January 14, 2008

The Honorable Daniel K. Inouye
Chairman
Senate Committee on Commerce, Science and Transportation
SD-508 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Inouye:

On behalf of the American Public Transportation Association (APTA) and its 1,500 member organizations, I write to share our views on the Railroad Safety Enhancement Act of 2007 (S.1889). It is my understanding that the full Senate may consider this legislation early in the upcoming congressional session. As David Solow, Chief Executive Officer of the Southern California Regional Rail Authority (Metrolink) and APTA’s Vice Chair for Commuter and Intercity Rail, testified before your committee last year, “rail safety is a top priority for APTA commuter rail systems.” Commuter rail systems are not the same as freight rail systems. What may work well for freight railroads may not provide significant improvements in safety for commuter rail systems. As such, I urge you to exempt commuter rail systems from some of the new requirements. As you may recall, we made these points in our testimony last year, and want to take the opportunity to reiterate them at this time.

We are primarily concerned about the legislation’s proposed changes to the Hours of Service (HOS) laws. S. 1889 proposes several changes to reduce fatigue for rail workers, such as limiting on duty-time plus time in deadhead transportation and time waiting for deadhead transportation (“limbo time”) to 276 total hours per month, limiting shifts to 12 consecutive hours, requiring 10 consecutive off-duty hours in the 24 hours prior to the beginning of a shift and mandating 48 hours of off duty time for employees who work for six consecutive days. While these changes may make sense for Class I freight railroad employees, they don’t make sense for commuter rail employees, and would increase costs for commuter rail systems without reducing fatigue or improving safety.

Commuter rail employees, unlike freight railroad employees, generally have regular daily shift schedules that revolve around providing peak-period commuter service. Such schedules often include routine interim rest periods of no less than four hours between split shifts, and the opportunity to spend off-duty hours at home. Due to the differing nature of shift schedules for commuter rail employees, increasing the number of off-duty hours and decreasing the number of hours an employee can spend in limbo time is unnecessary, as demonstrated by commuter rail safety records.

The proposed HOS changes will result in a need for more employees and greater operating costs for commuter rail systems. Because commuter rail systems are public agencies, these increased costs will have to be passed on to riders or local taxpayers, or force cuts in service. Higher fares or less service will cause commuters to abandon commuter rail systems and commute in private cars thus undermining national goals to conserve energy, reduce air pollution and reduce traffic congestion.
As your committee continues to work to advance this legislation we urge you to consider changes that will recognize the difference between commuter and freight rail systems. APTA recommends that the current legislation be amended to exempt commuter rail systems from changes in the HOS laws while the Federal Railroad Administration studies employee fatigue in commuter rail systems and makes recommendations on changes that would improve safety.

Thank you for your consideration of our views. If you have questions about these issues, please have your staff contact Paul Dean of APTA’s Government Affairs Department at (202) 496-4887 or email pdean@apta.com.

Sincerely yours,

[Signature]

William W. Millar
President

WWM/tjj