



ARC

*Alliance for
Rail Competition*

412 First St. S.E., Suite One, Washington, DC 20003
Phone (202) 484-7133, Fax: (202) 484-0770 www.railcompetition.org

Federal News Update September 11, 2008

Congress returned to Washington after the August recess on September 8, for what promises to be a short session before adjourning at the end of the month for the election season. It is widely expected that few pieces of legislation will actually make it to the President's desk during these few weeks. Congress must pass a continuing resolution to keep the government entities funded when the new fiscal year begins on October 1. Other than this and a few other pressing political issues, most bills introduced in 110th Congress will die at the end of the year and will need to be reintroduced at the beginning of the next Congressional session. There is always the possibility of a lame duck session after the election, however, most of the attention will be on spending bills.

HR. 2125/S. 953, the Rail Competition and Service Improvement Act, has little chance of reaching the President's desk this session, despite the unprecedented number of supporters in Congress. It will need to be reintroduced again in the next session to move through the legislative process.

With Congressional season coming to an end, below is a compilation of successes and highlights that ARC and the shipper community experienced in 2008.

Congressional Legislation Gains Unprecedented Support

H.R. 2125/S. 953, the Rail Competition and Service Improvement Act, was introduced earlier in the Congressional session and gathered an unprecedented number of co-sponsors. As of September 2008, 55 members co-sponsored the House bill, and S. 953 had 13 Senators signed on. A full list of co-sponsors is included on page 3 of this newsletter. In addition to securing support of members of Congress, ARC actively participated in getting Western Governors and Midwestern Legislators to support the bill.

The legislation includes a very important provision regarding the Final Offer Arbitration, to be available to the agriculture sector. The provision is strongly opposed by the railroads but ARC continues to advocate for its inclusion for all shippers.

Much work remains to be done to secure additional co-sponsors as these numbers are still short of confident passage in the House and Senate committees – the next step to be taken in the legislative process. We encourage all ARC members to continue educating their representatives about this issue, as we will need to redouble our advocacy efforts at the beginning of the year.

ARC Participation in Annual Shipper Day

On March 12, 2008, shippers from around the country participated in the Fourth Annual Rail Shipper Day on Capitol Hill. ARC and its members played a prominent role during the day from organizing multiple successful meetings with members of Congress to speaking at shipper gatherings. ARC members comprised about 30% of the shipper participation and represented shippers in over half of

the meetings held on the Hill. Additionally, ARC members held several mini-Shipper day sessions throughout the year reinforcing the call for change.

Participation in Congressional and STB Hearings

Continuing on the momentum set in 2007, ARC members testified before Congress and STB on several issues related to the rail industry. Evan Hayes, a member of the ARC Executive Committee, testified before the House Subcommittee on Railroads regarding rail capacity. Terry Whiteside, ARC Chairman, and John Cutler, Counsel, testified before the STB on common carrier obligation.

Legislative and Other Victories

Despite the fact H.R. 2125/S. 953 will not make it to the President's desk this year, this was the best year yet and a most interesting year of positive activities which resulted in several legislative victories to report in various committees affecting various issues. As the number of these victories continues to grow, it is becoming apparent to Congressional leaders and members that the railroad lobby in Washington is not as unbeatable as it was once perceived. ARC continued to be very active representing its members in all of these activities. Below is the list of major provisions.

- Rep. Tim Walz (D-MN) spearheaded a provision in the Farm Bill of 2008 to study how transportation, and specifically rail, affects the movement of agricultural products.
- Sen. Byron Dorgan (D-ND) included two separate provisions in the FY 2008 Transportation Appropriations Bill: one to cap STB filing fees to \$350; and another to authorize an Inspector General report on rail service disruptions.
- Cong. Tammy Baldwin (D-WI) and Sen. Byron Dorgan included a provision in the major energy legislation to require a study of the competitive environment for the movement of biofuels and whether there are legal authorities in place to keep the railroads from charging unreasonable rates where a competitive environment is not present.
- ARC is actively participating in the STB study on rail competitiveness, to be released this fall. Michael Scanlan, member of the ARC Executive Committee, is a member of the review Committee.
- STB ruled in favor of DuPont in its first "small rates" filings under the new rules. Though rates still remain high for DuPont, this was a major ruling against CSX in all instances in this dispute.

Outlook for 111th Congress:

We want to thank all of the ARC members for their support and participation. ARC continues to develop responsible strategy to focus on the captive shipper issues and we could not do it without your support. Its broad mix of members gives it a unique perspective in development of meaningful legislative efforts.

Members of Congress and their staff have come to rely on ARC members and Washington representatives to provide responsible and credible legislative insight on rail shipper issues.

We have developed throughout the years white papers and information that have helped educate a broad cross section of the Congress. ARC is favored with a strong alliance of agricultural interests and continues to work at broad encompassing legislative efforts.

Looking forward to next year, the momentum gathered in the 110th Congress will help focus rail shipper efforts clearly in the 111th. The prospects of continued leadership by Chairman Oberstar on the rail competition issues provides a bright positive beacon for your continuing efforts. We believe there will be stronger rail customers and Hill support in the upcoming Congress for the efforts and we look forward to achieving success in the next Congress.

The rail industry continues to push for solutions to its infrastructure problems and rail shippers continue to push for solutions to their pressing problems with lack of competitive balance. This presents an opportunity for Congress to find solutions for both the railroads and rail shippers.

H.R. 2125 The Rail Competition and Service Improvement Act (Co-Sponsors: 55)

Rep. Oberstar, James (D-MN)
Rep. Alexander, Rodney (R-LA)
Rep. Andrews, Robert (D-NJ)
Rep. Baldwin, Tammy (D-WI)
Rep. Berry, Marion (D-AR)
Rep. Bonner, Jo (R-AL)
Rep. Boren, Dan (D-OK)
Rep. Boustany, Charles (R-LA)
Rep. Braley, Bruce (D-IA)
Rep. Cubin, Barbara (D-WY)
Rep. Delahunt, William (D-MA)
Rep. Ellison, Keith (D-MN)
Rep. Franks, Trent (R-AZ)
Rep. Frelinghuysen, Rodney (R-NJ)
Rep. Garrett, Scott (R-NJ)
Rep. Gillmor, Paul (R-
Rep. Grijalva, Raul (D-AZ)
Rep. Hare, Phil (D-IL)

Rep. Herseth Sandlin, Stephanie (D-SD)
Rep. Hinojosa, Ruben (D-TX)
Rep. Hirono, Mazie (D-HI)
Rep. Holden, Tim (D-PA)
Rep. Holt, Rush (D-NJ)
Rep. Hooley, Darlene (D-OR)
Rep. Inglis, Bob (R-SC)
Rep. Jefferson, William (D-LA)
Rep. Kagen, Steve (D-WI)
Rep. Kind, Ron (D-WI)
Rep. McCollum, Betty (D-MN)
Rep. McNulty, Michael (D-NY)
Rep. Melancon, Charlie (D-LA)
Rep. Miller, Brad (D-NC)
Rep. Mollohan, Alan (D-WV)
Rep. Moore, Gwen (D-WI)
Rep. Murphy, Patrick (D-PA)

Rep. Musgrave, Marilyn (R-CO)
Rep. Lampson, Nick (D-TX)
Rep. Obey, David (D-WI)
Rep. Paul, Ron (R-TX)
Rep. Perlmutter, Ed (D-CO)
Rep. Peterson, Collin (D-MN)
Rep. Poe, Ted (R-TX)
Rep. Pomeroy, Earl (D-ND)
Rep. Ramstad, Jim (R-MN)
Rep. Rehberg, Dennis (R-MT)
Rep. Renzi, Rick (R-AZ)
Rep. Ross, Mike (D-AR)
Rep. Simpson, Mike (R-ID)
Rep. Sires, Albio (D-NJ)
Rep. Snyder, Vic (D-AR)
Rep. Space, Zack (D-OH)
Rep. Towns, Edolphus (D-NY)
Rep. Udall, Mark (D-CO)
Rep. Walz, Timothy (D-MN)
Rep. Wamp, Zach (R-TN)

S. 953 The Rail Competition and Service Improvement Act (Co-Sponsors: 13)

Sen. Rockefeller, John (D-WV)
Sen. Baucus, Max (D-MT)
Sen. Cantwell, Maria (D-WA)
Sen. Craig, Larry (R-ID)
Sen. Crapo, Mike (R-ID)

Sen. Dorgan, Byron (D-ND)
Sen. Feingold, Russ (D-WI)
Sen. Johnson, Tim (D-SD)
Sen. Klobuchar, Amy (D-MN)

Sen. Landrieu, Mary (D-LA)
Sen. Tester, Jon (D-MT)
Sen. Thune, John (R-SD)
Sen. Vitter, David (R-LA)