Amendment to H.R. 4844 would yield another windfall to railroads

A deal originally intended to provide early retirement and other benefit improvements to railroad workers just keeps getting sweeter and sweeter.

The nation’s major carriers could receive a windfall of up to $170 million per year under an amendment to H.R. 4844, the bill to provide tax and benefit changes to the Railroad Retirement Act.

This $170 million windfall is in addition to the $400 million per year they would receive from the original wording of H.R. 4844. In other words, if H.R. 4844 were passed into law today, the carriers would reap savings of more than a half billion dollars per year ($600 million to be exact).

“This bill is turning into the gift that keeps on giving, but only for the railroad industry,” said BLE International President Edward Dubroski.

The amendment to H.R. 4844, passed by a voice vote in the U.S. House Ways & Means Committee on July 25, would cut the current 4.4 cent tax on diesel fuel used by railroads to just 0.1 cents per gallon. Early estimates predict this would save the carriers up to $170 million per year. In addition, an agreement between the carriers and 11 railroad unions, which is the basis for H.R. 4844, proposed reductions in carrier contributions to the industry’s pension plan, which is known as Tier II. These proposed reductions would provide the carriers with a net savings of more than $400 million per year.

The 4.3 cents per gallon tax on diesel fuel was originally used to help pay off the national debt. Now that the United States has a budget surplus, the Class I carriers and the nation’s shortline industry were debating over how money raised from the diesel fuel tax should be used.

Class I carriers have invested in larger railcars that hold more tonnage than ever before. Shortline carriers need to upgrade their track infrastructure in order to safely handle these heavier loads. Over the objections of the Class I carriers and rail labor, the shortlines were lobbying to gain control of the extra tax money to help reach the same track standards as Class I carriers.

TTD votes to mobilize team of political activists

International President Edward Dubroski led the BLE delegation at the AFL-CIO Transportation Trades Department’s (TTD) 10th Anniversary Convention, July 20-21 at the Capital Hilton Hotel in Washington, D.C.

Delegates to the convention agreed July 20 to mobilize a permanent force of political activists who will continue working between national elections to “promote an agenda to create jobs, improve safety and strengthen job security for millions of American transportation workers,” said Transport Workers and TTD President Sonny Hall.

Speaking to the delegates July 21, Vice President Al Gore said he will make workers’ issues a key part of his agenda if he is elected President.

President Dubroski sits on the TTD’s Finance Committee and is the chairman of the Legislative Activist Committee. He addressed the convention delegates in his capacity as chairman.

In addition to Vice President Gore, other distinguished political and labor leaders who addressed the 270 TTD delegates included:

- John Sweeney, AFL-CIO

In his role as Chairman of the TTD Legislative Activist Committee, BLE International President Edward Dubroski addresses the 270 delegates attending the TTD’s 10th anniversary convention.

Will carriers get richer?

The Federal Railroad Administration (FRA) held a Technical Conference on Remote Control Locomotives on July 19, 2000. The conference was attended by over 75 representatives of the railroad industry, rail labor and industry suppliers.

The rail labor contingent was comprised of representatives of the Brotherhood of Locomotive Engineers (BLE), the Brotherhood of Railroad Signalmen (BRS) and the United Transportation Union (UTU).

In opening remarks, the UTU informed the conference of the agreement between the operating craft unions to maintain a single position, stating that “because of the significance of this issue to the lives and safety of the people working in our industry, the UTU and BLE are here today united and speaking with one voice. We are here today as one group to actively participate in development of a proposal on substantive provisions designed to ensure the safety of employees represented by both unions, and to limit the use of remote control to those operations currently existing.”
BLE making tracks on the campaign trail

Dear Sir and Brother:

You have asked if the metal tag attached to the wall in the locomotive cab is a measurement of noise inside the cab.

The answer is no. The measurements that are taken and placed on the badgetape or tag are actually taken from outside the cab of the locomotive to fulfill requirements established by the Noise Control Act of 1972, required by the Environmental Protection Agency (EPA) and enforced by the Federal Railroad Administration (FRA). These measurements are not related to the levels of sound inside the cab.

The requirements for posting the information can be found in 49 CFR Part 210.27, they include:

“New locomotive certification.

(a) A railroad shall not operate a locomotive built after December 31, 1979, unless the locomotive has been certified to be in compliance with the Standards.

(b) The certification prescribed in this section shall be determined for each locomotive model, by either:

(1) Load cell testing in accordance with the criteria prescribed in the Standards; or

(2) Passby testing in accordance with the criteria prescribed in the Standards.

(c) If passby testing is used under paragraph (b)(2) of this section, it shall be conducted with the locomotive operating at maximum rated horsepower output.

(d) Each new locomotive certified under this section shall be identified by a permanent badge or tag attached to the wall in the cab near the location of the inspection Form F 6189-49. The badge or tag shall state:

“Locomotive cab noise is measured "under typical conditions of operation" by the railroad to conform to a standard or an accepted noise level measurement procedure to bring it within the prescribed noise limits.”

The regulation further describes the requirements for movement of noise defective locomotives and equipment; waiver processes; inspection and testing; measurement criteria and procedures; penalties, and procedures for certification that the locomotive meets the required Standards.

The actual limits of noise generated by the railroad can be found in the Appendix A of Part 210. The science of noise and the noise information in the Appendix is not easily described. Generally speaking, a stationary locomotive manufactured after 1979 should emit sound levels below 87 dB (A weighted sound) when at idle, as measured 100 feet from the source. Noise levels measured at the same distance for all other throttle settings should not exceed 87 dB while stationary and 90 dB while moving. There are other requirements for locomotives manufactured before 1979, switcher locomotives, yard equipment and facilities, moving rail cars, and load cell tests.

The requirements for locomotive cab noise are found in §49 CFR Part 229.121. The permissible limits are determined by a formula that considers level of sound, established and measurable sound characteristics, and assessed on the basis of exposure that is generally accepted as 85dBA.

Formal rules that impact your job, or about formal laws, Federal Railroad Administration (FRA), and other agencies are available in the Federal Register and the pertinent legislation. These documents can be found online at the federal government’s website. If you have a question about federal interpretation, or about how to make your workplace safer, please let us know. We are here to protect your rights and the rights of your co-workers.

Or you can fax your questions to (202) 347-5237 or via e-mail to: blede@aol.com.

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A new benefit year under the Rail- road Unemployment Insurance Act be- gins July 1, 2000, on the conclusion of the fiscal year of the U.S. Railroad Retirement Board. This Act provides two kinds of benefits for qualified railroad employees: unemployment benefits for those who become unem- ployed but are ready, willing and able to work, and sickness benefits for those who are unable to work because of sickness or injury. Sickness benefits are also available for days of unemployment over four in 14-day claim periods. Unemployment benefits are payable for each day of unem- ployment or sickness in excess of seven which, in effect, provides a one-week waiting period. Separate waiting peri- od periods are required for unemployment and sickness benefits. However, only one waiting period is required during any period of continu- ing unemployment or sickness, even if those periods continue into a subsequent benefit year.

Initial sickness claims must also begin with four consecutive days of sickness.

5. Are there special waiting-pe- riod requirements if unemployment is due to a strike?

A workman unemployed because of a strike conducted in accordance with the Railway Labor Act, benefits are payable for days of unemployment during 14-day claim periods after the first claim period, but no benefits are payable for days of unemployment dur- ing the first 14 days of the strike.

If a strike is in violation of the Rail- way Labor Act, unemployment benefits are not payable to employees partici- pating in the strike. However, employ- ees who are involved in a strike that is such an illegal strike, but who are un- employed on account of the strike, may receive benefits after the first two weeks of the strike.

While a benefit year waiting period ends, the strike waiting period, the 14-day strike waiting period may count as the benefit year waiting period. A strike that subsequently be- comes unemployed for reasons other than a strike later in the benefit year.

6. Can employees in train-and- engine service receive unemploy- ment benefits for days when they are standing by or laying over between scheduled runs?

Yes, but only if the miles and/or hours they stand by or lay down during any given 4-day claim period are less than the equivalent of normal full-time work in their class of service during the 12-month period. Entitlement to unemployment benefits would also depend on the employee’s earnings.

7. Can extra-board employees re- ceive unemployment benefits be- tween jobs?

Yes, but only if the miles and/or hours they stand by or lay down during any given 4-day claim period are less than the equivalent of normal full-time work in their class of service during the 12-month period. Entitlement to unemployment benefits would also depend on the employee’s earnings.

8. How would an employee’s earnings in a claim period affect his or her eligibility for unemployment benefits?

If a claimant’s earnings during the 49-week period and/or days of employment or paid leave, in a 14-day claim period are more than a certain indexed amount, no ben-efits would be payable for those days of em- ployment in that period. The claim, however, can be used to satisfy the waiting period.

Earnings include pay from railroad and nonrailroad work, as well as part-time earnings. Part-time earn- ings also include pay that an employee would have earned except for a failure to work because of illness or injury or because he or she missed a turn in pool service or was otherwise not ready and able to work. Earnings after J uly 2000 which will be used in determining eligibility for ben- efits in the new benefit year.

9. How does a person claim un- employment benefits?

Benefits are payable for each day of unemployment or sickness benefits. Applicants must complete an appli- cation from their labor organization, local Railroad Retirement Board office or the Board’s Web site at www.rrb.gov. The completed applica- tion should be mailed to the local Board office as soon as possible. In the case of an injury, the claim must be filed within 30 days of the date on which the claimant became unemployed or employed on any day for which he or she wishes to claim benefits. Benefits may be payable in the application is filed late.

The local Board office reviews the completed ap- plication and notifies the claimant’s current rail- road employer if different. The employer has the op- portunity to provide information about the benefit application.

After the Board office processes the application, biweekly claim forms are mailed to the claimant as long as he or she remains unemployed and eligible for benefits. Claim forms should be signed and mailed on or after the last day of the claim period. The completed claim forms are received by the Board office within 15 days of the end of the claim period or the date the claim was mailed to the claimant, whichever is later.

Only one application need be filed during a benefit year even if a claim- ant becomes unemployed during more than one claim period. However, a claimant must, in such a case, request biweekly claim forms from a Board field office within 30 days of the first day of the period for which he or she wishes to resume claiming benefits.

10. How does a person claim sick- ness benefits?

An application for sickness benefits can be obtained from railroad labor organizations, railroad employers, any Board office or the Board’s Web site. An application and a doctor’s state- ment of sickness are required at the beginning of each period of continuing sickness for which benefits are claimed.

The Board suggests that employees keep an application on file for use in claiming sickness benefits, and that family members know where the form is kept. If an employee becomes unable to work because of sickness or injury, the employer should complete the claim form and return it to the Board for comple- tion of the statement of sickness. If the employee is too sick to complete the application, someone else may do so. In such cases, a family member should also complete the “Statement of Autho- rity to Act for Employee,” which ac- companies the statement of sickness.

11. Is a claimant’s employer no- tified each time a biweekly claim for unemployment or sickness benefits is filed?

The Railroad Unemployment Insur- ance Act requires the Board to notify the claimant’s base-year employer each time a claim for benefits is filed, and to give that employer an opportunity to submit information relevant to the claim before the Board’s initial decision is made.

In addition, the claimant’s current employer is also notified. The Board must notify the claimant’s base-year em- ployer each time benefits are paid to a claimant. The base-year employer may appeal the decision to pay benefits. The appeal does not affect the person’s payment of benefits. Ho- wever, a claimant may be re- quired to repay benefits if the appeal is successful.

The Board also checks with other rail- road companies and all 50 States to detect fraudulent benefit claims; and it checks with physicians to verify the accuracy of medical state- ments supporting sickness benefit claims.

12. How long does it take to re- ceive payment?

Persons who file an application for benefits may expect to receive a claim form or a determination of no benefits within 15 days of the date they filed their application. When they file bi- weekly claim forms, they may ex- pect to receive a payment, or a decision on a claim, within 15 days of the date they filed the claim. In most cases, however, claims for some benefits may take longer to handle than others if there are more complex considerations. The Board has to get information from other people or organizations. If this hap- pens, claimants may be given an expla- nation and an estimate of the time re- quired to make a decision.

Railroad unemployment and sick- ness benefits under RRB Act provide two kinds of benefits for qualified railroad employees: unemployment benefits for those who become unem- ployed but are ready, willing and able to work, and sickness benefits for those who are unable to work because of sickness or injury. Sickness benefits are also available for days of unemployment over four in 14-day claim periods. Unemployment benefits are payable for each day of unem- ployment or sickness in excess of seven which, in effect, provides a one-week waiting period. Separate waiting period periods are required for unemployment and sickness benefits. However, only one waiting period is required during any period of continu- ing unemployment or sickness, even if those periods continue into a subsequent benefit year.

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EASTERN UNION MEETING ASSOCIATION

Nominations for division officers begin in September; election in December

As outlined in Section 7(a) of the BLE Constitution & Bylaws (page 64), nominations for division officers will be held at the first regular meeting in September.

The Secretary-Treasurer of each division will post a notice stating the date, time and location of the September meeting (the notice may also be mailed). A member may be nominated for office whether he/she is at the meeting or not, but he/she must be a member in good standing at the time of nomination.

The election of officers will be held at the first division meeting in December. Another notice will be posted stating the date, time and location of this meeting. At least 15 days before the meeting, the ST will mail the printed ballot along with envelopes to each division member. After voting, the ballot can be mailed to the post office box for the division. The ballots will be counted at the December division meeting.
General Chairman Marv Mitchell dies of heart attack

BLE General Chairman M.A. “Marv” Mitchell died suddenly of a heart attack on Friday, August 4, in Elk Grove, Calif.

Brother Mitchell, 53, was recently re-elected General Chairman of the Union Pacific Western Region. A BLE member since 1974, he belonged to Division 800 (Portola, Calif.).

A memorial service was held on Wednesday, August 9, in Stockton, Calif. He is survived by two daughters.

Family and friends request that in lieu of flowers, donations be made to the American Heart Association, Stockton Chapter; or Guide Dogs for the Blind, PO Box 151200, San Rafael, CA, 94915-1200; or to a charity that is meaningful to the donor.

“We are deeply saddened by the unexpected passing of Brother Mitchell,” said BLE President Edward Dubroski. “Marv provided many years of dedicated service to our Brotherhood. He will be missed.”

Brother Mitchell will be remembered as one of several key witnesses in hearings before the National Mediaion Board in July of 1999. His testimony helped the BLE protect the crafts of locomotive engineer and conductor from extinction.

More recently, Brother Mitchell was appointed by BLE International President Edward Dubroski to serve on a joint committee to explore closer ties between the BLE and the Transport Workers Union (TWU), the Brotherhood of Maintenance of Way Employees (BMWE) and the American Train Dispatchers (ATDU).

Delegates and members of the BLE’s Montana State Legislative Board held their quadrennial meeting from June 21-22 in Billings, Mont.

The Board considered a number of matters and elected officers for four-year terms. Elected at the meeting were:

• Craig Gilchrist (Division 289), Chairman;
• Paul Slater (Division 232), Vice Chairman;
• D.C. Wetsch (Division 195), Secretary-Treasurer; and
• Dave Torgerson (Division 499), Alternate Secretary-Treasurer.

The BLE convention immediately preceded the Montana state AFL-CIO convention which the BLE members also attended.

“The meeting was very productive, with all members contributing to the work and the agenda before the Board,” said Chairman Gilchrist.

“We combined several educational programs along with matters of old and new business including consideration of a number of resolutions and the endorsement by the Board of political candidates in the current election cycle. This made for a well rounded and a very useful meeting.”

“The participation by our BLE members in the state AFL-CIO convention was time well spent, they had an opportunity to meet other people in the trade union movement,” Brother Gilchrist continued.

“In this way, others can come to know the problems that face rail workers and it helps create broader solidarity in the labor movement.”

More recently, Brother Mitchell was elected First Vice-Chairman of the UP Western Region General Committee in June, succeeds Mitchell as General Chairman. Jim Dayton has been elevated to the position of First Vice Chairman.

“The integrity and style he brought with him in everything he did for the BLE are attributes few men possess,” said Donnigan, who knew Mitchell for 15 years. “I can only hope that our memory of him will inspire us and set an example of how we should act towards others as well as raise the caliber of our work.”
The theme of the convention, “A Bold Voice — A Decade of Action,” reflects transportation labor’s strong reach into the American economy and marks the TTD’s 10th year of service.

Through the TTD, the transportation arm of the 13 million member AFL-CIO, working families represented by the department’s 30 member unions have a strong, national voice in Washington.

Secretary of Transportation Rodney Slater, center, meets with International President Ed Dubroski, left, and BLE Vice-President & U.S. National Legislative Representative Leroy D. Jones, right.

From left: CSX General Chairman Tony Smith; International President Edward Dubroski; Texas State Legislative Board Raymond Holmes (background); Union Pacific General Chairman Lee Pruitt; and California State Legislative Board Tim Smith.

From left: TTD Chairman Sonny Hall, who is also President of the Transport Workers Union of America; BLE President Dubroski; and LIRR General Chairman Evers.

Members of the BLE delegation meet with Deputy Secretary of Transportation Mort Downey, center, white beard. From left: GTW General Chairman John Karakian; CSX General Chairman Smith; UP General Chairman Pruitt; Mort Downey; BNSF General Chairman Geiger; International President Dubroski; LIRR General Chairman Evers; and Vice-President Jones.
BLE welcomes new members

Membership in the Brotherhood of Locomotive Engineers is growing to numbers not seen in decades as North America’s oldest railroad labor union welcomes a new and diversified membership.

In the past year, the BLE has initiated nearly 3,500 new members — an average of 280 per month — to bring overall membership to more than 59,500. This unprecedented growth streak is due in large part to the BLE’s active recruitment of conductors and trainmen.

Members of two newly chartered divisions — Division 218 (Laredo, Texas) and Division 244 (Laredo, Texas) — are the pioneering Brothers and Sisters who have blazed a trail for other trainmen to follow.

Division 218 represents a first in BLE history — it is a BLE division chartered exclusively to trainmen. Division 244 (from the Texas-Mexican Railway) is also unique in that it gives the BLE a train & engine service employee presence for the first time in history.

**Division 218 — Union Pacific**

“We worked long and hard at this and we are extremely proud to be the first-ever BLE Trainmen’s Division,” said Shane Lewis, local chairman of Division 218 (Union Pacific).

The recruitment of trainmen members can be traced to Jan. 12, 1998, when the United Transportation Union members became disillusioned with the path of destruction UTU leaders had taken. Many, like the Brothers and Sisters who eventually formed Division 218 in Laredo, turned to the BLE for relief.

“We do not agree with many of the UTU’s recent actions,” Lewis said. “We could not continue to support an organization that has lost touch with its membership.”

The final straw came on March 15, 2000, when the UTU dropped out of the AFL-CIO. “This could not have happened without the hard work and dedication of so many people,” Lewis said. “There are a few people that I’d like to personally thank, the first being Mr. Gus Meza. He has shared his many years of experience and helped guide all of us along the way. We must give thanks to Mr. Joe Martinez for always giving selflessly when a need surfaced.”

Brother Meza is now president of Division 218 while Brother Martinez is the vice-president. In addition, John Witt is the Secretary/Treasurer, Dionicio Cruz the Legislative Representative, Jeffrey S. Akeroyd and Carlos G. Gonzalez are the Vice Local Chairmen, and Enrique Rendon is the Assistant Secretary-Treasurer.

“I am proud to recognize all new trainmen members and welcome them to the Brotherhood of Locomotive Engineers,” said BLE International President Edward Dubroski.

As a symbol of the BLE’s commitment to trainmen, Brother Lewis has been elected vice-general chairman of the UP-Western Region General Committee of Adjustment. The GCofA by-laws expressly state this position is responsible for handling trainmen issues.

“... This shows how our organization is taking (these issues) seriously and is creating a structure to address trainmen needs,” Lewis said.

**Division 244 — Tex Mex Railway**

The BLE also welcomes the members of newly chartered Division 244 from the Tex Mex Railway. These brothers give the BLE a diversified membership as they represent the first “train and engine service employees” to belong to the BLE.

This combined-craft status was forced on the Tex Mex brothers by the National Mediation Board, at the request of the United Transportation Union. UTU requested the NMB issue such a ruling in an effort to thwart a BLE-sponsored representation election for the engineer’s craft on the Tex Mex. Early estimates were that the BLE would win the election, and the combined craft issue was a last-ditch effort by the UTU to undermine the likely BLE victory.

Workers on the Tex Mex voiced their displeasure with the combined craft issue in a certified letter to UTU President Charles Little. “Your position that the lines of distinction between the craft of locomotive engineer and conductor have become blurred to the point of extinction is totally without merit on the Tex Mex,” the workers wrote.

Upon making the “train and engine service employee” classification an official craft, the NMB quashed the BLE’s representation election attempt and suspended all such elections for a period of two years.

Disagreed with UTU leadership, 22 Tex Mex workers submitted applications to the BLE and formed Division 244. These brothers were granted a charter and will represent their own General Committee of Adjustment as well. George Leyendecker will serve as General Chairman and Local Chairman.

Brother J.J. Vara is president, Arnold Salinas is Secretary-Treasurer, Rick Castilleja is Legislative Representative, and Terry Gill is the Vice Local Chairman.

**Welcome, Brothers**

“The hardships these new brothers suffered in their efforts to join the BLE will make our organization stronger,” said President Dubroski. “Not only do they provide us with added strength in numbers, they give us an added strength of character.”

“I believe I speak for all BLE members when I say their courage and determination is something to be admired. I am proud to welcome them to the BLE and to call them Brother.”

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Members of BLE Division 218 (Laredo) pictured here are Charley Gonzalez, vice-local chairman; Donny Cruz, legislative representative; Bear Bennett, legislative representative; Raul Abrego, Shane Lewis, local chairman & UP vice-general chairman; and Wicho Gonzalez.

Members of BLE Division 218 (Laredo) at a recent meeting are, foreground: Donny Cruz, legislative representative; Charley Gonzalez, vice-local chairman; Raul Abrego, Wicho Gonzalez, and “General” Piendam. Pictured in the background is: Joe Casco, vice-local chairman of BLE Division 307 (San Antonio); John Witt, secretary-treasurer of Division 218; Rene Gonzalez; Nate Egiecas; and Joe Martinez.

More members of Division 218 (Laredo) at a recent meeting are, foreground: Donny Cruz, legislative representative; Charley Gonzalez, vice-local chairman; Raul Abrego, Wicho Gonzalez, and “General” Piendam. Pictured in the background is: Joe Casco, vice-local chairman of BLE Division 307 (San Antonio); John Witt, secretary-treasurer of Division 218; Rene Gonzalez; Nate Egiecas; and Joe Martinez.

Members and officers of BLE Division 244 (Tex Mex) proudly display their new charter with representatives of the BLE International Division who helped organize the Tex Mex property.

Seated, from left: ID Special Representative Tommy Miller; Division 244 Member Hector Tijerina; and Division 244 Member Danny Gustamante.

Standing, from left: Tex Mex General Chairman George Leyendecker; International Vice-President William C. Wolfpert; Division 244 President J.J. Vara; International Vice-President Ed Rodzwicz; and Division 244 Member Arnold Salinas.

A telephone call to the BLE International by General Chairman Leyendecker was the first step in the process that led the Tex Mex workers into BLE membership.