

## **A Brief History of Presidential Emergency Boards and National Bargaining BMWED-IBT**

The history of Presidential Emergency Boards (PEB) and BMWED Regional and National Bargaining extends back to 1938. Since that time, the Carriers' have banded together in coalition(s) to bargain with the Unions and their respective coalitions. These coalitions have changed and developed over time, both on the Carriers' side and on the Unions' side. In some rounds of bargaining, certain Carriers may sign over their bargaining right to a regional or national organization (i.e. the National Carriers' Conference Committee, Regional Carriers' Conference Committees, the Carriers' Joint Conference Committee, etc.) or they may retain their right to bargain with the Unions individually. In each case, the Carriers make their decisions based upon whether they believe they can get an Agreement to benefit them the most. Respectively, the Unions do the same. There are times when it is beneficial to bargain with the Carriers on a national level, and other times where it is not so advantageous. However, the decision to bargain locally or nationally is not always a voluntary decision of the parties. There are cases in which Federal Courts have decided that we either have to bargain locally or nationally on specific issues or on the entire list of issues that encompass a bargaining movement.

Since the Railway Labor Act (RLA) was signed, there have been eleven (11) PEBs created to reckon with the disputes arising between the Carriers (as represented by their respective coalitions) and the Brotherhood of Maintenance of Way Employees (BMWED, or their respective coalition) on the national level. This includes the most recent one, PEB 250 which was established by United States President Joe Biden on July 18 at 12:01 AM. Each PEB is established in an environment shaped by the economy and the politics not just within the United

States but throughout the world. Each round of bargaining is determined by a number of variables, internal and external, that effect the Report that each PEB has put together. What follows is a brief description of each of the PEBs (including the conditions surrounding them) that the BMWWE has had to deal with on a national level and how they have each affected the conditions for Maintenance of Way (MoW) workers nationwide.

## **PEB 6**

**Year:** 1938

**President:** Roosevelt

**Members of Board:** Chairman: Walter P. Stacy, Members: James M. Landis, Harry A. Millis

**Unions involved:** BLE, BLF&E, ORC, SUNA, ORT, IAM, IBB, IBDF&H, SMWIA, IBEW, BRCA, IBFO, BR&SCFHESE, BMWWE, BRS, NOMM&PA, NMEBA, ILA

**Carriers:** Carriers' Joint Conference Committee

PEB 6 was established by President Roosevelt on September 27, 1938. The Carriers had seen a drop in operating revenue and were asking labor to tighten their belt. In fact, the Carriers' wished to reduce wages by 15 percent. The Unions responded that "the railroads... should put their house in order before they entitle themselves to call upon labor to make further sacrifice." The Board members referenced the wages in other industries and the potential impact that a reduction in wages would have on lower-paid crafts in comparison to higher-paid crafts. Ultimately, the Board found that there should be no reduction upon a national scale of the wages of railway labor.

*Brotherhood of Maintenance of Way Employes Journal, Vol. XLVII, No. 11, November 1938*

"Since the Emergency Board delivered its report to President Roosevelt, conferences have been held with the President by the leaders of both the railroads and the employes and our guess is, after all is said and done, that the railroads' contemplated pay slash has been averted. With the cooperation of the

government, the railroad owners and the employes a program will be worked out that will be more equitable than the arbitrary demands for wage decreases.” (25)

*Brotherhood of Maintenance of Way Employes Journal, Vol. XLVII, No. 12, December 1938*

*U.S. Railroads Withdraw Wage-Reduction Notices*

The President of the Association of American Railroads, Mr. J. J. Perry, summarized the reasoning for their withdrawal thusly, “The railroads are taking this action not because they agree with the conclusions reached by the Board but because they recognize the gravity of the situation, and because they hope that out of it there will come, through cooperation of all concerned, a sounder and more equitable transportation policy in this country.”

**PEB 11**

**Year:** 1941

**President:** Roosevelt

**Members of the Board:** Chairman: Wayne L. Morse; Members: Thomas Reed Powell, Joseph H. Willits, James C. Bonbright, Huston Thompson

**Unions involved:** BLE, BLF&E, ORC, BRT, SUNA, IAM, IBB, ISB&H, IBB, DFH, SMWIA, IBEW, BRC, IBFO, ORT, BR&SCFHESE, BMWE, BRS, NOMM&PA, NMEBA, ILA

**Carriers:** Eastern Carriers’ Conference Committee, Southeastern Carriers’ Conference Committee, Western Carriers’ Conference Committee, “Short Lines”

PEB 11 was established by President Roosevelt on September 10, 1941. With the ongoing war in Europe, the Board referenced that there were many uncertainties besetting the economy. Because of that, the Board issued single general wage increase (GWI) on all of the roads, created a nationwide minimum wage for railroads (including “Short Lines”), granted a vacation period of six consecutive working days and recommended that they resolve the work rules issues through the bargaining process. For the coalition that the BMWE belonged to, the GWI was the equivalent to 13.5%. The Board granted this one-time wage increase because of the

volatility of the economy, but recommended that on or about December 31, 1942, the wage structure could be extended by agreement in light of the existing economic conditions of the railroad industry and of the country. The initial report issued on November 5, 1941 was inadequate in the eyes of the BMW and the other Unions involved. The Board reconvened and on December 5, 1941, issued a Supplementary Report to President Roosevelt.

*Brotherhood of Maintenance of Way Employes Journal, December 1941*

“While there is reason for disappointment, we should keep in mind that, on the whole, this basic wage increase, minimum rate increase and general application of paid vacations to permanent employes, undoubtedly marks the greatest gain ever made by our Maintenance of Way craft. In comparison with all the other crafts, our Maintenance of Way craft gained the most. For our entire class or craft on the railroads covered, this increase amounts to an average of well over twenty per cent, which is considerably higher than the percentage of increase received by any other class or craft.” (2)

## **PEB 98**

**Year:** 1951-1952

**President:** Truman

**Members of the Board:** Chairman: David L. Cole; Members: Aaron Horvitz, George E. Osborne

**Unions involved:** IAM, IBB ISB&A, IBB DF&H, SMWIA, IBEW, BRC, IBFO, BR&SC, BMW, ORT, BRS, NOMM&PA, NMEBA, ILA, HRE&BIU, ATDA, RYA

**Carriers:** Eastern Carriers' Conference Committee, Southeastern Carriers' Conference Committee, Western Carriers' Conference Committee, “Short Lines”

PEB 98 was appointed on November 15, 1951 and was tasked with investigating the dispute between the 17 cooperating railway labor organizations and 390 carriers. The dispute arose out of the amendment to the Railway Labor Act (RLA) on January 10, 1951 which permitted the Unions to have union shop agreements and dues check-off. The Board found that

there was no substantial argument against the union shop and dues check-off that the Unions had called for based upon the recent amendment to the RLA.

*Brotherhood of Maintenance of Way Employes Journal, December 1951*

“On the first day of this year, Congress passed a Bill permitting a union shop in the railroad industry... Since the enactment of this law, nineteen union shop agreements have been signed with the carriers. Further efforts to negotiate were brought to an abrupt halt when management representatives walked out of the hearings conducted by the National Mediation Board. We are hopeful that an Emergency Board will be appointed shortly and that negotiations can be resumed.” (15)

### **PEB 162, 163**

**Year:** 1964

**President:** Johnson

**Members of the Board:** Chairman: Richardson Dilworth; Members: Robert J. Ables, H. Raymond Cluster, Frank J. Dugan, Lewis M. Gill, Paul D. Hanlon, Jacob J. Weinstein

**Unions involved:** IAM, IBB SBBF&H, SMWIA, IBEW, BRC, IBFO, BR&SC, BMWE, ORT, BRS, HRE&BIU

**Carriers:** National Railway Labor Conference

These two PEBs were accompanied by a third (PEB 161) which BMWE was not party to. All three were appointed on August 18, 1964. PEB 162 was created in regards to a request from the Unions for improved vacation, holidays, and health and welfare. PEB 163 was created in regards to the Unions' request for employment stabilization and increased rates of pay. The PEB recommended a 9 cent increase each of the 3 years of the agreement (total 27 cent increase). The Board relied heavily on the conditions of the auto and steel industry to make a recommendation on vacation and increased the maximum from 3 weeks to 4 weeks and increased paid holidays from 7 to 8. The Board also recommended increased coverage for the employees' health and

welfare plans and that the Carriers should absorb those costs. Because so many of the Unions were incorporated into this round of bargaining and involved in this set of PEBs, there was a real concern from the White House over a nationwide work stoppage on the railroads and maintaining organized labor's support for their legislative agenda and for the upcoming mid-term elections.

*Brotherhood of Maintenance of Way Employes Journal, December 1942*

“The wage increase is part of an agreement signed in Chicago on November 20 which disposes parts of our 1963 wage and rules movement. The settlement also covers that part of our 1963 movement involving vacations, holidays, and health and welfare. President H. C. Crotty signed the agreement for our Brotherhood following long and intensive negotiations in Washington and Chicago.” (2)

## **PEB 178**

**Year:** 1970

**President:** Nixon

**Members of the Board:** Chairman: Lewis M. Gill; Members: Robert O. Boyd, William H. Coburn, Jacob Seidenberg, Rolf Valtin

**Unions involved:** UTU, BRA&SC, BMW, HRE&BIU

**Carriers:** NRLC, Eastern, Western, and Southeastern Carriers' Conference Committees

PEB 178 was appointed by President Nixon on September 18, 1970. The non-operating Unions requested wage increase of 12 percent each of the three years of the agreement (12% 1970, 12% 1971, 12% 1972). The Board recommended wage increased as follows:

January 1, 1970: 5%

November 1, 1970: 32 cents per hour

April 1, 1971: 4%

October 1, 1971: 5%

April 1, 1972: 5%

October 1, 1972: 5%

The Board's recommendation was the equivalent of 32.5% (36% compounded) over a three-year contract. The Unions also made proposals for increases to holidays and double-time for work performed on holidays. The Board recommended against this based on lack of "outside industry" evidence. Following the Board's report, an agreement could not be reached between the parties. The Board's recommendation regarding work rules changes was unacceptable to the BWME, even with the wage increases. Congress imposed a timeline extension and also a wage increase to cover the extension (PL 91-541, PL 91-542). The increases imposed were 5% effective January 1, 1970 and 32 cents per hour effective November 1, 1970.

*Brotherhood of Maintenance of Way Employes Journal, December 1970*

"The recommendation of the Presidential Emergency Board with respect to wages presents a basis for further negotiation and disposition of this issue.

The recommendation with respect to rules changes is destructive of work methods and procedures that are an integral part of railroading" (12)

## **PEB 211**

**Year:** 1986

**President:** Reagan

**Members of the Board:** Chairman: George S. Roukis; Members: John B. LaRocco, David P. Twomey

**Unions involved:** BMWE, BRC, BRS, IAM, IBEW, IBFO

**Carriers:** National Carriers' Conference Committee

PEB 211 was established by President Reagan on July 15, 1986 to investigate the disputes between the NCCC and the above-listed Unions. The Board recommended adopting a pattern set by the BRAC for the BMWWE wage increases. They opted to recommend a lump sum bonus to replace the first GWI. In the agreement that was reached following the PEB's recommendations, there was a mixture of lump sum and GWIs. The logic being that a lump sum is not factored into the future compounded GWIs. They issued an initial first lump sum payment, alongside a 1.55% GWI, the second year a lump sum and a 2.25% GWI, the third year a lump sum and a 2.25% GWI, and the fourth year just a lump sum payment. As regards to health and welfare, the Board adopted the Carrier's position to eliminate different "loopholes" within the current plan. The BMWWE was able to stave off a few proposals from the Carriers for increased flexibility of the MoW workforces. Many of the work rules proposals from both the Unions and the Carriers were recommended to be handled at the local level.

*Labor: A National Newspaper, September 24, 1986*

Geoffrey N. Zeh, President of the BMWWE,

"We don't like it and the carriers don't like it," Zeh said, adding that, "I think we got screwed in the report in some areas. But, he said, "we've got to bite the bullet reluctantly." He noted that the BMWWE was faced with two options – either rejecting the emergency board report and possibly going on strike, with Congress legislating the unions members back to work with a contract based on the report anyway, or accepting the report outright." (4)

## **PEB 219**

**Year:** 1990-1991

**President:** Bush

**Members of the Board:** Chairman: Robert O. Harris; Members: Richard R. Kasher, Arthur Stark

**Unions involved:** ATDA, BLE, BMWE, BRS, IBB&B, IBEW, IBFO, SMWIA, TCU, UTU

**Carriers:** National Railway Labor Conference and the National Carriers' Conference Committee

PEB 219 was established on May 3, 1990 by President Bush. Many of the modern issues on the railroads experienced by the BMWE spring from this recommendation and the following Congressionally Imposed Agreement of 1991. As regards to wages, the Unions proposed an annual GWI of 8% per year including cost-of-living allowances in order to close the gap with outside industry that had developed. The Carriers on the other hand, proposed a wage freeze. The Board ultimately recommended a mixture of lump sum payments and GWIs throughout the agreement. Initially, the workers would receive a signing bonus, then a 3% GWI in 1991, 3% lump sum in 1992, 3% lump sum in January of 1993, 3% GWI in July 1993, 3% lump sum in January 1994, 4% GWI in July 1994, 2% lump sum in 1995, and a Cost of Living Allowance (COLA). PEB 219 however, is most notably remembered for the Board's recommendation to adopt the Carriers' proposal regarding the Combining of Seniority Districts and the creation of Regional and System-wide Production Gangs. The PEB created an arbitration provision regarding these issues that was taken advantage of by the Carriers to accomplish their goal of achieving "greater efficiencies" by creating larger seniority districts and regional/system gangs. The BMWE rejected these recommendations and struck, Congress then imposed the recommendation of the PEB in 1991 (PL 102-29).

*BMWE Journal, March 1991*

The BMWE wants to ensure that Congress knows the Brotherhood's opposition goes beyond economic issues to the devastating impact the recommendations would have on the members' quality of life.

One member's wife said she feared for the future of her family if seniority districts are expanded, as allowed in the PEB report. Noting that her husband's current schedule already puts him miles away from home for everything from his

son's baseball games to family crises, Sandi Remley lamented, "We have no family life; we have nothing." If the territory was increased, she said, "I'd just as well kiss him goodbye and wait until he retires. It's to the point where a family man can't even work on the railroad. The (BMWE) family way of life is crumbling."

## **PEB 229**

**Year:** 1996

**President:** Clinton

**Members of the Board:** Chairman: David P. Twomey; Members: William P. Hobgood, Carl E. Van Horn

**Unions involved:** BMWE

**Carriers:** National Carriers' Conference Committee

On May 16, 1996, President Clinton established PEB 229 to investigate the ongoing disputes between the Carriers and BMWE in the wake of PEB 219. PEB 219 had fundamentally changed the way MoW work was performed and from the perspective of the workforce it was a major step backwards. Both the BMWE and the Carriers made proposals on specific issues, from GWIs to the definition of Regional/System-Wide Gangs. In addition, rather than the notice, negotiation, and arbitration process that PEB 219 had created for the Combining and Realignment of Seniority Districts, the BMWE proposed to revert to the standard RLA bargaining process. The Board again recommended a mixture of lump sum payments and GWIs throughout the span of the agreement. They increased the expenses away from home and created the travel allowance provision that is still used to this day. The BMWE was able to claw its way back from the setback of PEB 219 by just a fraction. Where we took an inch, the Carrier took a mile. It should be noted that PEB 229 stated that, in regards to regional and system gangs,

“this recommendation is intended to continue the use of regional and system gangs on carriers which timely opted to create such gangs after the implementation of the recommendations of PEB No. 219, but not to extend their use to Carriers which opted to operate under other local provisions.”

*BMWED Journal, August/September 1996*

The tentative pact came with just a little less than 48 hours left before the expiration of a 30-day cooling-off period that kicked in when Presidential Emergency Board 229 released its report June 23... (1)

President Mac Fleming stated, “I am proud that the BMWE agreement was reached voluntarily. It is a break through for both sides. If the carriers live up to the spirit of the contract, we all might see just how far cooperation and respect can take the rail industry. The carriers might finally learn that treating workers with dignity and giving them what is due to them – and there is still much room for improvement on that point – can have positive results for everyone involved.” (2)

### **PEB 243**

**Year:** 2011

**President:** Obama

**Members of the Board:** Chairman: Ira Jaffe; Members: Roberta Golick, Joshua M. Javits, Gilbert H. Vernon, Arnold M. Zack

**Unions involved:** BRS, BLET, BMWE, IBB&B, SMWIA, NCFO, TCU, ATDA, IAM, IBEW, TWU

**Carriers:** NCCC

On October 6, 2011, President Obama established PEB 243 to investigate the disputes arising between the Carriers and the Unions listed above. The Carriers proposed a 17% GWI over 6 years and the Unions proposed a 19% GWI over 5 years. The UTU had settled an agreement prior to the Board issuing its report and that gave considerable weight to the Board’s recommendations. The Board recommended a 18.6% GWI over a 6-year agreement. The Board also adopted the Carriers’ proposals in regards to the health and welfare plan design changes. The BMWED pushed forward its craft-specific proposals of Rest Day Travel Allowances, Wage

Rate Equalization and Uniformity (Norfolk Southern), and Away from Home Expenses. In each case, they Board recommended that the parties resort to local/system bargaining. Ultimately, each craft accepted the “pattern” created by the UTU Agreement. The BMWED however, was able to resort to local bargaining and achieved some increases to away from home expenses and travel allowances (vary upon each Carrier). There was nothing that the BMWED received that was able to put the Union back into a position it was in prior to PEB 219. The issues, especially away from home expenses, were sent to local bargaining where a wide difference in expense reimbursement systems was created from Carrier to Carrier.

*BMWED Journal, September/December 2011*

President Freddie N. Simpson’s Perspective:

Saddled with a disappointing report, and recommendations from Presidential Emergency Board 243 (PEB), we have been mobilizing and working very hard to overcome those recommendations.

## **PEB 250**

**Year:** 2022

**President:** Biden

**Members of the Board:** Chairman: Ira Jaffe; Members: David P. Twomey, Barbara C. Deinhardt

**Unions involved:** BMWED-IBT, SMART-MD, SMART-TD, ATDA, BLET, BRS, IAM, IBB, NCFO, IBEW, TWU, TCU, BRC

**Carriers:** NCCC

PEB 250 was established on July 18, 2022. The following week, the BMWED and the other Unions involved presented their shared proposals and their craft-specific proposals in front of the Board in Washington, D.C. The BMWED’s craft-specific proposal regards travel allowances and away from home expenses, an issue that has been bargained on the national level

since at least 1957. The Board's recommendations were made public on 9:00 am August 17, 2022. The United Rail Unions were recommended 22% in GWIs (24%) compounded, along with a \$1,000 service recognition bonus for each year of the contract (\$5,000) total, and an additional day of paid leave. In regards to the BMWED proposal for away from home expenses, the PEB recommended the adoption of the proposal (with one difference between special transportation and standard CONUS meal rates) which would end the seven-decade bargaining dispute over the issue. In fact, the BMWED was the only craft to receive a recommendation in favor of their proposal. The disappointing outcome of PEB 243 regarding away from home expenses was rectified by the recommendations of PEB 250. The design of the healthcare plan for all crafts was recommended to remain in place the only difference being the "uncapping of the previously agreed-to 15% monthly employee contributions." This rate had been capped in previous rounds of bargaining.

### **Conclusion**

The bargaining history of the BMWED illustrates how PEBs have adopted positions in an attempt to remain consistent with variables both internal to the rail industry and external to the rail industry. The full reports of each of these PEBs can be found on the National Mediation Board's website under their Knowledge Store. It is essential that the Members of the BMWED familiarize themselves with all of the elements that go into the bargaining process and the variables that determine the outcomes. This is important, not to resign oneself to the ebb and flow of history, but to be able to recognize the changes that we can effect in order to achieve the things that BMWED Members deserve. The purpose of reading history is not to simply criticize the rights and wrongs of the past, but to understand the conditions in which lead to the outcomes

that happen. As Members of the BMWED, it is our duty to understand the conditions in order to change the conditions and alter the balance of power between the carriers and our Members.