

TOMMY G. THOMPSON

**Governor
State of Wisconsin**

May 18, 2000

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

I am vetoing Assembly Bill 827 in its entirety.

Assembly Bill 827 requires a railroad train, operating in Wisconsin, to have two persons in the lead controlling locomotive cab at all times when the train or locomotive is in motion except for the purpose of switching. Under current law (1997 Wisconsin Act 42), all locomotives or trains operating in Wisconsin must have on board a federally certified railroad engineer and a qualified railroad trainperson. The Office of the Commissioner of Railroads may, by rule, waive this requirement if it will not endanger life or property. The requirement also does not apply if it is contrary to federal laws or regulations,

Wisconsin is the only state in the country with a law that requires two person crews, I signed 1997 Wisconsin Act 42 because I believe safety is paramount. The requirements under current law set the standard for the nation and balance safety concerns with the goal of increased railroad service and employment.

However, I am concerned that Assembly Bill 827 has several shortcomings that may degrade safety and diminish opportunities for expanded railroad commerce and employment in the state. These concerns have been echoed in correspondence I have received from over two dozen local law enforcement officials, mayors, railroad shippers and railroads. Wisconsin has already set the standard on national railroad safety with the current requirement for two person train crews. There must be time to evaluate the impact of that requirement on safety while fostering passenger and freight rail service and employment expansions.

One key concern is the potential impact on METRA commuter rail service extensions into Wisconsin. METRA service includes considerable operating requirements and mechanical redundancies to ensure the highest possible level of safety. However, METRA has identified the provisions in this bill as too limiting on staff deployment and would considerably reduce, if not eliminate, the ability of METRA to provide cost-effective service in southern and southeastern Wisconsin.

Currently, METRA provides service to Kenosha under certain grandfather provisions included in the transfer of passenger rail authority to METRA. METRA is considering service extensions from Harvard, Illinois to Clinton, Wisconsin and from Kenosha to Racine and Milwaukee. These extensions will require approval by the Illinois Legislature based on recommendations from METRA. I want to ensure Wisconsin is in the best position possible to support METRA in its efforts to secure that approval. This expansion, and other future passenger rail service expansions, will provide Wisconsin citizens with greater transportation options and increase railroad employment.

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

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I am very concerned that Assembly Bill 827 will reduce railroad **safety** in the Fox Valley due to its impact on "push-pull" trains. This type of train format utilizes locomotives at both ends of the train each staffed by one engineer. This approach has been approved by the Federal Railroad Administration for operation between Green Bay and Stevens Point, through Neenah, and has been in service since 1994. Use of this approach has reduced the switching operation in Neenah from one hour to 10 minutes. Considerable traffic delays and disruption of traffic patterns have been eliminated due to this change.

The bill would force Wisconsin Central to discontinue "push-pull" service on this line due to prohibitive costs. According to local elected and law enforcement officials and experts from the East Central Wisconsin Regional Planning Commission, use of a standard train set (a locomotive at one end of the train) will cause the return of traffic delays and backups that could lead to increased accidents and diminished traffic safety.

Supporters of this bill identified the size of train crews **associated** with freight rail service in northern Wisconsin as a reason for **enacting** these provisions. I have been assured by Wisconsin Central that it will begin to provide two person crews on that line within the next few weeks. I believe this action will address some of the concerns expressed by the railroad operating engineers union. In order to ensure implementation of this commitment, I will personally monitor the **actions** of Wisconsin Central on this issue in consultation with the Office of Commissioner of Railroads

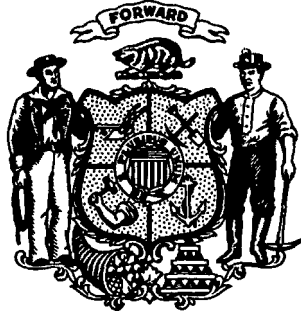
While there are procedures under current law that would allow the provisions in Assembly Bill 827 to be waived by the Office of the Commissioner of Rails. I do not believe it is sound government to adopt a requirement and then provide a series of **wavers** to address multiple conditional uses. Current law provides a safety standard that exceeds the rest of the country. I am requesting the Office of Commissioner of Railroads to monitor railroad safety issues over the next several months and provide a report to me by January 1, 2001. That report will serve as the basis for identifying any additional **safety** issues and the need for action in the next legislative session. I will also confer with the Office of Commissioner of Railroads, the United Transportation Union, the Brotherhood of Locomotive Engineers and the railroad industry in reviewing that report and providing input on the need for additional legislative action.

My goal is to ensure a thriving passenger and freight rail system in Wisconsin with a safety record that is second to none. That goal can be achieved by continuing to dialogue on infrastructure needs, service opportunities and **safety** issues. The measures outlined in this message will provide a framework for evaluating railroad safety issues in concert with capitalizing on Wisconsin's passenger and freight rail service opportunities.

Sincerely,

TOMMY G. THOMPSON
Governor

State of Wisconsin



1999 Assembly Bill 827

Date of enactment:
Date of publication*:

1999 WISCONSIN ACT

AN ACT to amend 192.25 (2) of the statutes; **relating to:** the minimum number of railroad employees required to be present in the cab of the lead control locomotive when the railroad train or locomotive is in motion.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 192.25 (2) of the statutes is amended to read:

192.25 (2) No person operating or controlling any railroad, as defined in s. 85.01 (5), may allow the operation of any railroad tram or locomotive in this state unless the railroad train or locomotive has a crew of at least 2 individuals. One of the individuals shall be a certified railroad locomotive engineer. The other individual shall be either a certified railroad locomotive engineer or a qualified railroad trainman. A certified railroad locomotive engineer shall be present in the cab and shall operate

the lead control locomotive at all times that the railroad tram or locomotive is in motion. The other crew member shall be present in the cab of the lead control locomotive at all times that the railroad train or locomotive is in motion, except when the railroad train or locomotive is in motion for the purpose of switching. When the railroad train or locomotive is not in motion, the other crew member may dismount the railroad train or locomotive when necessary to perform switching activities and other duties in the course of his or her job.

SECTION 2. Initial applicability.

(1) This act first applies to railroad trams or locomotives operated on the effective date of this subsection.

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

BILL HISTORY FOR ASSEMBLY BILL 827 (LRB -4488)

An Act to amend 192.25 (2) of the statutes; relating to: the minimum number of railroad employes required to be present in the cab of the lead control locomotive when the railroad train or locomotive is in motion. (FE)

2000

- 03-07. A. Introduced by Representatives **Hahn, Brandemuehl, Huebsch, Turner, La Fave, Musser, Johnsrud, Suder, Black, Plale, Albers, Sinicki, Seratti, Travis, Young, Porter, Freese, Pocan, Gronemus, Sykora, Boyle and Ziegelbauer**; cosponsored by Senators **Breske, Risser, Drzewiecki, Rosenzweig, Rude, Erpenbach, Schultz, Cowles, Jauch, Wirsch, Plache** and **Grobschmidt**.
- 03-07. A. Read first time and referred to committee on Transportation 699
- 03-16. A. Public hearing held.
- 03-16. A. Executive action taken.
- 03-16. A. Assembly amendment 1 offered by committee on Transportation (**LRB a1866**) 774
- 03-21. A. Fiscal estimate received.
- 03-22. A. Report Assembly amendment 1 adoption recommended by committee on Transportation, Ayes 17, Noes 0 800
- 03-22. A. Report passage as amended recommended by committee on Transportation, Ayes 17, Noes 0.. 800
- 03-22. A. Referred to committee on Rules.. 800
- 03-23. A. Placed on calendar 3-28-2000 by committee on Rules.
- 03-28. A. Read a second time..... 852
- 03-28. A. Assembly amendment 1 **adopted**..... 852
- 03-28. A. Ordered to a third reading 852
- 03-28. A. Rules suspended 852
- 03-28. A. Read a third time and **passed** 852
- 03-28. A. Ordered immediately messaged 852
- 03-29. S. Received from Assembly.
- 03-29. S. Read first time and referred to committee on Insurance, Tourism, Transportation and Corrections 1
- 03-29. S. Rules suspended to withdraw from committee on Insurance, Tourism, Transportation and Corrections and take up.
- 03-29. S. Read a second time.
- 03-29. S. Ordered to a third reading.
- 03-29. S. Rules suspended.
- 03-29. S. Read a third time and **concurred in**.
- 03-29. S. Ordered immediately messaged.

1999 ASSEMBLY BILL 827

March 7, 2000 - Introduced by Representatives HAHN, BRANDEMUEHL, HUEBSCH, TURNER, LA FAVE, MUSSER, JOHNSRUD, SUDER, BLACK, PLALE, ALBERS, SINICKI, SERATTI, TRAVIS, YOUNG, PORTER, FREESE, POCAN, GRONEMUS, SYKORA, BOYLE and ZIEGELBAUER, cosponsored by Senators BRESKE, RISSER, DRZEWIECKI, ROSENZWEIG, RUDE, ERPENBACH, SCHULTZ, COWLES, JAUCH, WIRCH, PLACHE and GROBSCHMIDT. Referred to Committee on Transportation.

1 **AN ACT to amend** 192.25 (2) of the statutes; **relating to:** the minimum number
2 of railroad employes required to be present in the cab of the lead control
3 locomotive when the railroad train or locomotive is in motion.

Analysis by the Legislative Reference Bureau

Current law prohibits any railroad train or locomotive from operating in this state unless the crew consists of at least two qualified persons. A locomotive engineer must operate the control locomotive at all times that the railroad train or locomotive is in motion. The other crew member may dismount the railroad train or locomotive when necessary to perform switching activities and other duties in the course of his or her job. These requirements are preempted by federal law except to the extent that they prohibit over-the-road train operation unless the railroad train or locomotive has a train crew of at least two persons. Over-the-road operations, however, may also be exempted from this two-person train crew requirement by specific agreement between the Federal Railway Administration and an individual railroad. *Burlington Northern and Santa Fe Railway Co. v. Doyle*, 186 F3d 446 (1999).

This bill requires that the two crew members be present in the cab of the lead control locomotive at all times that the railroad train or locomotive is in motion.

The commissioner of railroads may grant exceptions to these requirements, if the exceptions will not endanger life or property.

ASSEMBLY BILL 827

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 192.25 (2) of the statutes is amended to read:

192.25 (2) No person operating or controlling any railroad, as defined in s. 85.01 (5), may allow the operation of any railroad train or locomotive in this state unless the railroad train or locomotive has a crew of at least 2 individuals. One of the individuals shall be a certified railroad locomotive engineer. The other individual shall be either a certified railroad locomotive engineer or a qualified railroad trainman. A certified railroad locomotive engineer shall be present in the cab and shall operate the lead control locomotive at all times that the railroad train or locomotive is in motion. The other crew member shall be present in the cab of the lead control locomotive at all times that the railroad train or locomotive is in motion. ~~but~~ may dismount the railroad train or locomotive when necessary to perform switching activities and other duties in the course of his or her job.

SECTION 2. Initial applicability.

(1) This act first applies to railroad trains or locomotives operated on the effective date of this subsection.

(END)

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**ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 827**

March 16, 2000 - Offered by COMMITTEE ON TRANSPORTATION.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 11: delete "but" and substitute "except when the railroad train
3 or locomotive is in motion for the purpose of switching. When the railroad train or
4 locomotive is not in motion, the other crew member".

5 (END)

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