

The 9th U.S. Circuit Court of Appeals in San Francisco said the informal policy was enough to give the officers a "reasonable expectation of privacy" in their text messages and establish that their constitutional rights had been violated.

But Judge Kim Wardlaw acknowledged in her opinion that there is little to guide judges in this area. "The extent to which the Fourth Amendment provides protection for the contents of electronic communications in the Internet Age is an open question," Wardlaw said.

The appeals court also faulted the text-messaging service for turning over transcripts of the messages without the officers' consent. Both the city and USA Mobility Wireless, Inc., which bought the text-messaging service involved in the case, appealed the 9th Circuit ruling.

The justices turned down the company's appeal, but said they would hear arguments in the spring in the city's case.

The appeals court ruling came in a lawsuit filed by Ontario police Sgt. Jeff Quon and three others after Arch Wireless gave their department transcripts of Quon's text messages in 2002. Police officials read the messages to determine whether department-issued pagers were being used solely for work purposes.

The city said it discovered that Quon sent and received hundreds of personal messages, including many that were sexually explicit.

The case is City of Ontario v. Quon, 08-1332.

12/15/2009 Crosstie Market

RTA report: Tie purchases climb, but production falls in November

After two-straight monthly declines, crosstie purchases in November rose 8 percent from October's level to 992,000 units, according to the [Railway Tie Association's](#) (RTA) monthly tie market report. However, purchases remained 25 percent below the average from the past five Novembers.

Tie production continued a five-month slide in November, dropping 18 percent from October's level to 1.2 million units, the report shows. Tie inventories increased 1.3 percent to 18.8 million units and the inventory-to-sales ratio stood at 0.95 at November's end compared with an average of 0.79 the past five Novembers.

Through 2009's first 11 months, production totaling 20.9 million units exceeded year-ago levels by 14 percent, while purchases totaling 18.3 million units fell 6.2 percent, the report states.

Meanwhile, 12-month rolling data shows production and purchases have tumbled from spring and summer highs, the RTA said. Production totaled 22.8 million units and purchases totaled 19.7 million units during the period.

"Production is growing at a 16 percent annual rate, while purchases are falling at a 3.7 percent rate," the report states.

Transportation Workers Face 'Undemocratic Process' When Seeking Union

Posted By [Mike Hall](#) On December 15, 2009 @ 3:40 pm In [Legislation & Politics](#), [Organizing & Bargaining](#)

If a worker in the airline or rail industry doesn't cast a ballot in a union election, under the rules of the Railway Labor Act (RLA) that nonaction is automatically counted as a "no" vote.

[2] [Last week](#), the National Mediation Board (NMB) held a hearing on a proposed new rule that would stop the automatic "veto by silence" and permit a majority of workers who actually vote to decide the union election.

Flight attendants, union officials and labor experts explain the need for change in a new video report from [3] [DELTA AFA](#), the flight attendants group that is working to win a voice for the Delta Air Lines and former Northwest Airlines flight attendants who make up the merged Delta.

Under current rules, says Delta flight attendant Marianne Bicksler, "Everyone starts out as a "no" vote, from the very get-go."

People who don't vote, who aren't very interested, who have no opinion one way or another—they don't really care—those are all counted as "no" votes. And if you didn't receive your ballot, it's lost in the mail, that's a "no" vote.

Patricia Friend, president of the Flight Attendants-CWA ([4] [AFA-CWA](#)), says non-democratic voting rules that govern airline and rail elections are just not consistent with the kind of democracy we practice any other place in our lives, or in this country.

Railway and airline employers typically try to suppress the vote and keep workers from the polls in RLA elections, says Kate Bronfenbrenner, director of labor education research at Cornell University.

It's an undemocratic process. It's a process where the employer is able to keep voters away and where workers are denied their democratic rights....It affects every single worker in the railway industry, the airline industry, who tries to organize.

Danny Valdez, a Delta flight attendant, says the proposed change gives airline workers a very fair, a very democratic, level playing field to seek representation. If we vote for a union, that's fine. We won fair and square. If we lose, it's because we lost fair and square

Florida enacts bill to spur passenger rail; FTA advances light-rail project in Texas

Yesterday, Florida Gov. Charlie Crist signed a bill into law that establishes a comprehensive framework for the state's current and future passenger-rail system, including Tri-Rail and the proposed \$1.2 billion SunRail line.

The legislation authorizes the Florida Department of Transportation (FDOT) to complete the purchase of the Central Florida Rail Corridor for SunRail after obtaining a Full Funding Grant Agreement from the [Federal Transit Administration \(FTA\)](#). FDOT is working with federal government and central Florida officials to develop and operate SunRail, a 61-mile commuter-rail line that would run along existing freight-rail tracks in Orange, Seminole, Volusia and Osceola counties.

The legislation also provides additional annual funding — about \$13 million to \$15 million — for Tri-Rail, which operates 50 trains daily between West Palm Beach and Miami. Tri-Rail operator the [South Florida Regional Transportation Authority](#) had faced significant service reductions without additional resources.

In addition, the legislation creates the Florida Statewide Rail Commission to advise the FDOT and state legislature on the development and operation of Florida's passenger-rail systems, and the Florida Rail Enterprise within FDOT to oversee all state-owned passenger-rail systems.

Meanwhile, the FTA recently notified the [Metropolitan Transit Authority of Harris County, Texas \(METRO\)](#) that the University Corridor light-rail project can enter the New Starts program's preliminary engineering phase. METRO now can begin to prepare a final environmental impact statement and seek a record of decision for the project, which calls for building an 11.3-mile double-track, 19-station line.

The FTA cited the project's potential to improve transit time and reliability. The University line is projected to attract 49,000 riders daily by 2030.

Senate plan to tax health plans is bad policy

By Jim Hoffa and Larry Cohen - 12/17/09 05:36 PM ET

Millions of working Americans will pay thousands of dollars more in taxes under the Senate proposal that taxes healthcare benefits to finance reform.

According to the Congressional Budget Office, this excise tax will affect one in five Americans.

Millions more will have their health benefits cut and see their costs go up. This is the opposite of healthcare reform.

This proposal has been mischaracterized as an excise tax on "Cadillac plans," leading one to believe it would only cover Wall Street CEOs.

But so many average families will be affected by the excise tax — as many as 30 million families in the first five years — that it can rightly be called a massive tax hike on the middle class. The devastating effects of this very real tax increase have been lost in the debate over whether health reform will include a public option.

Don't get us wrong. We strongly support healthcare reform. Our system is so badly broken that it threatens our economic future. It costs too much, delivers too little and covers too few people.

But there are better ways to finance healthcare reform than levying a new tax on working and middle-income Americans. The House of Representatives gets its right. The House has passed a plan that requires most employers to provide healthcare for workers that would raise \$135 billion and includes a small surtax on people who earn more than \$500,000 a year, raising another \$460 billion.

In contrast, the Senate plan is bad public policy. It would make those companies that already provide healthcare pay more, instead of making healthcare-freeloading employers pay toward employees' healthcare coverage. It taxes the middle class. Again, the opposite of real healthcare reform.

Many, many people are in expensive plans because they are old or sick or work in dangerous professions. Some people have costly plans because they live in places where insurance companies have monopoly power. Plans with more women workers have higher costs. And the list goes on.

The Senate's proposed tax would apply to one-fifth of all employers in the first year that health reform takes effect, 2013. More and more people would get hit each year after that. That's because the threshold for taxable plans is indexed for inflation, which rises more slowly than healthcare costs.

Technically, the Senate proposal taxes employers' insurance plans. But a mere 2 percent of employers would pay the tax themselves and keep benefits at the same level, according to a study by Mercer Consulting. A Towers Perrin survey found that 87 percent of employers said they will cut benefits if reform increases their costs, and 86 percent said they would pass the additional costs on to workers.

Take a look at how federal workers covered by the most popular health plan, the Blue Cross/Blue Shield standard plan, would be affected:

Single people in the plan will get hit right away. They will pay an average of about \$1,600 more per year for 10 years. Families will get hit in the third year, paying an average of about \$2,000 more per year for 10 years.

It gets worse. By 2022, the family plan is projected to cost \$5,500 in taxes per worker, while single people could pay as much as \$3,500 per worker.

It's not just federal employees. Middle-class families in private and public sector jobs will be hit hard by this tax on healthcare benefits.

We want to work with the Senate, the House and the administration to achieve real healthcare reform. Taxing middle-class wage earners isn't the way to do it.

Hoffa is the Teamsters General President and Cohen is the Communications Workers of America president.

BLET members ratify five-year contract with BNSF

CLEVELAND, December 18 — By nearly a 3-to-1 majority, members of the Brotherhood of Locomotive Engineers and Trainmen yesterday ratified a new five-year collective bargaining agreement with the BNSF Railway.

More than 3,500 engineers cast ballots on the contract, with 75 percent voting in favor.

The agreement will take effect January 1, 2010 and runs through December 31, 2014. The tentative contract settles wage and work rule matters, but health and welfare issues will be addressed in upcoming industry-wide negotiations.

The agreement totals general wage increases of 11 percent over the life of the contract. Engineers will also receive an increased 401(k) contribution from BNSF, and engineers with 25 or more years of service will receive an addition week of vacation for a total of six weeks.

"I am very proud of the high level of participation by the BNSF engineers," said National Vice President Steve Speagle, who helped negotiate the contract. "More than 50 percent returned ballots. And the high percentage of those who voted in favor showed that the engineers recognize the value of the agreement in this economic climate. It also shows that they appreciate the hard work and dedication of their General Chairmen."

BLET National President Paul Sorrow thanked Vice President Speagle along with General Chairmen Rick Gibbons (former STL-SF), Austin Morrison (former C&S/CRI&P/FWD), Pat Williams (former AT-SF) and Matt Wilson (BNSF-MRL) for their hard work in negotiating the agreement.

"Our BNSF membership has shown the kind of forward thinking that has made the Brotherhood the leading rail labor organization for nearly 150 years," President Sorrow said. "The agreement provides engineers with the wage increases they deserve without any give backs or concessions."