On The Move

Aug. 17, 2016 Official Publication of TWU Local 234 www.twulocal234.net

# Special ID Cards are Required to Vote in Union Election

Members of Local 234 who work for SEPTA will no longer be able to vote by showing their SEPTA pass and getting it punched at the polling place. The new SEPTA pass, which most of our members now have, cannot be punched like the old ones to show that a member voted and therefore can't vote again.

As a result, the Election Committee had to come up with an alternative. The Committee will mail a special ID voting card to all members employed by SEPTA for use on Election Day. The special ID will have your name and account number. When you go to your polling place to vote, you will have to show your SEPTA pass and turn in the ID card to the representative of the American Arbitration Association, the neutral organization conducting the vote.

The special ID will also be used by floaters who are eligible to vote at more than one location. When floaters vote, they'll have to show their SEPTA pass and turn in their ID card. If a member shows his/her SEPTA pass, but doesn't have an ID card, they can only vote a challenged ballot. With this new system, it is critical that the Local have your up-to-date contact information, particularly your address. We will announce when the ID cards are mailed. If you don't receive your card in a reasonable period of time, call the Union Hall to make sure we have your correct mailing address.

## SEPTA's use of VMIS to Assess Attendance Points Must Stop

The workings of the Attendance Point System are spelled out in great detail in Appendix I of the union contract. On the maintenance side, two attendance points are assessed for sick turn-ins. Points are also assessed for being late, or for using more than 4 EAH/SAH days in any consecutive twelve month period.

Unfortunately, some maintenance locations are applying their own warped interpretation of the contract by assessing attendance points for VMIS violations, which have nothing to do with sick turn-ins, lateness, or EAH/SAH days. For example, if a maintenance worker reports for work and logs into the VMIS system on-time, he is neither absent nor late. Yet, if the employee fails to enter the VMIS code "WFA," which means "waiting for assignment," or fails to enter "BYE" when logging out at the end of the day he is assessed four *attendance* points.

The practice of assessing attendance points for what are nothing more than VMIS violations, assuming the VMIS system is working properly, is a violation of the contract and it must be stopped. The Union is processing a grievance to see if labor relations is willing to correct the problem. If not, the issue will be addressed in contract negotiations with SEPTA.

## FLSA case moves towards settlement, but with SEPTA anything can happen

The Fair Labor Standards Act ("FLSA") lawsuit filed against SEPTA in October, 2015 is working its way towards settlement. The case, captioned *Claudio, et al. v. SEPTA* is the fourth FLSA lawsuit filed against the Authority SEPTA since 2006. The four suits all concerned payment for work performed off-the-clock, including the CDL inspection and the other reporting tasks. The biggest case, *Bell v. SEPTA*, settled in August, 2015 for over $13 million, one of the largest FLSA settlements in the country in 2015.

This case is somewhat different from the others, because SEPTA took action to limit its back-pay exposure. In November, 2015, the Authority started enforcing the ten-minute report time, preventing operators from starting *earlier* and thereby working off the clock. While an FLSA claim can go back three years, the plaintiffs in the *Bell* case were compensated for unpaid work performed up to August 24, 2015. Those who didn't participate in *Bell* may receive back-pay for up to three years prior to the time they joined the new case.

So far, over 2,400 SEPTA operators have consented to join the case as plaintiffs and be represented by counsel, Local 234's in-house attorney Bruce Bodner. In order to settle the case, all eligible SEPTA operators not yet in the case must be provided with court authorized notice, explaining the nature of the suit and be given the opportunity to join as plaintiffs. Judge Slomsky, who is assigned to the case, recently issued a court order approving the notice to be mailed to all potential plaintiffs not yet in the case. If you are already in the case, don't expect to receive the court ordered notice in the mail.

Once the notice goes out, the unsigned operators will have 30 days to join the case. After the 30 days, no one else will be permitted to join in the case. The parties will then resume settlement discussions. If SEPTA acts responsibly, the case can be settled pretty quickly. If SEPTA is unreasonable, there is no telling what may happen. We'll see.

We will keep you updated as the settlement discussions progress.

## Double Duty Notice for using Intermittent FMLA Leave is an Unfair Burden

As of now, an employee calling off to take approved, intermittent Family and Medical Leave is required to call *both* the district and AmeriHealth. This "double duty" notice requirement flies in the face of the FMLA which prohibits placing a greater burden on employees who use FMLA leave than on those who call off for other reasons, such as being sick. If SEPTA wants AmeriHealth to know that someone call-off for FMLA leave, *the district can contact AmeriHealth* instead of placing the burden on the employee.

This issue has been grieved and is awaiting arbitration, but the Local intends to get the issue resolved in contract negotiations.

# We Must and We Will