



2019 WASHINGTON STATE JOINT RAIL LABOR LEGISLATIVE REPORT



April 24, 2019

Dear Brothers and Sisters:

This is a synopsis of the 2019 Washington State Legislative Session regarding the events, activities, and progress of our joint rail labor legislative agenda. This year's session unexpectedly became the most challenging, difficult, and unpleasant legislation session ever. Never has more hard work, time, and effort been expended to advance our rail safety agenda. It is incredibly personally devastating to have fought so very hard, working far in excess of 12 hours a day, six to seven days each week since January, only for it to all seemingly go to waste at the eleventh hour! Understand: we will never give in, and will fight until we pass our legislation, especially considering that we are taking on the most powerful, wealthy, and established monopolist corporate cartel in North America; we're forcing them to expend vast resources and resort to the lowest sleazeball political tactics to block us!

The session began on Monday, January 14, with many freshman legislators. We finalized the language for all three of our primary House bills and began a campaign of educating legislators as we solicited their co-sponsorship. The bills were initially drafted at the direction of House leadership, so we began circulating them among House members first. It took an additional week to obtain the Senate companion versions of the bills.

The three House bills were dropped on Thursday, January 31. We received the bill numbers later that day, when they appeared on the daily list of bill introductions for Friday, February 1st. Members have until 2:00 p.m. on the date of introduction to add or remove their sponsorship of any legislation.

These are the three bills:

HB 1841 – Safe Train Crew Size: Prime sponsor: Rep. Marcus Riccelli (D), Co-Prime: Rep. Bruce Chandler (R)
(total of 58 sponsors: 40 Democrats & 18 Republicans – 59% of the entire House)

HB 1842 – Yardmasters Hours of Service Limits: Prime: Rep. Mia Gregerson (D), Co-Prime: Rep. Jim Walsh (R)
(total of 60 sponsors – 40 Democrats & 20 Republicans – 61% of the entire House)

HB 1843 – Safe Leave Act for Washington Railroad Workers: Prime: Rep. Mike Chapman (D), Co-Prime: Rep. Mike Volz (R)
(total of 55 sponsors, 40 Democrats & 15 Republicans – 56% of the entire House)

We work diligently to insure all our bills are as bipartisan as possible; this session, since Democrats are in the majority in both houses, we sought Democrats to be the prime sponsors and Republicans to be the co-prime sponsors of all our bills. This is in part due to House procedure and etiquette. Keep in mind, a bill can be sponsored by just one member alone, so the huge number of sponsors from both parties on our legislation signaled that there was overwhelming bipartisan support for all these bills. Due to this, when push comes to shove, based on the bill's priority with leadership, our bills were well known and understood by many.

After dropping the House bills, we turned our focus to obtaining additional Senate sponsors for the companion bills. We had already obtained our Senate prime and co-prime sponsors. These are the most important bill sponsors, since, when bills are considered by other members, they look to see who the first (prime) and second (co-prime) sponsors are.

The railroad carrier lobbyists knew we had an enormous number of sponsors; however, they did not anticipate the overwhelming number of members from both parties. That Thursday afternoon, when they finally saw our sponsorship list, they freaked out and began engaging in underhanded efforts to undermine our support. The carriers' lobbyists sought out the Senate minority leader, who tends to be hostile to labor and is very supportive of railroad carriers. Many of you may recall that, in 2013, the first year of our Rail Crew Transportation Bill, it died on the Senate floor calendar—the figurative one-yard line—because this same senator (majority leader from 2013 to 2017) would not allow it to be brought up for consideration. He killed all our other rail safety legislation in the Senate for the following four years, finally allowing a Senate floor vote on the Crew Transportation Safety Bill in 2017.

Please note: the 2017 Senate vote occurred only after we obtained the video footage of three railroad workers being killed and another suffering critical injuries in the crew van accident in Kelso, WA, on March 23, 2011, and played it to a legislative committee.

It seems we railroad workers must be killed on the job to obtain common sense safety legislation!

On Thursday afternoon, January 31, 2019, the Senate minority leader sent an email to all members of his caucus urging them to withhold sponsorship from ALL of our legislation, and requesting they remove their names if they had already signed on; in this missive he wrote: "...it has come to my attention that outrageous attacks of a personal nature have been used to lobby for these bills. These charges are false. They have been part of a strategy to build support for these bills."

These totally false and unsubstantiated allegations were made with the express intent to malign our reputations by attacking our personal integrity in a despicable effort to kill our rail safety legislation using deceitful lies. The timing of the minority leader's request was not a coincidence; it was intentionally timed for release to utilize by the carriers to persuade House Republican members to remove their sponsorships, since they had until 2:00 p.m. the following day to do so. It failed in this aspect, as NOT ONE House Republican member withdrew their support from any of our three bills!

We learned of the minority leader's action the following morning, when one senator who was a co-prime sponsor on one bill requested an immediate meeting with us to remove their sponsorship. Although no other Senate Republican sponsors withdrew their names, the false accusation was effective in nearly choking off additional Republican support in the Senate, despite our persistent efforts with Republican members. After the attack, we were only able to obtain two additional Republican Senators willing to sign on as sponsors to these bills, because of the railroad's opposition tactics.

The Senate companion bills were dropped on February 7, 2019, and introduced on February 8; they are:

SB 5877 – Safe Train Crew Size: Prime: Sen. Patty Kuderer (D), Co-Prime: Sen. Phil Fortunato (R)
(total of 21 sponsors - 17 Democrats & 4 Republicans – 43% of the entire Senate)

SB 5878 – Yardmasters Hours of Service Limits: Prime: Sen. Steve Conway (D), Co-Prime: Sen. Karen Keiser (D)
(total of 18 sponsors – 16 Democrats & 2 Republicans – 37% of the entire Senate.)

SB 5879 – Safe Leave Act for Washington Railroad Workers: Sen. Patty Kuderer (D), Co-Prime: Sen. Hans Zeiger (R)
(total of 17 sponsors, 15 Democrats & 2 Republicans – 37% of the entire Senate.)

Compared to the 2017–18 session, when 10 Senate Republicans signed on as co-sponsors to both our Safe Train Crew Size and YMHOS legislation, the impact of the minority leader's contemptable tactics at the behest of the rail carriers is obvious.

At this point, it was very apparent that the carriers' lobbyists would stop at nothing to defeat our legislation, even resorting to the use of shameful, malicious, and false attacks on our character and personal reputations.

On the morning of February 14, the House Labor Committee held hearings on all three of our bills. Due to a backlog of bills due to snow days, we each were given just three minutes to present to the committee (that's just one minute per bill). We learned during the hearing that short-line carriers and agricultural industry groups, after five years of negotiated neutrality, had reneged on our previous agreements, and were again actively opposing all of our legislation. (We had negotiated and agreed to language changes in the crew size and YMHOS bills with both groups in exchange for their movement from opposition to neutrality on our legislation. We later learned their change in position was a result of the carriers' use of economic blackmail tactics, threatening these interests with significantly higher freight rates, as well as promising major service disruptions if ANY of our three bills became law!)

Undeterred, we engaged in counteroffensive measures, including exposing the railroad carriers' fabrications and lies and worked diligently to move our bills forward. On February 18, all three bills passed out of the House Labor Committee with strong bipartisan support. The crew size bill passed the committee with NO votes against it; the vote was 6 yeas, 0 nays, and one vote for no recommendation. Both the YMHOS and safe leave bills passed out on votes of 5–1. Between March 1 and 8, we were able to pass both the train crew size and safe leave bills out of the Rules Committee onto the House floor calendar when, for the first time in six years, we persuaded House leaders to give floor time for a full house vote on the crew size bill. On March 13, the bill passed the House by a vote of 72–24, with two members absent.

The Senate Labor and Commerce Committee hearings on March 26 went similarly but with even less time; we were only allowed one minute to present on all three bills (or 20 seconds per bill). As the bill was moving forward, we requested it be amended by the Committee from a 2-3-4-person crew bill to a two-person-minimum crew bill, while granting the state Utilities and Transportation Commission authority to increase train crew sizes above two persons on specific routes, if they determined it was in the interest of safety or risk reduction to do so. This was a major concession to the railroads, although they had no interest in compromise, we also added additional exemptions to attempt to appease short-line carriers. However, their shameful tactics to undermine our legislation continued.

Our bill was scheduled to be passed out of committee on Monday, April 1, the final Senate Labor & Commerce Committee meeting for this year's session. Unbeknownst to us, over the weekend, our strongest Senate supporter on the committee had been hospitalized and was absent. The carriers learned of this and arranged a huge show of force early Monday morning, with a team of reinforcements from the BNSF executive ranks. That morning, they pressured the one Republican committee member who had been a supporter to turn against us. This was an unprecedented effort to deny the majority Democrats enough votes to pass the bill in the absence of the sick senator. In most cases, the minority will cast a vote for an absent ill majority party member, however the ranking minority party committee member would not allow this to happen because of the railroad's staunch opposition to any legislation. The crewing bill was not acted on by the committee because the vote would have been a 3-3 tie, the bill would have failed to pass. So, it seemingly died with the adjournment of the committee meeting.

Numerous times during session we turned the tables on the carriers' efforts to defeat us, having anticipated their strategy and had already cut off their path to obstructing our legislation, we didn't see this one coming.

We went into high gear, and the ill senator reached out to us from his sickbed to find out what happened. After a day of full-on action after this stunning reversal, we successfully lobbied for a special Senate Labor and Commerce Committee meeting the following day, with just one item on the committee's agenda: HB 1841, the Safe Train Crew Size bill, with the ill Senator coming down to Olympia just to vote to advance our bill. On April 2, our bill passed out of the committee by a vote of 4-1; our uncanny ability to literally steal victory right out of the jaws of defeat by the railroad carriers set off alarm bells in DFW and Omaha, and in reaction, they again doubled down to set out to kill the bill, no matter the cost!

We passed the bill out of the Senate Rules committee on April 11; however, the carriers lobbied a centrist Democrat into offering an amendment to run the clock down, and this wasted six days in delays. At the same time, the railroad carriers were aggressively lobbying Senate Republicans to kill the very amendment they persuaded the centrist senator to run!

Finally, on April 15, due to the hospitalization of another Democratic senator, we accepted the centrist senator's amendment, so the bill was ready to move forward. We continued to lobby hard for passage, while observing that the carriers' lobbyists spent two consecutive days at the doors to the Senate Republican side, working all the Republicans. Since they went inside the chamber 20-30 times each day, we realized they were plotting some kind of opposition tactic to block the bill; we believed it was to be an effort to pile on 30-40 proposed amendments that would have to be acted on, in order to deter the bill from ever reaching the floor.

Our bill finally appeared on one the Senate's run list for floor time about 2:00 p.m. on Wednesday, April 17, with the bill cutoff deadline just three hours away. We waited anxiously in the gallery as Senate leadership juggled the floor calendar, skipping and returning to bills on multiple run lists. Just before 4:00 p.m., one of our strongest Senate allies advised us that our bill might not make it because of the importance of the measles vaccination bill. Just as we had given up all hope of floor action, at 4:38 p.m. our bill was brought to the floor and debate began. After just a few minutes, debate was stopped by leadership to start debate on two other bills, so those specific bills could all be finalized even after the 5:00 p.m. cutoff. At that point, the Republicans tried to take control of the floor, engaging in procedural tactics to block the Democratic majority's actions. They forced a roll call vote on a procedural action; as soon as the vote began nearly all Senate Republicans walked off the floor to delay the progress of the roll call vote they obtained, in order to successfully complete their stalling tactics.

This was obscene: the carriers could not defeat our legislation on its merits, so they resorted to a continuous barrage of underhanded tactics, personal attacks, and coordinated procedural obstructions with the minority leadership so as to kill our legislation.

While our legislation is technically dead, nothing is really dead until the session adjourns. You can trust that we have not wasted any time lamenting this setback, and we are actively pursuing all available alternatives to try to salvage this critical legislation, even though the odds are strongly against passing the bills this session!

Although there is so much more information we can and will share with you in person after the session ends, this sums it up for the time being, and we remain extremely busy working to both salvage the crewing bill for this year and work with decision-makers to expeditiously enact our bills in the 2020 legislative session.

Fraternally yours,


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