

Collective Bargaining in the Freight Rail Industry

ASSOCIATION OF AMERICAN RAILROADS

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Summary

The U.S. freight railroad industry is highly unionized. Collective bargaining in the industry is subject to the Railway Labor Act (RLA). Under the RLA, labor contracts do not expire but instead remain in effect until modified through a complex process that can take years. Ultimately, if agreement is not reached, a nationwide rail strike could result. Such a strike would quickly cause enormous damage to the U.S. economy.

U.S. Freight Railroad Employees: Committed, Professional, and Highly Compensated

- The U.S. freight railroad industry employs approximately 170,000 professional and highly dedicated employees. Approximately 153,000 are employed by the seven “Class I” railroads, which are the largest U.S. railroads. Thousands of others are employed by one of the hundreds of short line and regional freight railroads.
- Rail workers are among the nation’s most highly paid workers. In 2015, the average U.S. Class I freight rail employee earned wages of \$86,300 and fringe benefits of \$34,600, for total compensation of \$120,900. By contrast, the average wage per full-time equivalent U.S. employee in 2015 was \$59,400 (just 69 percent of the rail figure) and average total compensation was \$73,300 (just 61 percent of the rail figure).

The Railway Labor Act Governs Employer-Employee Relations in the Rail Industry

- The U.S. rail industry is heavily unionized. Approximately 85 percent of Class I employees and around 60 percent of non-Class I employees belong to a union and thus are subject to collective bargaining agreements.
- Collective bargaining between freight railroads and their employees is governed by the Railway Labor Act (RLA), which was first passed in 1926 and amended occasionally since then. Collective bargaining for most other industries is governed by the National Labor Relations Act.
- Most Class I railroads and a number of non-Class I railroads bargain on a “national handling” basis. National handling covers the vast majority of the nation’s unionized freight rail employees. Under national handling, a group of railroads acting as a unit negotiates with a union or group of unions for an agreement that applies to all those who participate in the bargaining. The National Railway Labor Conference, an association whose members consist of the Class I U.S. freight railroads and many smaller freight and passenger carriers, represents the railroads in national handling negotiations.
- Railroads must negotiate separate labor contracts with each of the 13 major unions that represent rail workers, though unions can bargain together if they so choose. In addition

to issues covered by national agreements (such as wage rates and health benefits), individual railroads may negotiate separate agreements with their unions that cover local issues (such as how to use crews for positive train control construction and installation).

How Are Contract Negotiations Handled Under the Railway Labor Act?

- Under the RLA, labor contracts do not expire. Instead, they remain in effect until modified by the parties involved. The modification process is complex, and while a new contract can be reached at any time during the process, it can take years to complete.
- The first step in modifying existing contracts is the issuance by either side of a “Section 6 Notice” (named for a section of the RLA) that details proposed changes to a contract. Negotiations between the parties must begin within 30 days after a Section 6 notice is issued. There is no limit to how long these negotiations can continue. Typically, they last as long as both sides believe progress toward an agreement is being made. During this phase, neither side can exercise “self-help” — *i.e.*, a strike by labor, or a lock-out or unilateral implementation of its proposals by management.
- If either side concludes there is no prospect of reaching an agreement, it can ask the federal National Mediation Board (NMB) to mediate. The NMB can also volunteer its services. Once it becomes involved, the NMB will continue trying to reach an agreement acceptable to both sides for as long as it believes an agreement is achievable. Once the NMB determines that further mediation is unlikely to yield an agreement, it will proffer voluntary, binding arbitration to both sides. If either side refuses arbitration, the status quo is maintained for a 30-day “cooling off” period, during which self-help is prohibited.
- During the cooling off period, the NMB may determine that the dispute threatens “to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation services.” If the NMB makes this determination, it notifies the White House, and the president of the United States may appoint a Presidential Emergency Board (PEB) to investigate the dispute. If the president chooses not to appoint a PEB, the parties to the dispute are on their own and can choose to continue to negotiate or — once the cooling off period is finished — to exercise self-help.
- In the past, when national rail disputes have not been resolved during this cooling off period, the NMB has usually found that the disputes would significantly harm interstate commerce, and presidents have typically responded by appointing PEBs. Over time, more than 200 PEBs have been appointed regarding rail-related labor disputes. A PEB has 30 days (though the parties can agree to an extension) to investigate the dispute and report its findings to the president. During this period and for 30 days after the PEB issues its report, no self-help is permitted. The findings of the PEB form the basis for a non-binding recommended settlement to the parties. The parties may choose to accept the recommendations of the PEB or negotiate their own agreement. If they do not reach agreement during the final 30-day cooling off period after the PEB has issued its report, the parties can exercise self-help.
- Congress can impose a settlement if it decides that such action is warranted. Over the past 35 years, only six days have been lost to strikes over nationally-handled freight railroad negotiations. The impetus for Congressional action is the substantial harm to the U.S. economy that would be generated by a nationwide freight rail strike.

THE U.S. FREIGHT RAILROAD COLLECTIVE BARGAINING PROCESS

