

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Ninth Session
May 30, 2017**

The Committee on Transportation was called to order by Chairman Richard Carrillo at 2:09 p.m. on Tuesday, May 30, 2017, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Richard Carrillo, Chairman
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman John Ellison
Assemblyman Ozzie Fumo
Assemblyman Richard McArthur
Assemblywoman Daniele Monroe-Moreno
Assemblyman Michael C. Sprinkle
Assemblyman Justin Watkins
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jann Stinnesbeck, Committee Policy Analyst
Darcy Johnson, Committee Counsel
Joan Waldock, Committee Secretary
Trinity Thom, Committee Assistant



OTHERS PRESENT:

Nathan Anderson, representing Union Pacific Railroad, Salt Lake City, Utah
C. Joseph Guild III, representing Union Pacific Railroad, Reno, Nevada
Matthew B. Parker, representing the Brotherhood of Locomotive Engineers and
Trainmen, Teamsters Rail Conference
Ray Hancock, representing International Association of Sheet Metal, Air, Rail and
Transportation Workers

Chairman Carrillo:

[Roll was called. Committee protocols and rules were explained.] This is not a rehearing of the bill, but there may be a point where Committee members may have some questions. We will open our work session for Senate Bill 427 (1st Reprint).

Senate Bill 427 (1st Reprint): Revises provisions governing the crew of certain freight trains. (BDR 58-1014)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 427 (1st Reprint) was heard in this Committee on May 25, 2017. [He read from the work session document ([Exhibit C](#)).] It requires any Class I freight railroad, Class I railroad, or Class II railroad for transporting freight that operates a train or locomotive in Nevada, and any officer of such a railroad, to ensure the train or locomotive contains a crew of not less than two persons. The bill offers limited exceptions to these provisions, and it provides that any railroad or officer of a railroad who violates these provisions is liable to the Public Utilities Commission of Nevada for a civil penalty of \$1,000 for a first violation and \$5,000 for a second or subsequent violation within three years. Finally, the bill repeals outdated provisions concerning employment protections for certain railroad employees.

Chairman Carrillo:

I know some members of this Committee had wanted to ask questions before we vote on this bill. Are there concerns?

Assemblyman Ellison:

I have a question for the representatives from the railroads based on statements made in the previous hearing on this bill. One of the biggest concerns most of us have is the safety aspect of having a single-person crew. What kind of guarantee do we have that the railroads will keep two-person crews as we have now?

Nathan Anderson, representing Union Pacific Railroad, Salt Lake City, Utah:

We currently have contracts that define the crew as made up of two persons. We are negotiating for a new contract. That portion of the contract is not up for negotiation. We have agreed with the labor unions that management negotiates with that we should have a two-person crew. We will keep that in place through our negotiations. That issue will not be addressed in our current labor negotiations. Those agreements cover multiple years until the next one is put in place.

Assemblyman Ellison:

There was testimony given in the hearing that there was no contract. You say there is a contract, and that the existing contract specifies two-person crews. You do not envision changing that in the future; you want to keep the two-person crew. Is that correct?

Nathan Anderson:

The language "two persons" is not in the contract. There are two separate contracts. One is with the Brotherhood of Locomotive Engineers and Trainmen (BLET); one is with the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART). Each union has crewmembers on the train. Some are statutory in the contract; others are more historical. Each union has a place at the bargaining table; each union has a place in the cab.

C. Joseph Guild III, representing Union Pacific Railroad, Reno, Nevada:

No train in America on a Class I or a Class II railroad leaves the yard without two people in the cab. What Mr. Anderson was talking about is this. The SMART contract—the non-locomotive engineer—talks about that person having to be in the cab. The contract does not say the SMART union member is the second person in the cab. It just says that a member of that union, usually a conductor, has to be in the cab with an engineer. You cannot operate a locomotive in America without a certified locomotive engineer running the train. That is the historic part of this. Mr. Anderson and I sent an email to every member of the Committee at 5:05 p.m. last Friday with those details. Historically, you have to have a certified locomotive engineer that knows how to operate a locomotive to run the train. The result of the contract with SMART and the historic nature of certified locomotive engineers is that two people are always in that cab in a locomotive pulling a train across America. I hope that helps.

Assemblyman Ellison:

It does.

Assemblyman Watkins:

Currently, the practices of the railroad are in full compliance with all the provisions of S.B. 427 (R1). Is that correct?

Nathan Anderson:

Yes.

Chairman Carrillo:

Are there questions from Committee members?

Assemblywoman Bilbray-Axelrod:

I will ask the same question of you trainmen because I am utterly confused by all the answers we have gotten—from the email and from the testimony. We were told that the contract did not include two-member crews; then we were told it does; then we were told it is historical. I cannot figure out which way is up right now, so I have the same questions.

Matthew B. Parker, representing the Brotherhood of Locomotive Engineers and Trainmen, Teamsters Rail Conference:

With me today is Ray Hancock, who represents SMART—they are the trainmen. I represent the enginemen. I will defer to him for an answer from his side. From my side—we have local people who bargain at the local level; we have general committees that bargain over a specific geographic area; and we have our national bargaining committee from our national office that bargains our national agreement.

I have reached out to people at all three of those levels saying I need to know exactly what our organization has on this because these questions are coming up. At all three of those levels, I received the same answer. Our organization, the Brotherhood of Locomotive Engineers and Trainmen, holds no contract that specifies there must be two people on a freight train. In fact, I have an email on my laptop. I went to our local person, saying I need something from our general chairman representing our region stating that. He sent me an email stating that our agreements do not contain anything related to crew size. I have received his assurance that our organization does not hold a contract that addresses this.

Ray Hancock, representing International Association of Sheet Metal, Air, Rail and Transportation Workers:

Our contract for 1992 does address this, but it will sunset. It does not apply to anybody hired after 1992. Going forward, when all the pre-1992 employees are gone, this could be implemented. For the safety of people in Nevada and the way we operate—our trains, call times, and other things—we have historically had two people in a locomotive cab at all times. The thought process from the safety and operational standpoints is that one person will catch what the other person misses. If it is 2 o'clock in the morning, and I am working with Mr. Parker and he is half-awake, I will catch what he misses or he will catch what I miss.

Consider the size of our trains—they can be two-plus miles long, carrying average loads of 15,000 to 16,000 tons. These are very big, very large trains, often with hazardous materials in them. You need two people to be able to stay safe, to stay alert, and to stay on-task in where you are going. Burlington Northern Santa Fe Railroad offered a contract that tried to reduce crew size, and it was voted down almost unanimously, by labor. We understand the safety aspects of trying to do this. If you want to put Mr. Parker on a train by himself and send him to Gerlach, where there is nobody around, that is not really smart. We are trying to address this going forward. There are five other states that have passed similar bills. We have not gotten any traction on the federal level, so this is our next recourse: trying to do it at the state level.

Assemblywoman Bilbray-Axelrod:

I want to be crystal clear on this. The sunset occurs after those who were involved in the contract in 1992 are gone. That agreement was made 25 years ago. Does the contract end as people retire?

Ray Hancock:

It is hard to explain how this works. We go for a national agreement. If we do not come to an agreement through mediation or whatever, usually we are forced back to work under what is called a Presidential Emergency Board (PEB). The President will appoint a board, and we will get a decision from that board for our next contract. At that point, it is in their hands—we do not have a way to lobby, argue, or do anything. In the previous negotiation, we made an agreement with the carriers, but the BLET did not. Theirs went to a PEB; they basically had a contract handed to them of what their new agreement was going to be.

I was hired in 1994. I am the No. 1 senior conductor going east out of Sparks. The person that had been ahead of me in seniority was hired in the 1970s. All the people hired back then are starting to retire. It will not be a very long period of time before the railroads can begin pushing one-person crews. We are trying to get ahead of it and get some safety established in the operation, so that, going forward, we do not end up with one-person crews.

On several other railroads in the United States, there has been an attempt to do local jobs with one man by remote. The labor side has pushed back really hard against that because it is very unsafe. Basically, they are giving a guy a remote control box and a locomotive, and he is going out and handling cars by himself. That is not something we want to see in the future. Any time you have just one person doing something, the potential for error goes up exponentially because you do not have a second set of eyes looking at it.

Assemblyman Ellison:

Have you not had a contract in 25 years? I have never heard of a union going that long without a contract.

Ray Hancock:

The part of our contract that deals with crew sizes was last addressed in 1992. We have had contracts since then.

Assemblyman Ellison:

You are saying that you know of trains that move without having a two-person crew.

Ray Hancock:

There was the Lac-Mégantic incident in Canada that involved a one-man crew. It basically destroyed a town.

Assemblyman Ellison:

That is not in the United States.

Ray Hancock:

Correct. There have been several railroads that tried to go to one-man crews, but labor has pushed back and said they would not do this. What we are trying to do is make sure that, through a PEB or otherwise, we are not forced to do this.

Assemblyman Ellison:

Does the engineer have to stay in the train? He is not supposed to leave the locomotive cab. The second person checks the train—makes sure the brakes are set, checks the loads, and all that. One member of the crew has to stay in the locomotive cab according to federal law. Is that correct?

Matthew Parker:

Under current federal regulations, there is a specific regulation that states that no train may be left unattended if it is not properly secured, which involves applying a sufficient number of hand brakes on the cars and engines to ensure that the train does not move in case the air brakes bleed off. "Attended" has been interpreted to mean somebody is actually physically at the air brake controls for that train. You are correct in what you are saying—under the current federal regulations, as they have been interpreted, if there were only one person in that engine and something happened, that person would have to remain at those air brake controls in order to comply with federal regulations unless the train was secured against unintended movement.

Chairman Carrillo:

I will take a motion.

ASSEMBLYMAN WATKINS MADE A MOTION TO DO PASS
SENATE BILL 427 (1ST REPRINT).

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, McARTHUR,
WHEELER, AND WOODBURY VOTED NO.)

Assemblywoman Bilbray-Axelrod will take the floor statement.

I will close the work session on S.B. 427 (R1). Is there any public comment? [There was none.] This meeting is adjourned [at 2:30 p.m.].

RESPECTFULLY SUBMITTED:

Joan Waldock
Committee Secretary

APPROVED BY:

Assemblyman Richard Carrillo, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for Senate Bill 427 (1st Reprint), dated May 30, 2017, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.