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FRA JUST REDUCED THE PROSPECTS FOR A SAFER RAILROAD INDUSTRY



BY DENNIS
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PRESIDENT

On Thursday, May 24, 2019, we were informed that the Federal Railroad Administration (FRA) had released a notice, withdrawing a 2016 notice of proposed rulemaking establishing a minimum train crew size for most rail freight op-

erations in the United States. This news was not surprising.

What is shocking, however, is the degree to which FRA has chosen to subordinate the safety of BLET and SMART TD members, other railroad workers, and the American public to the interests of the nation's major railroads.

FRA's reference to current crew sizes, which have existed for decades, as mere "crew redundancy" displays an astonishing ignorance of the findings of the agency's own research studies, which establish—in detail and beyond dispute—the unique and specific duties of each crewmember.

FRA also disappointingly engages in self-serving fact selection in its attempts to negate the importance of the 2013 Lac-Mégantic tragedy and the Casselton,

North Dakota oil train derailment—and subsequent explosion and fire—to the crew size debate. And it simply ignores several subsequent accidents where a two-person crew saved the public from an even more horrific outcome.

In its rush to diminish the safety impact of common-sense crew size regulations, FRA also points to various regulations requiring risk analyses and the adoption of risk reduction plans by railroads. While our Organizations fully support such plans, we note that Congress mandated regulations governing these subjects more than a decade ago, but they have yet to be promulgated because of industry recalcitrance and obstructionism.

Also, the argument that two-person crews have not been proven safer—be-

cause of FRA's failure to collect crew size data—while the data support a conclusion that single-person crews are not demonstrably less safe is mystifying in its logic, to be charitable.

Moreover, the federal rail safety regulator hints that there is no "specific requirement that would prohibit autonomous technology from operating a locomotive or train" in the absence of any human crewmember whatsoever as a means of "reducing accidents caused by human error." If the ongoing grounding of the Boeing MAX aircraft has taught nothing else, FRA and the Department of Transportation should be mindful of the danger of transferring the risk of a human factors accident from operator to programmer when auto-

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BIG SKY COUNTRY

An eastbound BNSF freight train crosses the trestle over the Two Medicine River near East Glacier, Montana, on August 5, 2014.
Photo: Brother Richard C. Bartela Jr., a member of BLET Division 382 in Buffalo, N.Y.

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BLET PRESIDENT'S MESSAGE BY DENNIS R. PIERCE

WHEN DOING MORE WITH LESS POSES A THREAT

In my most recent *President's Message* I wrote about the Precision Scheduled Railroading (PSR) phenomenon in the railroad industry, and how PSR focuses on "asset maximization" in an effort to sharply drive down operating ratio, which is the percentage of railroad revenue spent on operating costs.

This focus on operating ratio suggests that railroads are not very efficient. Data published by the Association of American Railroads (AAR) show otherwise.

Between 1980 and 2016, traffic density tripled, from 5.58 million ton-miles per mile of road to 16.99. And, today, railroads can move one ton of freight 479 miles on one gallon of fuel, which is double the fuel efficiency in 1980.

AAR also acknowledges that productivity gains by locomotive engineers and trainmen over the past four decades are similarly dramatic:

"From 1980 through 2017, rail employee productivity (measured by ton-miles per employee) rose 467 percent; locomotive productivity (measured by ton-miles per locomotive) rose 93 percent; and average freight carried per train rose 63 percent. The most commonly used broad measure of rail-industry productivity — ton-miles per constant-dollar operating expense — was 159 percent higher in 2017 than in 1980."

We all know that efficiency and productivity have continued to soar in more recent years. Two of the most obvious changes in productivity are the ever-increasing use of Distributed Power (DP) locomotive consists as well as the operation of longer and longer trains.

When I testified before Presidential Emergency Board No. 243 in October of 2011, I demonstrated the productivity of BLET members by showing the Board's members a video of a train operated from Dallas, Tex., to Long Beach, Calif. by Union Pacific in January 2010. This train consisted of 9 locomotives and 294 cars, and measured 18,000 feet in length, nearly 3½ miles long.

The make-up of the train was as follows: 3 locomotives, fol-

lowed by 98 cars, followed by two more locomotives, followed by another 98 cars, followed by another two locomotives, followed by a third group of 98 cars, with two additional locomotives bringing up the rear. This basically was three trains coupled together — with a pair of helpers on the hind end — and a single locomotive engineer was charged with the responsibility of controlling and operating this behemoth. As a credit to the engineer's professionalism, the train arrived safely at its destination.

And in past months, both UP and BNSF have begun combining two loaded coal trains and operating them as a single train on multiple routes across the country. Again, thanks to the experience and professionalism of the involved train crews these trains arrived safely.

As a result of these changes, much of the increase in productivity to which the AAR points is the result of locomotive engineers and trainmen doing more work than one person did in earlier years.

That is where the history of improved productivity and its relationship to working class Americans starts to change. For more than 30 years after World War II, increases in productivity led to parallel increases in median wages. Strong unions fighting for and winning a fair share of increases in productivity by union members is what built and sustained the American Middle Class during this period.

But by the late 1970s, union concentration in America was in serious decline. In 1981, then-President Reagan declared open season on unions by decimating the Professional Air Traffic Controllers Organization. This anti-worker attack was accompanied by an ever-increasing tilt in favor of Corporate America by Congress.

As a result, median U.S. wages, adjusted for inflation, have been stagnant for the past 40 years. Productivity has continued to increase, but most of the new wealth generated by workers' increased productivity was retained by the corporations.

Although locomotive engi-



President Pierce at a recent training class for BLET Secretary-Treasurers.

neers, trainmen and all other railroad workers fared much better than many other Americans over the years due to their Union contracts, railroads routinely dismiss our increased productivity when it comes to payday.

This fall we will undertake another round of national bargaining. Unfortunately, we begin in a climate that is openly hostile to working men and women, and to the unions that represent them. As we approach negotiations, railroads continue to be highly profitable, in large part due to operational changes, many of which are at the expense of the workforce. At the same time, railroads routinely assert that they need even more relief to compete with the trucking industry.

All the while the railroads give little if any credit whatsoever to their workers for the increased productivity that they freely concede has occurred. Instead, the carriers claim, it's all due to the technology, as if these 2 and 3 mile long trains ran themselves.

In fact, the AAR figures I quoted above were included in comments the Association filed with the U.S. Department of Transportation concerning automation in the transportation industry. Once again, the carriers sought to create a platform to advocate eliminating another

crew member. This time the so-called threat is driverless trucks, as if the cost of a single crew operating a 100-car double stack train equated to the number of truck drivers that would be needed to carry the same number of trailers. And one carrier went so far as to identify fully-automated train operations as a goal.

In 1954, United Auto Workers President Walter Reuther toured the Ford Motor plant in Cleveland. A company official pointed out some new automatically controlled machines and asked Reuther "How are you going to collect union dues from these guys?" Reuther replied, "How are you going to get them to buy Fords?"

Our industry and our Nation face the same potential problem Brother Reuther identified 65 years ago; the pursuit of new technology threatens jobs in the drive to improve productivity. Even more important is the impact that additional crew size reductions are certain to have on the safety of railroads employees and the general public.

Making our struggle even tougher, on May 24 the Federal Railroad Administration took sides with the carriers, announcing that it would withdraw a proposed rule requiring two-person crews on certain freight and passenger trains. FRA went a step

further by attempting to preempt state laws that mandate a minimum crew size, even though there is no governing federal regulation. This was in spite of the fact that during the public comment period for the proposed regulation, the FRA received 1,545 written statements in support of train crew requirements, while just 39 comments opposed crew size regulation.

Our greatest challenge is that the rail industry seems hell-bent on risking public safety for a few dollars more at the expense of already highly productive, highly trained and highly professional train crews. Trains so long that long standing technology such as two way telemetry is rendered inoperable is a risk that railroads are willing to take, but this profit driven operation puts our lives, and the safety of the general public, at risk. Whether it be trains so long that they challenge a safe operation, or additional attempts to reduce below a two-person crew, we must have a Federal Railroad Administration that will do its job and regulate the safety of the operation. Railroads have long fought all attempts to be regulated, but history makes it clear that safety regulations have made the railroad workplace safer. Profit-driven railroads won't always do that on their own.

All of this means that we must unite in our fight to protect a safe workplace, and that must include us casting our votes for politicians that actually care about workplace safety. The politicians at the State level brave enough to pass the State crew size laws that FRA is now demeaning must be on that list. Those U.S. Representatives in Congress supporting our Federal Safe Freight Act (H.R. 1748) must also have our support when it comes time to cast our votes. We have just been reminded of the power the Federal Government has over our workplace; we deserve a Federal Government that works for us working class Americans, not just for corporate America.

DENNIS R. PIERCE
BLET NATIONAL PRESIDENT

BLET NATIONAL DIVISION ELECTRONIC COMMUNICATIONS POLICY

Official communications between BLET members and the National Division require a hard copy of the correspondence, bearing a signature, being received by the National President to be considered an "official communication." This is to provide that the actual question(s) are addressed, and ensures that when official interpretations are made they have

reference to a specific request and can be used in future correspondence.

The volume of e-mails received makes it impossible for the National President to answer all unofficial communications. Therefore, it is the policy of the BLET that e-mails addressed to the National President will be reviewed and forwarded to the appropriate officer or staff for a timely

response; however, an e-mail message is not considered an official communication.

Moreover, anonymous e-mails and e-mails that do not provide sufficient information concerning the sender to enable National Division staff to confirm the sender's membership status will not receive any reply or acknowledgement. This policy is intended to allow the National

President to be aware of the opinions and suggestions of the membership, while at the same time providing a timely response to the member's unofficial communication, if a response is necessary, without needlessly expending limited BLET resources.

ADOPTED AT CLEVELAND, OHIO ON JULY 22, 2010. ©©



GENERAL PRESIDENT'S MESSAGE BY JAMES P. HOFFA

MIDWEST WILL PLAY CRITICAL ROLE IN 2020 ELECTION

The Midwest finds itself at the forefront of the 2020 presidential election conversation.

Thanks to the slim victory voters gave to President Trump in states such as Michigan and Wisconsin in 2016, those running for president this time know they need to win all across the Midwest if they want to reach the White House. So even though it's still more than a year-and-a-half until the next general election, contenders are coming to America's heartland to talk about the issues.

It may seem ridiculously early. But Midwesterners would be wise to engage in the process now. It's these first months of the campaign when candidates will be fleshing out their platforms and crafting the policy ideas that they will be prioritizing. And workers must make



sure that kitchen table issues that support families are the main topic of discussion.

Securing good-paying jobs that will remain in this country is important. Ensuring qual-

ity health care benefits are available for everyone is important. And guaranteeing that those who worked hard all their lives will be able to retire with dignity is important.

The Teamsters have been leading the fight on these issues for years. And the union plans to take all the time it needs to consider these important factors and speak with a united voice for its members. To that end, the Teamsters have unveiled protocols for the 2020 presidential election that explain the process and dictate how candidates interested in obtaining Teamster support should work to do so.

Highlighted among top concerns of the union is preventing the looming pension and retirement crisis; ensuring U.S. workers are represented in international trade deals; and protecting wages and labor standards. Can-

didates seeking the endorsement of the Teamsters must understand the importance unions play in the working lives of the American worker.

As the union's endorsement process moves forward, the Teamsters will seek input from BLET and other union leaders to ensure that the candidate that earns the union's support best represents its political priorities. While the Teamsters recognize that members may not agree on everything, working together, this union can help select and support a candidate who will grow and strengthen this union for workers and unify this country.

Fraternally,

JAMES P. HOFFA
TEAMSTERS GENERAL
PRESIDENT

66 Securing good-paying jobs that will remain in this country is important. Ensuring quality health care benefits are available for everyone is important. And guaranteeing that those who worked hard all their lives will be able to retire with dignity is important. 99

Registration open for BLET's Clearwater regional meeting, July 22-26, 2019

Registration is now open for the BLET regional meeting at the Hilton Clearwater Beach hotel in Clearwater, Fla., July 22-26, 2019.

The BLET National Division is planning a meeting filled with educational opportunities and entertaining leisure time activities. Guests will stay at the Hilton Clearwater Beach (400 Mandalay Ave, Clearwater, Fla., telephone: (800) HILTONS). BLET convention registration as well as hotel registration can be made through the BLET's regional meeting website, <http://bletregionals.org>. If making reservations by telephone, you must mention the group code "BLET19."

The Clearwater regional meeting kicks off with registration and a welcome reception on Monday, July 22 (ticket required). Opening ceremonies will take place the morning of Tuesday, July 23, with a closed meeting for BLET members that afternoon. A golf tournament will be held on Wednesday, July 24, at the Innisbrook Golf Resort. There is an



**FOR ALL 2019 BLET REGIONAL MEETING
INFO GO TO: BLETREGIONALS.ORG**

additional cost to register for the golf tournament. Non-golfers will be on their own to explore the many entertainment options that Clearwater has to offer.

Workshops will be held for Local Chairmen, Secretary-Treasurers and Legislative Representatives throughout the day on Thursday, July 25. The BLET's

Clearwater regional meeting will conclude with a dinner dance the evening of July 25. Attendees will travel home on July 26.

There is no cost for BLET members who wish to attend the July 23 meetings and July 25 workshops only; however, there will be fees for those members who choose to attend the meals. The cost of full registration (including all meetings, workshops, the dinner dance and all BLET sponsored meals) is \$225.00 per person. The cost is \$175.00 to register for all of the above EXCEPT the dinner dance. Reduced children's registration and a la carte meal registration options are also available. Please visit <http://bletregionals.org> for more information about the registration process.

The BLET will host two regional meetings in 2019. In addition to the Clearwater meeting, another regional meeting will be held in St. Louis, Mo., from June 24-28. Please visit the BLET website, Facebook page, and <http://bletregionals.org> for the latest information. @@

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BLET, SMART TD announce national two-person crew legislation

Two large railroad unions in the United States have pledged their joint support for the Safe Freight Act legislation, which was introduced by U.S. Rep. Don Young (R-Alaska) during late March.

The Safe Freight Act (H.R.1748) requires that two certified crew members operate freight trains on U.S. rails and has the backing of the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the International Association of Sheet Metal, Air, Rail and Transportation Workers — Transportation Division (SMART TD).

"This is necessary safety legislation to protect railroad workers and the American public," BLET National President Dennis R. Pierce said. "While the railroad industry talks of one-person train crews and even autonomous trains, the 2013 tragedy of Lac-Megantic is justification enough that we need two sets of eyes and ears in the locomotive cab."

"SMART Transportation Division has been working tirelessly to promote safety in the railroad industry, and there is no doubt that the only safe rail operation is one that includes at a minimum a certified conductor and a certified locomotive engineer," SMART TD President John Previsich said. "A clear message must be sent to our lawmakers and to the general public that multi-person crews are essential to ensuring the safest rail operations possible in their communities. I would like to thank Congressman Young for his leadership on this critical issue as we continue to improve safety on our nation's railroads for both our members and for the general public."

Recent well-publicized rail accidents in other nations involving trains with one or no crew members show how smaller crews increase the risk of catastrophe in rail accidents.

In September 2018, an autonomous runaway TasRail train reached speeds of 31 mph before it derailed in the Tasmanian city of Devonport, injuring two people. The train had become unresponsive to remote control commands, including the train's emergency stop feature.

On Nov. 5, 2018, a runaway BHP ore train of 268 cars with no one aboard reached speeds of 62 mph before it was forcibly derailed in Western Australia. The approximately 1.9-mile-long train loaded with iron ore was operated by a lone crew member who had left the locomotive to inspect an issue with the brakes when the train began moving.

And finally, an oil train with a single-person crew in Lac Megantic, Quebec, Canada, rolled into the center of the town



"Safety is non-negotiable, and this legislation is about railroad safety. The members of the BLET and SMART TD are highly-trained professionals who have dedicated their lives to performing their jobs as safely as possible, and we thank Congressman Young for his ongoing support and for introducing H.R. 1748."

— JOHN TOLMAN, BLET VP & NLR

July 6, 2013, after its brakes disengaged. The resulting derailment touched off an inferno that killed 47 people and destroyed the town center.

In the United States, labor unions and others concerned with safety on the United States' 140,000 miles of rail are seeking to prevent such events from happening. Legislation setting crew size at two people aboard has passed in five states. Just this month a two-person crew bill backed by

both the BLET and SMART TD unions (H.B.1034) was signed into law March 21 by Colorado Gov. Jared Polis.

"Safety is non-negotiable, and this legislation is about railroad safety," BLET Vice President and National Legislative Representative John Tolman said. "The members of the BLET and SMART TD are highly-trained professionals who have dedicated their lives to performing their jobs as safely as possible, and we thank

Congressman Young for his ongoing support and for introducing H.R. 1748."

"Automation of cars, buses, aircraft and trucks are being addressed by legislation and in regulation by the federal government and many states. It's time the federal government provided some oversight on railroads," SMART TD National Legislative Director John Risch said. "Congressman Young's bill is a first step, and we thank him for his leadership on this. The safety of the public and our members depend on this."

This national legislation introduced by Young, a longtime advocate of railroad safety, is a common-sense step toward making our nation's rails safer for workers and the public alike. It has the full endorsement of both unions.

H.R. 1748 has been referred to the House Subcommittee on Railroads, Pipelines and Hazardous Materials.

The Brotherhood of Locomotive Engineers and Trainmen represents nearly 58,000 professional locomotive engineers and trainmen throughout the United States. The BLET is the founding member of the Rail Conference, International Brotherhood of Teamsters.

The SMART Transportation Division is comprised of approximately 125,000 active and retired members of the former United Transportation Union, who work in a variety of crafts in the transportation industry. ©©



BLET AND SMART STATEMENT ON FRA WITHDRAWAL

CONTINUED FROM PAGE 1

mous technology is implemented. For this reason, FRA's declared "support [for] the integration and implementation of new automation technologies" on the Nation's locomotives should give everyone pause.

Lastly, the Agency's invocation of the negative preemption doctrine is incredible. Both the industry and the Agency reject prescriptive safety regulations as a philosophical matter, because they supposedly require a "one size fits all" approach; indeed, this was part of the

Given the scope of this withdrawal, the Administrator has clearly failed the test, because he has placed corporate profits above public safety. Railroad safety has taken a giant step backward today, but our Organizations do not intend to let this development go unchallenged.

industry's argument against the proposed rule.

In stark contrast to this philosophy, FRA's invocation of negative preemption seeks to promulgate a prescriptive prohibition, regardless of the implica-

tions of its action on federalism. In so doing, the valid safety concerns expressed by supporters of the proposed rule such as National League of Cities—representing more than 19,000 cities, villages, and towns—and the Western

Organization of Resource Councils are dismissed out of hand.

We frankly did not expect this Administration to complete this rulemaking, but we did afford the new Federal Railroad Administrator a fair opportunity to demonstrate that safety was his primary objective. Given the scope of this withdrawal, the Administrator has clearly failed the test, because he has placed corporate profits above public safety. Railroad safety has taken a giant step backward today, but our Organizations do not intend to let this development go unchallenged. ©©

BLET legislative chairmen conclude 44th annual meeting

Members of the BLET's National Association of State Legislative Board Chairmen (NASLBC) concluded their 44th annual meeting on March 27, 2019, in San Diego, Calif.

The NASLBC has met annually since 1975 to hear from each State Chairman about railroad related safety and health issues, as well as their state's political climate.

Members elected the following officers to lead the NASLBC for the next three years: Chairman Paul Piekarski (Illinois State Legislative Board Chairman); Vice Chairman Nick Johnson (Arizona SLBC); Secretary-Treasurer Dave Dinges (Maryland SLBC). The following Regional Chairmen were also elected: Region 1 Herbert Harris (District of Columbia

SLBC); Region 2 M.D. Frank (Alabama SLBC); Region 3 David Brown (Minnesota SLBC); and Region 4 Cory Runion (Wyoming SLBC).

Several new State Legislative Board Chairmen were seated for their first NASLBC meeting, including: Brendan Sullivan (Florida SLBC); Shane Hubbard (Indiana SLBC); Calvin Groose (Missouri SLBC); Lanie Keith (Mississippi SLBC); Tim Laveing (Pennsylvania SLBC); and Jeff Rich (Tennessee SLBC).

BLET National President Dennis R. Pierce, First Vice National President E. Lee Pruitt, National Secretary-Treasurer Stephen J. Bruno, and Vice President & National Legislative Representative John P. Tolman were in attendance and addressed the NASLBC members and guests. President Pierce thanked the Chairmen for their



Jessica Cole and Kat Bisbikis of the BLET Auxiliary.

service to the Brotherhood and discussed a number of issues, including efforts on the state and national levels to secure two-person crew laws.

Also, BLET Director of Regulatory Affairs Vince Verna and BLET Director of Political and Legislative Affairs Bob Hagan both made presentations on behalf of the

National Division. Kat Bisbikis, BLET Auxiliary National President, and Jessica Cole, BLET Auxiliary National Second Vice President and National Legislative Representative, also addressed the group.

Guest speakers included: Rich Connor of the Federal Railroad Administration, who discussed Hours of Service regulations; and Bob Apriacio of the National Association of Retired and Veteran Railway Employees (NARVRE), who discussed the group's advocacy in assisting all active and retired railroad employees in support of Railroad Retirement.

The various committees of the Association also met and conducted their business for the year. The group will reconvene in 2020 for their 45th annual convention, which will be held in Austin, Texas. @



Officers, members and guests at the NASLBC's 44th annual meeting in San Diego, Calif., on March 27, 2019.



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BLET lobbies Capitol Hill, regulatory agencies for crew member safety

BLET officers and staff invested a lot of legwork lobbying for rail worker safety during the early part of March 2019. The BLET lobbying effort was led by National President Dennis R. Pierce and Vice President and National Legislative Representative John P. Tolman, with invaluable support for BLET Director of Regulatory Affairs Vince Verna and BLET Legislative and Political Director Bob Hagan.

On March 5, 6 and 7, the BLET team met with a dozen members of the U.S. House and Senate from both political parties, and held meetings with the heads of regulatory agencies, including Federal Railroad Administrator Ron Batory, Transportation Secretary Elaine Chao, and National Transportation Safety Board Chairman Robert Sumwalt and Member Jennifer Homendy. President Pierce also met with the heads of the National Carriers' Conference Committee and the Association of American Railroads.

Key meetings were held with Peter DeFazio (D-OR), Chairman of the House Transportation and Infrastructure Com-



Jennifer Homendy, NTSB Board Member; Dennis Pierce, BLET President; Robert Sumwalt, NTSB Chairman; and John Tolman, BLET VP and NLR

mittee, and House Speaker Nancy Pelosi's (D-CA) Chief of Staff. The BLET delegation also met with: Congressman Bennie G. Thomson, Chairman of the Homeland Security Committee, (D-MS);

Congressman Ben Ray Lujan (D-NM), the Assistant Speaker of the House; the staff of Congressman Rick Crawford (D-AR), ranking member on the Railroad Subcommittee; Congressman Dan Lipin-

ski (D-IL); Congressman Don Young (R-AK); the staff of Senator Roger Wicker (R-MS); Congressman Stephen Lynch (D-MA); Congressman Sam Graves (R-MO); Congressman Joe Kennedy (D-MA); and Congressman John Garamendy (D-CA).

Among the topics discussed were NAFTA and protecting union jobs in the cross-border dispute involving Mexican train crews entering the United States; the need for two-person train crews to ensure the highest levels of rail safety; the need to implement Positive Train Control as a layer of safety protection and not as a job reduction or replacement tool; precision scheduled railroading and its detrimental impact on safety and jobs; the need for accurate crew line ups to combat train crew fatigue; and railroad safety in general.

"Our meetings with the members of Congress and their staff were encouraging and supportive of our point of view," President Pierce said. "We will continue working with our friends in Congress across both political parties in order to best protect the rights and interests of our membership." ©©



Members of the BLET delegation meet with NTSB members and staff.



Rep. Dan Lipinski (D-IL) and President Pierce



John Tolman, BLET VP & NLR; Peter DeFazio (D-OR); and Dennis Pierce, BLET President

SUPREME COURT FINDS INJURY AWARD FOR LOST WAGES IS TAXABLE COMPENSATION UNDER RAILROAD RETIREMENT TAX ACT

A recent decision by the U.S. Supreme Court found that the portion of a damages award attributable to lost wages for a workplace injury is considered to be taxable compensation under the Railroad Retirement Tax Act (RRTA). The decision in *BNSF Railway Co. v. Loos* (No. 17-1042) was released by the Court on March 4, 2019.

Mr. Loos pursued a claim against his then-employer, BNSF, for a workplace injury under the Federal Employers' Liability Act (FELA), a law allowing railroad workers to file suit against their employers for on-the-job injuries. Mr. Loos was awarded damages of \$126,212, of which \$30,000 was attributable to lost wages from BNSF. BNSF indicated that it would withhold Railroad Retirement taxes from the lost

wages portion of the award. Mr. Loos disagreed with this theory of withholding, arguing that, consistent with the RRTA's definition of compensation, the payment must be "for services rendered" in order to be taxable and instead of compensation for services rendered the payment at issue compensated for an injury.

The issue worked its way from the lower courts to the Supreme Court. Oral arguments took place on November 6, 2018, and the Court reached its decision on a 7-2 vote. In reversing the decision of the Circuit Court of Appeals for the Eighth Circuit, the Supreme Court held that the RRTA's definition of compensation includes not simply pay for active service, but also "pay for periods of absence from active service provided

there is an employer-employee relationship." Whether the employer chooses to make the payment through a voluntary settlement or is involuntarily made to do so through an award of damages is immaterial so long as the payment for lost wages is provided based on the recipient's status as a service-rendering employee.

The Internal Revenue Service administers the RRTA and, therefore, is the official source for railroad retirement tax information. However, for purposes only of illustrating the Court's decision, the following example is provided. In 2019, railroad employers and employees are subject to a railroad retirement tier I payroll tax of 7.65 percent (6.20 percent on earnings up to \$132,900 for retirement, and 1.45 percent on all earnings for Medicare

hospital insurance) and a tier II tax of 13.1 percent and 4.9 percent, respectively, on earnings up to \$98,700. (An additional 0.9 percent in hospital insurance taxes, 2.35 percent in total, applies to an individual's income exceeding \$200,000, or \$250,000 for a married couple filing a joint tax return). If a railroad employee with no other earnings in 2019 is awarded \$550,000 due to an on the job injury, of which \$200,000 is attributable to lost wages (both past and future), the employer and employee would be required to pay \$11,139.80 in tier I taxes (\$8,239.80 retirement and \$2,900 Medicare) and \$12,929.70 and \$4,836.30, respectively, in tier II taxes. (The additional Medicare tax would not apply as the award for lost wages did not exceed \$200,000). ©©

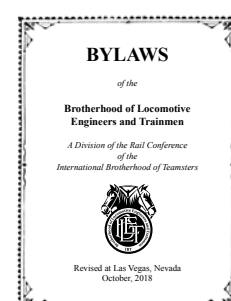
2018 BLET BYLAWS AVAILABLE ONLINE

An electronic copy of the 2018 edition of the BLET Bylaws is now available in the Members Area of the Brotherhood's website.

The Bylaws book is available for download and printing as a PDF, and reflects changes approved by delegates to the BLET's Fourth National Convention, which was held October 1-4, 2018.

The BLET National Division is providing an electronic copy of the Bylaws to the membership while the document is being printed. The Bylaws provide that the National Division will furnish a hard copy to each member, without cost, upon request from the Division Secretary-Treasurer.

A password is required to get into the Members Area in order to download the document, which is available at: www.ble-t.org/members/bylaws. ©©



Q&A: Comparison of benefits under Railroad Retirement and Social Security

Employers and employees covered by the Railroad Retirement Act pay higher retirement taxes than those covered by the Social Security Act, so that railroad retirement benefits remain higher than social security benefits, especially for career employees who have 30 or more years of service.

The following questions and answers show the differences in railroad retirement and social security benefits payable at the close of the fiscal year ending September 30, 2018. They also show the differences in age requirements and payroll taxes under the two systems.

1 How do the average monthly railroad retirement and social security benefits paid to retired employees and spouses compare?

The average age annuity **being paid** by the Railroad Retirement Board (RRB) at the end of fiscal year 2018 to career rail employees was \$3,525 a month, and for all retired rail employees the average was \$2,815. The average age retirement benefit **being paid** under social security was approximately \$1,415 a month. Spouse benefits averaged \$1,035 a month under railroad retirement compared to \$720 under social security.

The Railroad Retirement Act also provides supplemental railroad retirement annuities of between \$23 and \$43 a month, which are payable to employees who retire directly from the rail industry with 25 or more years of service.

2 Are the benefits awarded to recent retirees generally greater than the benefits payable to those who retired years ago?

Yes, because recent awards are based on higher average earnings. Age annuities **awarded** to career railroad employees retiring in fiscal year 2018 averaged about \$4,175 a month while monthly benefits **awarded** to workers retiring at full retirement age under social security averaged nearly \$1,915. If spouse benefits are added, the combined benefits for the employee and spouse would total \$5,815 under railroad retirement coverage, compared to \$2,875 under social security. Adding a supplemental annuity to the railroad family's benefit increases average total benefits for current career rail retirees to about \$5,850 a month.

3 How much are the disability benefits currently awarded?

Disabled railroad workers retiring directly from the railroad industry in fiscal year 2018 were **awarded** \$3,050 a month on average while awards for disabled workers under social security averaged \$1,340.

While both the Railroad Retirement and Social Security Acts provide benefits to workers who are totally disabled for any regular work, the Railroad Retirement Act also provides disability benefits specifically for employees who are disabled for work in their regular railroad occupation. Employees may be eligible for such an occupational disability annuity at age 60 with 10 years of service, or at any age with 20 years of service.



4 Can railroaders receive benefits at earlier ages than workers under social security?

Railroad employees with 30 or more years of creditable service are eligible for regular annuities based on age and service the first full month they are age 60, and rail employees with less than 30 years of creditable service are eligible for regular annuities based on age and service the first full month they are age 62.

No early retirement reduction applies if a rail employee retires at age 60 or older with 30 years of service and his or her retirement is after 2001, or if the employee retired before 2002 at age 62 or older with 30 years of service.

Early retirement reductions are otherwise applied to annuities awarded before full retirement age, the age at which an employee can receive full benefits with no reduction for early retirement. This ranges from age 65 for those born before 1938 to age 67 for those born in 1960 or later, the same as under social security.

Under social security, a worker cannot begin receiving retirement benefits based on age until age 62, regardless of how long he or she worked, and social security retirement benefits are reduced for retirement prior to full retirement age regardless of years of coverage.

5 Can the spouse of a railroader receive a benefit at an earlier age than the spouse of a worker under social security?

If a retired railroad employee with 30 or more years of service is age 60, the employee's spouse is also eligible for an annuity the first full month the spouse is age 60.

Certain early retirement reductions are applied if the employee first became eligible for a 60/30 annuity July 1, 1984, or later, and retired at ages 60 or 61 before 2002. If the employee was awarded a disability annuity, has attained age 60 and has 30 years of service, the spouse can receive an unreduced annuity the first full month she or he is age 60, regardless of whether the employee annuity began before or after 2002, as long as the spouse's annuity beginning date is after 2001.

To qualify for a spouse's benefit under social security, an applicant must be at least age 62, or any age if caring for a child who is entitled to receive benefits based on the applicant's spouse's record.

6 Does social security offer any benefits that are not available under railroad retirement?

Social security does pay certain types of benefits that are not available under railroad retirement. For example, social security provides children's benefits when an employee is disabled, retired or deceased. Under current law, the Railroad Retirement Act only provides children's benefits if the employee is deceased.

However, the Railroad Retirement Act includes a special minimum guaranty provision which ensures that railroad families will not receive less in monthly benefits than they would have if railroad earnings were covered by social security rather than railroad retirement laws. This guaranty is intended to cover situations in which one or more members of a family would otherwise be eligible for a type of social security benefit that is not provided under the Railroad Retirement Act. Therefore, if a retired rail employee has children who would otherwise be eligible for a benefit under social security, the employee's annuity can be increased to reflect what social security would pay the family.

7 How much are monthly benefits for survivors under railroad retirement and social security?

Survivor benefits are generally higher if payable by the RRB rather than social security. At the end of fiscal year 2018, the average annuity **being paid** to all aged and disabled widow(er)s was \$1,705 a month, compared to \$1,305 under social security.

Benefits **awarded** by the RRB in fiscal year 2018 to aged and disabled widow(er)s of railroaders averaged nearly \$2,185 a month, compared to approximately \$1,265 under social security.

The annuities **being paid** at the end of fiscal year 2018 to widowed mothers/fathers averaged \$1,900 a month and children's annuities averaged \$1,110, compared to \$985 and \$860 a month for widowed mothers/fathers and children, respectively, under social security.

Those **awarded** in fiscal year 2018 averaged \$2,200 a month for widowed mothers/fathers and \$1,350 a month for children under railroad retirement, compared to \$960 and \$855 for widowed mothers/fathers and children, respectively, under social security.

8 How do railroad retirement and social security lump-sum death benefit provisions differ?

Both the railroad retirement and social security systems provide a lump-sum death benefit. The railroad retirement lump-sum benefit is generally payable only if survivor annuities are not immediately due upon an employee's death. The social security lump-sum benefit may be payable regardless of whether monthly benefits are also due. Both railroad retirement and social security provide a lump-sum benefit of \$255. However, if a railroad employee completed 10 years of creditable railroad service before 1975, the average railroad retirement lump-sum benefit payable is \$1,020. Also, if an employee had less than 10 years of service, but had at least 5 years of such service after 1995, he or she would have to have had an insured status under social security law (counting both railroad retirement and social security credits) in order for the \$255 lump-sum benefit to be payable.

The social security lump sum is generally only payable to the widow(er) living with the employee at the time of death. Under railroad retirement, if the employee had 10 years of service before 1975, and was not survived by a living-with widow(er), the lump sum may be paid to the funeral home or the payer of the funeral expenses.

9 How do railroad retirement and social security payroll taxes compare?

Railroad retirement payroll taxes, like railroad retirement benefits, are calculated on a two-tier basis. Rail employees and employers pay tier I taxes at the same rate as social security taxes, 7.65 percent, consisting of 6.20 percent for retirement on earnings up to \$132,900 in 2019, and 1.45 percent for Medicare hospital insurance on all earnings. An additional 0.9 percent in Medicare taxes (2.35 percent in total) will be withheld from employees on earnings above \$200,000.

In addition, rail employees and employers both pay tier II taxes which are used to finance railroad retirement benefit payments over and above social security levels.

In 2019, the tier II tax rate on earnings up to \$98,700 is 4.9 percent for employees and 13.1 percent for employers.

10 How much are regular railroad retirement taxes for an employee earning \$132,900 in 2019 compared to social security taxes?

The maximum amount of regular railroad retirement taxes that an employee earning \$132,900 can pay in 2019 is \$15,003.15, compared to \$10,166.85 under social security. For railroad employers, the maximum annual regular retirement taxes on an employee earning \$132,900 are \$23,096.55, compared to \$10,166.85 under social security. Employees earning over \$132,900 and their employers, will pay more in retirement taxes than the above amounts because the Medicare hospital insurance tax is applied to all earnings. ©©



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4/19

Photo of the Month: April/May 2019

NYS&W POWER: New York, Susquehanna & Western (NYS&W) locomotive 3016 powers through the Apschawa Preserve near West Milford, New Jersey, on April 5, 2013. The BLET members who work for the NYS&W belong to Division 521 in Hawthorne, N.J. **Photo:** by Brother Cory Rusch, a member of BLET Division 659 in Buffalo, N.Y. Brother Rusch is a conductor with Norfolk Southern.



Are you a photographer? The National Division's Public Relations Department, which produces the Newsletter each month, has received numerous inquiries lately from BLET members volunteering to contribute their

images to the "Photo of the Month" section of the Newsletter. If you'd like to submit a photo for consideration, you may call Editor John Bentley at (216) 241-2630, ext. 248, or you can email: Bentley@ble-t.org.

Please note only high resolution images can be used. Members are also encouraged to review their employer's policies regarding the use of cameras and other electronic devices while on duty.

Advisory Board February/March 2019 Activity

In accordance with the BLET Bylaws, summaries of BLET Advisory Board members' activities are published monthly:

NATIONAL PRESIDENT DENNIS R. PIERCE: National Division Office, Independence, Ohio; General supervision of BLET activities; General office duties; Correspondence and telephone communications; Supervision of Office Administration; General Supervision of Special Representatives; President, Teamsters Rail Conference; Policy Committee, Teamsters Rail Conference; Cooperating Rail Labor Organization (CRLO) mtgs., Hollywood, Fla.; Wyoming State Legislative Board mtg., Cheyenne, Wyo.; BLET/Amtrak Eastern Local Chairmen mtg., Miami, Fla.; BLET LM-2 class, San Antonio, Texas; BLET Advisory Board mtg., San Antonio, Texas; Mtg. at Department of Transportation/ Federal Railroad Administration, Washington, D.C.; Mtg. w/ National Carriers' Conference Committee, Washington, D.C.; Mtg. at National Transportation Safety Board, Washington, D.C.; Mtg. at Association of American Railroads, Washington, D.C.; Congressional lobbying, Washington, D.C.; BLET Secretary-Treasurer class, Independence, Ohio; BLET National Association of State Legislative Board (NASLBC) mtg., San Diego, Calif.

FIRST VICE PRESIDENT E.L. (LEE) PRUITT: National Duties include but not limited to: Trainmen's Dept.; National Publications Committee; National Legislative Board; Teamsters Rail Conference Policy Committee; PRAC; and National Negotiations; National duties, Independence, Ohio; General office duties, telephone, email, correspondence communications, etc.; Holiday; Cooperating Rail Labor Organization (CRLO) mtgs., Hollywood, Fla.; Holiday; BLET LM-2 class, San Antonio, Texas; BLET Advisory Board mtg., San Antonio, Texas; NASLBC annual mtg., San Diego, Calif.

NATIONAL SECRETARY-TREASURER STEPHEN J. BRUNO: General supervision of Accounting Dept., Record Dept., Online Services Dept., Tax Compliance Dept.; Safety Task Force; PAC and FEC reports and filings; Implementation and training for BLET membership database/Union Track; Pension, STD, 457 plan Trustee; Division, General Committee and SLB monthly Trustee reports; Mtgs. with vendors and financial institutions; Union Track issues, testing, status updates, etc.; Triennial election oversight duties; Union Track status call; GCA dues handling; MetLife/Bombardier; Fees objector; CRLO mtgs., Hollywood, Fla.; BLET LM-2 class, San Antonio, Texas; BLET Advisory Board mtg., San Antonio, Texas; NASLBC annual mtg., San Diego, Calif.

VICE PRESIDENT & NATIONAL LEGISLATIVE REPRESENTATIVE JOHN P. TOLMAN: Assigned to BLET Washington, DC office; General office duties, telephone and correspondence communications; Attended hearings on Capitol Hill, Washington, D.C.; Mtgs. with President Pierce and members of the House Committee on Transportation & Infrastructure for the 116th Congress, Washington, D.C.; Mtg. w/ Ways and Means Committee Chairman Neal, Washington, D.C.; BLET Advisory Board mtg., San Antonio, Texas; Mtg. w/ NTSB Board members, Washington, D.C.; Mtg. w/ Ian Jefferies, Association of American Railroads President & CEO; Mtg. w/ DOT Secretary Chao; Mtg. w/ FRA Administrator Batory; Mtg. w/ Speaker Pelosi Chief of Staff; Mtg. w/ T&I Committee Chairman DeFazio; Mtg. w/ Ranking Congressman Graves and Chairman Lipinski, House Railroad Subcommittee, Washington, D.C.; Passenger & Freight Railroads United 2019 Conference, Washington, D.C.; NASLBC annual meeting, San Diego, Calif.; Various receptions and office visits with members of Congress and leadership of both the GOP and Democratic parties, Washington, D.C.

VICE PRESIDENT MARCUS J. RUEF: Vice Chairman, National Railroad Adjustment Board (NRAB); National Mediation Board (NMB) Advisory Forum-Labor Member; Department Head, BLET Arbitration Department; Assigned to CN-Wisconsin Central, CN-Illinois Central, CN-Cedar River, Belt Railway of Chicago, Gary Rwy., Illinois Rwy., Indiana Harbor Belt, Metra (Chicago), CP Rail System/US (Soo), Indiana Southern RR, Iowa, Chicago & Eastern, Dakota, Minnesota & Eastern, Union RR; Assist GC Semken w/ awards research, CP/SOO, Chicago; Assist VGC Logan w/ awards research, ND; Work on Circular 1-89 draft, NRAB, Chicago; Assist GC Reynolds w/ discipline appeal, WC, Chicago; Assist VGC Rudy w/ discipline issues, IHB, Chicago; Research for WGCA presentation, Chicago; Holiday; Section 6 negotiations, Metra, Chicago; NRAB admin., Chicago; Assist GC Burns and VGC Rudy w/ attendance issues, IHB, Chicago; BLET Advisory Board mtg., San Antonio, Texas; General office duties; Discuss FMLA dockets w/ CSX GCAs, Chicago; ROAR committee, NRAB, Chicago; 3rd Division Awards, NRAB, Chicago; Vacation; Work on claims manual w/ GC Reynolds, WC, Chicago.

VICE PRESIDENT MIKE TWOMBLY: Department Head, BLET Short Line/Organizing Department; Designated Representative of the BLET Short Line Department; Assigned to: CN-Grand Trunk Western; Springfield Terminal; Delaware & Hudson; St. Lawrence & Atlantic; New York Susquehanna & Western; Connecticut Southern (G&W); New England Central (G&W); Louisville & Indiana; Huron & Eastern; Wheeling & Lake Erie; General office duties, telephone, email, correspondence communications, etc.; On duty at home office; Wyoming State Legislative Board mtg., Cheyenne, Wyo.; National Short Line Department mtg., Independence, Ohio; BLET Advisory Board mtg., San Antonio, Texas; W&LE Public Law Board 7906, Estero, Fla.; Louisville & Indiana Section 6 negotiations, Jeffersonville, Ind.; Louisville & Indiana contract ratification mtg., Jeffersonville, Ind.

VICE PRESIDENT MICHAEL D. PRIESTER: Assigned to all BNSF (former ATSF, former C&S, CRI&P, FWD, former STL-SF, BNSF/MRL), Panhandle Northern, Great Western Railway of Colorado; Missouri & North Arkansas, Montana Rail Link, Otter Tail; General office duties, telephone, email, correspondence communications, etc.; M&NA contract conference call w/ GC Thurman, M&NA LR and mediator; BLET Advisory Board mtg., San Antonio, Texas; Mtg. w/ BNSF General Chairmen, Ft. Collins, Colo.; Contract talks w/ Great Western Rwy., assisting GC Cunningham, Denver, Colo.; BNSF General Chairmen's mtg., Topeka, Kan.

VICE PRESIDENT R.C. (RICK) GIBBONS: Assigned to: All Norfolk Southern General Committees (Northern, Eastern and Southern Lines); Chicago, Ft. Wayne & Eastern; Indiana & Ohio (G&W); General office duties, telephone, email, correspondence communications; Vice President duties; On duty at home office; PLB 7574, assisting GC Sturdivant, Norfolk, Va.; BLET LM-2 Class, San Antonio, Texas; BLET Advisory Board mtg., San Antonio, Texas; PLB 7668 and PLB 7553, Estero, Fla.; NS mtg., Estero, Fla.

VICE PRESIDENT JAMES P. LOUIS: National Division Department Head, BLET Education & Training Dept.; Department Head of the BLET Internal Organizing, Mobilizing & Strategic Planning Dept.; Department Head, BLET Passenger Dept.; Assigned Amtrak; Keolis Commuter Services; Keolis Rail Services of Virginia, LLC; TransitAmerica Services, Inc.; Long Island Rail Road; New York & Atlantic; Metro-North; New Jersey Transit; PATH; SEPTA; Western New York & Pennsylvania Rwy.; South Buffalo Rwy.; Union Track mtgs. and training; Education & Training issues; BLET Regional Meeting and Convention planning; Keolis issues, assist GC Kenny; Amtrak GCA regional mtg., assist GC Kenny, Miami, Fla.; Various reports; Assist SEPTA GC Hill; NMB Case A-13867, assist GC Hill, SEPTA, Philadelphia; Assist LIRR GC Sexton; BLET LM-2 Class, San Antonio, Texas; BLET Advisory Board mtg., San Antonio, Texas; Assist PATH GC McCarthy, prep for PLB 5210; Vacation; Secretary-Treasurer class, Independence, Ohio.

VICE PRESIDENT MARK L. WALLACE: Assigned to all Union Pacific GCAs (Eastern District, Northern Region (former C&NW), Western Lines (Pacific Harbor Lines), Western Region (Portland & Western RR, Portland Terminal), Central Region, and Southern Region); Tacoma Belt Railroad; Utah RR; Longview Portland & Northern and Longview Switching; General office duties, telephone, emails, correspondence, communications, etc.; On duty at home office; UP-Southern Region Local Chairmen workshop, Fort Worth, Texas; UP-Central Region GC, Kansas City, Kan.; BLET Advisory Board mtg., San Antonio, Texas; Utah Railway negotiations, Salt Lake City, Utah.

VICE PRESIDENT J. ALAN HOLDCRAFT: Assigned to all CSX Transportation GCAs (Eastern Lines, Western Lines, Northern Lines (Bombardier Transportation Services), Conrail Shared Assets/CSX Northern District); KCS-Kansas City Southern/Louisiana & Ark. RR.; KCS-Texas Mexican Railway; KCS-Mid South Rail, South Rail, Gateway Western RR, Illinois Midland (G&W); Mtg. w/ KCS managers and BLET GC David Spradlin, Shreveport, La.; Mtg. w/ GC Kerley and members of Division 140 (Alabama State Docks), Mobile, Ala.; Conference call w/ CSXT General Chairmen Kerley, Best, Lyons and Driscoll; Mtg. w/ TexMex GC Michael Ball and members of BLET Division 244, Laredo, Texas; Conference call w/ GC Michael Ball and KCS managers; BLET Advisory Board mtg., San Antonio, Texas; Contract negotiations with 4 BLET CSXT General Chairmen and CSXT management, Jacksonville, Fla.; Attend Dispute Resolution Committee mtg. w/ CSX General Chairmen and CSX management, Jacksonville, Fla.; Conference call w/ VP Ruef regarding disposition of cases at First Division; Conference call w/ KCS management and General Chairman Ball regarding cross border operations at Laredo, Texas; Mediation with Indiana Rail Road, Indianapolis, Ind.

BLET member killed in off-duty accident

BLET member Rene Ramos, President of Division 350 in Kingsville, Texas, was killed in an automobile accident while on his way home from work on April 7, 2019. He was 50 years old.

A Union Pacific locomotive engineer, Brother Ramos held continuous membership in the BLET since August 1, 2005. According to media reports, Brother Ramos was driving home from work around 11:30 p.m. on

April 7 when he was rear-ended on Interstate 37 south of San Antonio, Texas.

He is survived by his mother Jackie Mendez; daughters, Selina Ramos and Emily Ramos; son, Rene Ramos, Jr.; Grandchildren, James Ramos, Adria De La Rosa, Nathan Ramos; siblings, Sylvia (David) Ruiz, David (Linda) Ramos, Rueben (Connie) Ramos, Corinna (Tony) Lira, Nadia (David) Ramirez; several niec-

es, nephews and other relatives; and friends.

Funeral services were held on April 16 at Coastal Bend Fellowship Church in Kingsville, Texas.

"This is a terrible tragedy and a heartbreaking loss to all who knew and loved Brother Rene," BLET National President Dennis Pierce said. "On behalf of the BLET National Division, I extend our most heartfelt condolences to the friends and family of Brother Ramos." @



Ramos