



Town Hall Meeting Report on Regulated Age

(This report was compiled and written by Block 1 Rep, Captain Jack Anzur. It was edited by MEC Chairman Captain Dave Webb, and MEC members Captains John Grones, Mike Arcamuzi, Tony Cutler and Scott Schwartz. Mr. Brendan Kenny and Mr. Phil Comstock also reviewed this report to ensure accuracy).

On August 12, 2007, the MEC hosted a Town Hall Meeting at the Germantown Centre. The primary purpose of this meeting was to walk our members through the decision making process which led FedEx ALPA leadership to vote in favor of modifying ALPA's Regulated Retirement Age policy. Guest speakers included: Mr. Brendan Kenny, lobbyist and Director of ALPA Government Affairs, and Mr. Phil Comstock, President of the Wilson Center for Public Research, an independent organization that ALPA employs for polling data. MEC Chairman Dave Webb also spoke.

Mr. Kenny described his department and their role. His office consists of two lobbyists, and 3 support staff. Their job is to act as ALPA's "eyes and ears" on Capitol Hill. They keep ALPA leadership informed about current and proposed legislation that could affect our professional lives and our industry. Additionally, they keep Congress informed regarding issues important to ALPA. His department also oversees ALPA PAC and he thanked all FedEx pilots for being among the top contributors.

Mr. Kenny has served ALPA in a Legislative Affairs capacity for 23 years and said, "Age 60 has always been an issue." In each case we were able to work with the FAA to deter attempts to change the Regulated Age. The FAA maintained that Age 60 was a safety issue, and as the agency for aviation safety, their position was honored by Congress whenever an attempt was made to change Age 60. This argument was also successful against age discrimination issues.

Approximately 4 years ago, momentum began to build among Democrats to view the regulated age as an age discrimination issue and support for maintaining it slowly began to erode. In 2003, Senator Inhofe (Rep, OK) offered an amendment to an FAA Reauthorization Bill that would change the regulated age. It was defeated 52/44, again, due to ALPA's efforts and the FAA's position that safety would be compromised. In 2006, one of the most powerful men in the Senate, Ted Stevens of Alaska sponsored an amendment, which would change the regulated age. This amendment was written

into a Transportation Appropriations bill, but Congress adjourned at the end of the year without acting on this issue. In 2007, Senate Bill (S.65) and House Resolution (H.R.1125), both known as the "Freedom to Fly Act," were introduced and have gained significant support. These two bills call for a change in the regulated age but offer no protection for pilots or our union. They were both written without ALPA's involvement.

Mr. Kenny gave this background information to show that the proposals to change the pilot regulated age have been ongoing for over two decades. Each time, the proposed change was beaten back due to successful ALPA lobbying and the FAA's argument that safety would be degraded.

This all changed, when on November 23, 2006, President Bush decided not to file an exemption to ICAO age 65 policy thus allowing foreign pilots over 60 to fly as PIC in US airspace. Then, in January 2007, the FAA Administrator announced her intent to issue a Notice of Proposed Rule Making (NPRM) to change the regulated retirement age to 65 in accordance with ICAO standards. These two seismic events, which nullified the long standing FAA safety argument, along with the view among a growing number of legislators that the FAA regulated retirement age was age discrimination, made the change more likely than ever before. Additionally, our friends in Congress began telling us, in no uncertain terms, that by not changing ALPA's long standing position on age 60, we would not have the ability to influence legislation which was being written that would change the age. With these developments, ALPA had to act or be left out. We had to ask the question, do we want to shape this legislation or do we wait to have it happen to us? The Government Affairs Department was particularly concerned about legislation that was already being written, specifically S.65 and H.R.1125 because these proposals would change the age limit without addressing a number of critical issues that would be necessary to protect ALPA and its pilot members.

In April 2007, ALPA's Executive Council (all Executive Vice Presidents, Capt. Joe Fagone for FedEx) met and after considering all that was previously discussed voted to recommend that the Executive Board (all MEC Chairs, Capt. Dave Webb for FedEx) vote in favor of a resolution that would modify ALPA's long standing policy on Age 60. As an aside, the Executive Council cannot vote on resolutions that would change ALPA policy; only the Executive Board or the Board of Directors (all elected LEC Officers) may do so.

On May 16, the Senate Commerce Committee met and passed out of committee, S.1300, the FAA reauthorization bill which included the language of S.65. Things were moving fast at this point. Again, legislation was being written which would affect our professional lives without ALPA's input.

On May 25, 2007, ALPA's Executive Board, after carefully and diligently reviewing all the facts and realizing that it was not a matter of if the law would change, but when it would change and understanding that unless ALPA's position was changed we would not be able to effectively participate in the language of the change, voted to modify ALPA's policy on the regulated retirement age. ALPA's support was contingent on being able to influence the writing of legislation to ensure that a list of our issues brought to the attention of ALPA's leadership by the Blue Ribbon Panel were addressed. The most important item of concern was to write legislation to ensure that management could not make unilateral changes to CBA's based on regulated age change. Other items included, but were not limited to: liability protection for ALPA, limited age influenced change for FAA medical standards, no retroactivity (except for active crew members) etc.

Shortly after the Executive Board voted for a policy modification Representative Oberstar incorporated all items that ALPA wanted into the body of the House version of the reauthorization bill (H.R.2881) with the exception of the Akaka amendment which would have provided additional PBGC funding for the ALPA pilots who had their defined benefit plans terminated (There were jurisdictional reasons that the Akaka amendment was not included but it is being pursued in other venues). These items include:

- Prohibit unilateral changes to labor agreements and benefit plans
- Raise the regulated age to 65 with no retroactivity unless a pilot is serving in a required flight deck position on the date of enactment
- Provide liability protection for ALPA
- Eliminate the over/under split for domestic operations
- Make the effective date the date of enactment
- Permitting only minor modifications to FAA flight physicals for over 60 pilots
- Requirements for the FAA to address the issue of flight crew fatigue
- Clarification of what constitutes "actual control" of a U.S. airline
- Authorization for the HIMS program
- Increased inspection of foreign repair stations
- Support a requirement that all-cargo aircraft be fitted with fortified flight deck doors
- Language to provide protection from disciplinary and/or certificate action for employees who voluntarily provide data in non-punitive safety reporting systems (ASAP)
- Funding for Midway and Wake Island airports to remain open for use as Pacific LROPS alternatives

(For the complete list please Google H.R.2881)

Mr. Kenny again emphasized the key point is to ensure, through the writing of legislation, that management may not unilaterally change any CBA provisions after the regulated age is changed without negotiating with the union.

As of mid August 2007 there are 2 versions of the FAA reauthorization bill, one in each house of Congress. Each bill contains elements that ALPA felt was important for the protection of airline pilots. Congress is in recess until September.

There are 2 paths by which the regulated age will change. One is the NPRM process. FAA Administrator Blakey, in January 2007, announced the FAA's intent to issue an NPRM sometime this year with the open comment period extending into 2008, thereafter followed by discussion and an issuance. Mr. Kenny commented that in his judgment, the FAA was in turmoil over this issue because of a quagmire of legal issues, a large number of EEOC complaints, and because Ms. Blakey is stepping down as administrator in September 2007. Her replacement will be a political appointment and the time period for doing so is open-ended.

The second path is via legislation. Mr. Kenny believes that change will be made legislatively before the NPRM takes place. This is because the NPRM process may likely take two years, and Congress

believes that is too long. Thus, the legislation is currently being written. He again mentioned that S.65 and H.R.1125 were written before ALPA became involved in the process. These two bills contain none of the many protections and provisions outlined above.

Captain Webb then mentioned that the House version of the FAA reauthorization bill contains language that would not permit retroactivity with the exception of those flight crew members still flying (as second officers). This provision would affect second officers over 60 at FedEx, Atlas, UPS, ATA, NWA and Polar. Captain Webb reiterated that when the change to regulated age occurs, the FedEx MEC is on record that there will be no change to our CBA regarding S/O's over 60 and that pilots wishing to bid to the front seat may only do so via a vacancy bid. As an aside, Capt Webb commented on FedEx's current policy in terms of allowing pilots over 60 to move to the backseat without a bid. He stated that this is an extra-contractual event and ALPA's position is that since it isn't displacing anyone ALPA doesn't have an issue with it.

Mr. Phil Comstock then took the floor and addressed the FedEx polling regarding age 60. The purpose of the poll was to measure the concerns of the pilots if change were inevitable.

Mr. Comstock told a story about what happened to British Airways in January 2007. When the ICAO standard was announced in late 2006, the British Airways pilots embraced the idea. However, because there was no legislation addressing contract protection as the law changed, British Airways announced its intent to aggressively unilaterally change the contract based on the change in retirement age. British Airways believed it could unilaterally mandate that pilots retire at 65, change pension accrual provisions and several other modifications that would have negatively impacted pilots. As a result, the pilots threatened a job action which bought time for their union actuaries to explore the fundamental assumptions of BA which were found to be faulty. The situation was resolved thereafter, but it could have gotten ugly because the BA pilots hadn't taken legislative action to protect themselves.

He stated that ALPA pilots are pretty much split down the middle on regulated age change with the exception of FedEx pilots who are not in favor of change when asked that as a stand alone question. But, pointed out that when FedEx pilots were asked, "If change is inevitable, would you be in favor of modifying or dropping the policy if ALPA were to gain input into the process," slightly less than two thirds answered yes. Other pilots have lost their pay and retirement benefits so he believes that is what drives their position. FedEx is the only major ALPA carrier with an intact defined benefit plan. UAL, Delta and US Airways had their plans terminated and CAL and NWA had theirs frozen.

Mr. Comstock then went through 13-15 questions that ALPA pilots answered on the web survey. He explained that there were a total of approximately 40-45 total questions, but a core of 12-15 which were repeated 3-4 times each for verification and accuracy.

When asked if change to the regulated age was imminent, and if by ALPA participating in the process to ensure certain issues were addressed, would you favor a modification to ALPA's policy? Pilots responded in various answers from a range of 61% to 87% yes, depending on the question...

He summarized the survey indicating that the results clearly state that pilots said OK to modifying ALPA's position on the regulated age if legislation was imminent and if it would protect ALPA interests.

Captain Webb stated that because of the survey results and the information given us by our lobbyists, the MEC empowered him to vote in favor of modifying ALPA's position on the regulated age if so doing would enhance protections for our pilots.

Captain Webb further stated that he was unhappy that the survey question was included which asked

“Do you favor a change to the FAA Age 60?” The reason is that a stand alone question such as that builds false expectations throughout the membership. It was a known fact the regulated age was going to change. It was also very clear to the entire MEC where our membership stood on the issue. What wasn’t known was if pilots would support a modification of its policy given age change was imminent as clearly demonstrated by the presentation of Mr. Kenny.

Captain Webb then talked about our local FedEx MEC process in dealing with this issue. He accurately recalled the process as being methodical, diligent, time consuming and at times frustrating. When the FedEx MEC first learned of the immediacy of this issue in April of 2007 we intended to allow for a modification to our position on regulated age to be done via the Board of Directors (BOD). The BOD (all elected LEC reps) put this policy in place in 1980 and the FedEx MEC felt that only the BOD should change it. We would have done so by allowing the LEC officers several months to communicate with their constituents, and at the end of that period ask for a vote of the BOD. Unfortunately, events moved too fast. In May 2007, we were informed that this change to the regulated age was in fact in progress, that legislation was being written and attached to important bills without ALPA’s input. In late May 2007, before going to the Executive Board meeting Captain Webb convened a special MEC meeting to again ask for guidance. The MEC told him to make every effort to again look at this issue and determine if we had time to engage our constituents. If time permitted, our position was to have this issue handled by the BOD. If on the other hand we did not have time, if all that we had been told was true, then and only then vote to modify ALPA’s policy on the regulated age with the caveat that by so doing, legislators would give ALPA full access to the process so that we could ensure our pilots were protected. From the Executive Board meeting Dave reported that after hearing all the briefs, he was firmly convinced that the train had left the station, and that we clearly need to participate in the process. He voted in favor of modifying ALPA’s position on the regulated retirement age in accordance with the direction given by the MEC.

Captain Webb then explained the MEC’s position on supporting the ability of S/O’s over 60 returning to the front seat when legislation changes. At the core of the argument is that the CBA protects all crewmembers equally. The CBA clearly states that crewmembers are able to exercise all seniority rights up until such time that they are terminated or retire. As such, we have a moral, ethical and legal obligation to protect those rights provided by our CBA.

Captain Webb then closed the meeting by giving a brief overview of the ALPA process, pointing out that we make every effort to be as democratic as possible, but in fact ALPA is a Representational Democracy. That’s why it’s critical that the membership elect good LEC Officers. Sometimes the MEC has to move quickly due to conditions beyond our control. Your elected representatives work hard to earn your trust and as such endeavor to do the best job possible to represent your interests. A responsibility of the membership is to have the courtesy and civility to allow your representatives time to explain why they voted they way they did on various issues.

