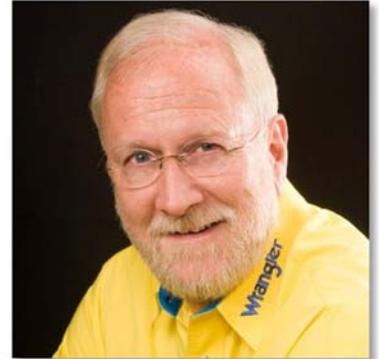


TRANSPORTATION REPORT

From: Terry Whiteside

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OVERVIEW OF THE SURFACE TRANSPORTATION BOARD REAUTHORIZATION ACT OF 2015 – S 808

After working for 9 years, Whiteside & Associates and the Alliance for Rail Competition reached a victory for captive shippers. After the Senate, under the leadership of Commerce Committee Chairman Thune (R-SD), passed unanimously the STB Reauthorization Act of 2015 in June, 2015, the House passed the same bill (standalone) on December 10, 2015. This quick article with permission presents the background, the need and the main provisions outlined in the bill.

What is the Surface Transportation Board (STB)?

- The STB is the federal agency charged with economic oversight of the nation's freight rail system. The three-member, bi-partisan Board has regulatory jurisdiction over railroad rate reasonableness, mergers, line acquisitions, new rail-line construction, line abandonment, and other rail issues.**

- **The STB was formed in 1996 as the successor agency to the Interstate Commerce Commission, and it is decisionally-independent. It is administratively housed within Department of Transportation (DOT).**

Why do we need the STB reauthorization?

- **The STB has not been reauthorized since its formation, and its previous authorization expired in 1998.**
- **Over the past decade, the Government Accountability Office (GAO) and the Department of Justice (DOJ) Antitrust Division have published reports raising concerns about the efficiency of rate review processes for shippers, particularly captive shippers served by a single railroad. Reports state that the rate review process—including the “standalone” cost test—is often burdensome and inefficient, costing millions to litigate and years to resolve.**
- **In January of 2015, the U.S. Department of Agriculture (USDA) reported that surging demand and winter weather conditions in 2014 created major issues with grain car backlogs, storage constraints, and rail car premiums, and these issues raised transportation and commodity costs. The STB does not have the authority to proactively investigate rail issues and does not have a systemized, publicly available database of complaints.**
- **Because the STB has only three members, Board members cannot have nonpublic collaborative discussions—which automatically form a majority—without a public hearing notice. For example, one Board member reported staff-level budget briefings are conducted separately for each member.**

What would the STB Reauthorization Act of 2015 do?

- Authorize the STB for FY 2015 through FY 2019 (previous authorization lapsed in 1998)**
- Expand voluntary arbitration procedures to make rate cases quicker and less costly**
- Provide the STB with the authority to initiate investigations on matters other than rate cases**
- Set rate review timelines for the stand-alone cost test to ensure the STB efficiently decides on relief**
- Require the STB to establish a database of complaints and prepare quarterly reports on them**
- Expand membership from three to five members and allows board members to talk with one another without a prior public hearing notice**
- Require the STB to study more efficient and simplified rate review methodologies and to maintain at least on such methodology, given the challenges with the burdensome stand-alone cost test**
- Require the GAO to report on the effects of proposals with multiple origin to destination pairs**