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**Folder Title:**  
Amtrak: Amtrak/NEXTEA [National Economic Crossroads Transportation Efficiency Act]

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● Mark J. Schwartz

03/18/97 05:44:51 PM

Record Type: Record

To: Dorothy Robyn/OPD/EOP

cc:

Subject: Labor objections to draft Amtrak Reauthorization

fyi - as we discussed

----- Forwarded by Mark J. Schwartz/OMB/EOP on 03/18/97 05:43 PM -----



● Mark J. Schwartz

03/14/97 03:54:28 PM

Record Type: Record

To: Michael Deich/OMB/EOP

cc: Kenneth L. Schwartz/OMB/EOP, David E. Tornquist/OMB/EOP, Daniel M. Tangherlini/OMB/EOP

Subject: Labor objections to draft Amtrak Reauthorization

Following up on our discussion of early Wednesday --

We recommend that you call John Podesta to discuss what labor provisions, if any, should be included in the Amtrak title of NEXTEA. Our recommendation, as detailed below, would be to maintain the current draft sections in the bill on contracting out/employee protection. Doing so would allow us to tell the story we want to tell: that our bill is our contribution to solving Amtrak's long-term problems and that it provides the means for other stakeholders (labor, states /localities, passengers) to do their share. Two arguments for maintaining the provisions in the draft are:

- (1) we included an even more onerous provision in the Administration's 1995 bill, and
- (2) the cost, to Amtrak of agreeing to the terms labor is seeking in the current negotiations is \$220 million. Amtrak's current financial plan, precarious as it is, does not provide funding for this additional cost. The additional costs would hasten the date of crisis for Amtrak.

We have solicited DoT's comments on the details of Labor's objections, but Jano has decided that he wants to defer to FRA on all these issues.

#### **A. Labor objections on contracting out/employee protections**

The Amtrak Restructuring Act of 1995, which was sent to the Congress in April 1995 included provisions which

- (1) allowed Amtrak and labor to negotiate an agreement permitting Amtrak greater flexibility in contracting out work then permitted under current statute; and

(2) allowed Amtrak and labor to negotiate new employee protective arrangements different than those allowed under current statute.

The two provisions would have permanent effect -- that is, they would apply in the current and future rounds of negotiations.

The draft language we have in the 1997 bill differs from the 1995 language -- in one respect. It allows negotiations over contracting out and employee protective arrangements, but limits the authority to discuss these issues to only the current round of negotiations.

It would be fair to say that our current proposal is slightly less onerous on labor than the 1995 proposal. When the Amtrak Restructuring Act of 1995 went through the legislative clearance process, the Department of Labor raised no objections.

#### **B. Labor's concerns about Davis Bacon applicability:**

Labor is also seeking the addition of language to make it clear that Davis-Bacon would apply to any interstate rail compacts authorized by the draft bill, the Northeast Corridor program and the Rhode Island Rail project.

According to FRA, Davis-Bacon already applies to interstate rail compacts which use federal funds because those funds will be "flexed" out of the NHS or STP programs and are still covered by Davis-Bacon there. FRA also notes that Davis-Bacon already applies to Amtrak and that since Amtrak is the party required to improve the Northeast Corridor, the Davis-Bacon protections already apply to the corridor project. FRA feels that adding the Davis-Bacon language will flag the Davis-Bacon issue (making it a convenient point of attack for those who dislike Davis-Bacon) and call into question the current view which is that Davis-Bacon already applies.

FRA acknowledges that the Davis-Bacon proviso may not apply as clearly to the Rhode Island rail project authorized in the draft bill and FRA has no objection to adding the language in that instance. We are seeking additional information from FRA on the status of the Rhode Island rail project and the whether current construction is covered by Davis-Bacon like protections. Before we would agree to include such a provision in the draft bill we would need to consult with Senator Reed of Rhode Island to see what his preference would be on this project.

#### **C. Labor branch concerns about authorization bill**

OMB's labor branch raised several points, most of which are covered by the above discussion. One request from our colleagues is that the notice requirement concerning route elimination and reduction be expanded to require Amtrak notification of rail employees, as well as local communities. FRA has no objection to this requirement. We are checking with FRA and Amtrak but suspect that such notice requirements are already part of the existing collective bargaining agreements with the labor unions.

#### **D. Is Amtrak on the verge of financial collapse?**

The economic forecasts provided by GAO and Amtrak make it appear that even under the most optimistic assumptions, that by this time next year, Amtrak will be in serious danger of not having funds to meet its obligations. Even though we have not provided Amtrak with all the money they

requested for FY 1998, and even though Amtrak is in difficult financial circumstances, assuming enactment of the operating and capital levels we sought in the President's budget, Amtrak will have ample cash available to keep operating through the beginning of 1998. At that time, Amtrak may exhaust its lines of credit.

As noted above, if Amtrak were to agree to the current requests of its unions to pattern a new collective bargaining agreement after the current 5 year deal made between freight railroads and freight labor, Amtrak would incur a \$220 million cost for the 5 year deal, payable over a 3 year period. Amtrak has not budgeted for these costs and the additional costs would hasten the day of reckoning.

—  
THE WHITE HOUSE  
WASHINGTON

Janet Hink 5-7751

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Janet -

Mark Schwartz

3/18/97

OMB has bill; only Comments are from DOL:

- DBA w/d apply to . . .

( Even though FRA thinks DBA applies } this w/d  
only flag it

- Spring '95 language - DOL

-

- FRA folks talked to Ed Wytkin - he was extremely  
perturbed

- Don I talked to Downey

- He called;

- L. prot. is stat. mandated

- This says you can at least talk about it.

( They're concern is tactical: what ever Admin. sends  
up is starting point.

In '98, day of reckoning (wrecking?) will come.

Their finan. plan has several assumptions, any 1

- K contrib. will be  $\sim 1/2\%$

$\$750M$

us:  $\$423M$

$\$330M$  difference

~~Key~~ Key + of our fin. proposal is the  
Trigger week:

If Am is making ~~add~~ progress, add'l. K will  
be made available

But

If we send this <sup>bill</sup> up w/out this provision, hard to  
show any progress.

Janus  
3/18/97

Amtrak

Allow neg's on labor govt. ; Con. out, but only on this round

Last year, stronger version in Admin's New South.  
- wld have allowed

{ Only thing - our draft says ↑ cld be subj. of study ;  
round's of a FEB, if it came to that.

- FRA just wants to get bill out  
that way

- Mont <sup>feels strongly abt it -</sup> - Close to what's going on at the Staff

There's for Am, can't do - sort reform  
- power wheeling

But we need to give them some flex.

Deich <sup>has</sup> said he won't clear bill until we need to decide

labor - Admin. has to be w/as b/c Cong. wll make  
to right





Janet Hunter -

(1) I/State rail <sup>imp</sup> contracts

(2) N/East Corridor improvement proj.

} DBA will apply  
if under RLA,  
unions had negotiated  
a prevailing

DOL wants DOT to drop collective bargaining.

(1) - ~~prev~~. Currently under the <sup>prev's</sup>, it can't contract and  
if current Am workers will lose jobs or wages

DOT wants Am. to be able to contract and  
regard

(2) ~~Am~~ <sup>Amick</sup> c/d renegotiate the Employee protective  
provisions  
parachute

DOL objects

- FKA - unions mty. today; labor reacted badly

- Mark Schwartz

- Bipartisan blue

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Cooper/H:

No more savings proposals, b/c being

studied. But we realize