On May 23rd, the Federal Railroad Administration (FRA) formally withdrew the pending proposed rulemaking that was intended to have set a mandatory crew size minimum of two crew members on most trains in the United States. Given the change in administration at the federal level, this is not surprising and has been expected. However, the agency took the additional step of proclaiming that all state laws and regulations that establish minimum crew standards are null and void, including the recent legislation adopted this spring in both Colorado and Nevada.

Two-person train crew legislation began to gain traction this legislative session in states across the nation. With six states now boasting such laws on the books, and at least a dozen more considering such legislation, the action at FRA was clearly designed to dampen the momentum and enthusiasm, and to stop the spread of two-person train crew bills from becoming law in more states. It remains to be seen, but expectations are that the FRA has effectively given the kiss of death to pending legislation in Illinois, Maine, Oregon, Washington, and a host of other states where legislation has been either introduced, been adopted by one chamber, and in some cases been passed by both chambers and is awaiting the signature of the Governor.

The unions of the operating crafts – the Brotherhood of Locomotive Engineers & Trainmen (BLET) and the Sheet Metal, Air, Rail, Transportation Union (SMART-TD) issued a joint statement condemning the action, vowing to fight back with all legal options at their disposal. In addition, SMART-TD National Legislative Director John Risch called for a stepped-up effort to win a federal two-person crew law, the “Safe Freight Act of 2019,” HR 1748.

“The action today flies in the face of so-called conservative values and states’ rights,” stated Risch. “The federal government is refusing to protect the public and at the same time is prohibiting states from doing so by posting this federal notice.” And in a joint statement, BLET National President Dennis Pierce and SMART-TD President John Previsich stated: “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.”

Whether the trade unions have the ability to mount a successful legal challenge to the FRA’s actions remains to be seen. Likewise, their ability to steer the Safe Freight Act through Congress to become the law of the land is questionable. While rank & file railroad workers support these efforts to preserve and protect the standard two-person operating crew aboard trains, we must never lose sight of the most effective and powerful weapon we have at our disposal - our unwavering solidarity.

The carriers first proposed single employee train crew operation way back in 2004. Yet today – nearly 15 years later – they have not been able to do so. They have laid the groundwork by cutting deals with both unions of the operating crafts: 1) to allow for engineer RCO applications on the mainline (BLET), and 2) for the use of utility conductors outside of the yard (UTU/SMART-TD). But when they have made a concerted push, they have come up short. Why have we been able to prevail?

Let’s examine our two big victories in the battle to maintain the two-person operating crew. Regional carrier Wheeling & Lake Erie (W&LE) for years has attempted to run trains with a lone employee. The union of both the conductors and the engineers (BLET #292) throughout that time has been steadfastly opposed. For nearly a decade these principles, dedicated and disciplined workers went without a pay raise, determined to vote down any and all attempts by the carrier to shove single crew operations down their throat. They went on strike and when finally released by the courts, threatened further strike action. The two crafts stood solidly together, and both voted overwhelmingly against single employee train operations. Despite an all-out effort by the carrier to stave them out, the workers stood shoulder to shoulder in an admirable show of strength and solidarity. This past winter they finally won, with a pay increase and no single employee train operations for the life of the contract, 2026.

The other big victory was likewise won with the outpouring of solidarity and commitment of the trainmen on the BNSF (former BN properties), members of SMART-TD GO-001. Just as on the W&LE, this victory was won on the property, not in the legislature, the Congress, or at the regulatory agencies. When the GCA cut a secret deal and proposed a Tentative Agreement to the members mid-summer 2014, the rank & file mobilized and fought back. Despite the best efforts of union officers, the carrier, industry pundits and mouthpieces, former union presidents and others, the workers rallied in opposition. Their solidarity could not be broken. When the votes were counted, every craft in every terminal systemwide had voted it down. The final tally was 80% opposed to the contract, despite its promise of pay raises, “master conductor” positions, and job guarantees for life.

The trainmen could not be bought nor sold. They were determined, disciplined and dedicated. And they won. Failing to divide-and-conquer the BN trainmen, realizing it had overplayed its hand, the carrier quietly dropped the issue.

The next round of national bargaining starts this Fall, and will no doubt continue through the course of 2020. Individual carriers will negotiate “on-property” agreements in conjunction with this “master contract.” The rail carriers may propose single crew members in either venue. The time is now to start to gather our forces. While they may from time to time be of assistance, we cannot rely on politicians, lawyers, the FRA, or others to save us. We have the power to win and to preserve the two-person train crew. But we must begin now to build the solidarity and preparedness that we need. Solidarity of all members of the operating crafts, and the unity of their unions is central. But the solidarity of all rail labor is crucial. The operating crafts need the support of the non-operating crafts like never before! And we need the rest of organized labor, community groups, passengers, trade-side communities, and environmental activists as well.

Despite our victories outlined above, the rail carriers have made clear they will not give up. They will no doubt be coming after us in bargaining. This latest action by the FRA should come as a wake-up call to us. The carriers – in their mania to serve their Wall Street masters – intend to destroy us. It is imperative that the leadership of all the rail unions convene a high-level meeting to discuss the formation of a single rail labor coalition, the development of an action plan, and a general strategy to mobilize the membership. The trainmen on the BNSF together with the trainmen and engineers on the W&LE have shown us what can be achieved. With a united leadership of all the rail unions, backed by the power of the rank & file, not only can we stop the carriers’ drive for single employee train crews, we can win better wages, benefits, and working conditions for all rail workers. Long live universal solidarity of rail labor!