

# Under the Railway Labor Act

### Introduction to the Railway Labor Act (RLA)

By the 1920s, the railroad industry controlled nearly all interstate traffic in the United States, both freight and passenger, and employed more than 2 million workers. Decades of labor unrest, widespread and often violent work stoppages, and the resulting interruptions to interstate commerce prompted the federal government to work with industry and union leaders to create a new and different way of resolving labor disputes. Railroad management and unions prepared agreed legislation that was passed, unchanged, by Congress in 1926 as the RLA. The RLA guaranteed to railway employees the right to join a union of their choice and to engage in collective bargaining. It also established procedures for the orderly resolution of labor disputes.

**In 1934,** Congress created the National Mediation Board (NMB) to oversee and carry out the RLA.

**In 1936,** the RLA was extended to cover interstate air carriers.

**In 1951,** the RLA was amended to allow for union shops and dues check-off agreements.

### The RLA has four primary purposes:

- To avoid interruption of interstate commerce
- To provide employees the freedom to join a labor union
- To provide for prompt and orderly settlement of collective bargaining disputes
- To provide for prompt and orderly settlement of disputes concerning interpretation of existing collective bargaining agreements (CBAs)

### National Mediation Board (NMB)

The NMB is the federal agency that oversees and carries out the RLA. The NMB is headed by a three-member board nominated by the president and confirmed by the U.S. Senate. Although appointed for three-year terms, members may serve until replaced. The board is supported by a staff of attorneys, investigators, mediators, and related personnel.

The primary responsibilities of the NMB include:

- Resolving questions concerning employee representation
- Mediating, or settling, disputes between management and labor representatives
- Determining whether and when to release parties to self-help, which could include strikes by labor and lockouts by management

**Southwest began as an intrastate carrier within Texas and was not subject to the Railway Labor Act until 1979 when service began to Louisiana.**



### Collective Bargaining

Under the RLA, a labor union designated by a group of employees as their collective bargaining representative is the sole and exclusive representative for collective bargaining purposes. This means that management is required to negotiate only with that duly designated representative with regard to wages, hours, and working conditions.

Under the RLA, a CBA does not expire. Rather, a CBA becomes subject to change as of a specific date, called the amendable date.

The collective bargaining process begins when parties exchange notices indicating a desire to change wages, hours, and working conditions. Thereafter, the RLA requires the parties to “exert every reasonable effort” to reach an agreement.

### Mediation

If parties are unable to reach an agreement, either or both parties may request the NMB’s mediation services. The goal of the NMB is to assist the parties with reaching an agreement without interrupting interstate transportation. Once NMB mediation begins, parties remain in mediation until “released” by the NMB.

- The NMB controls the schedule of mediated discussions between the parties.
- There is no time limit to mediation.
- While in mediation, parties must maintain the current status and may not engage in self-help.
- If the NMB concludes the parties are deadlocked in their positions, it may offer binding arbitration, which either party may reject. Binding arbitration allows an arbitrator to make a final ruling on the contract language.
- If the parties decline the offer of arbitration, the NMB will release the parties from mediation, triggering a 30-day “cooling-off” period before the parties may engage in self-help.

### Presidential Emergency Board (PEB)

If an agreement is not reached through mediation or arbitration, and the NMB determines self-help would threaten interstate commerce and essential transportation services, the NMB must notify the president of the United States. The president, at his or her discretion, may create a PEB to investigate and report the facts of the dispute between the parties.

- The PEB has 30 days to complete its investigation and submit its report to the president.
- During the PEB investigation, parties must maintain the current status.
- After the PEB submits its report, parties must maintain status quo for an additional 30-day cooling-off period.
- The non-binding recommendations of the PEB are intended to provide a framework for agreement.
- On occasion, Congress has intervened and passed special legislation requiring submission to binding arbitration or acceptance of the PEB recommendations.

**Self-help** may include strikes by labor, lockouts by management, and the implementation of management proposals.



**The Supreme Court** has described the bargaining and mediation process under the RLA as “almost interminable” and has explained that the delay is intentional and purposeful.

*“In the long run, delaying the time when the parties can resort to self-help provides time for tempers to cool, helps create an atmosphere in which rational bargaining can occur, and permits the forces of public opinion to be mobilized in favor of a settlement without a strike or lockout.”*

*Detroit & Toledo Shore Line Railroad v. United Transportation Union, 396 U.S. 142, 149, 150 (1969)*

**National Labor Relations Act (NLRA)**

The NLRA passed by Congress in 1935 governs labor relations in the private sector, excluding airline and railroad industries subject to the RLA. Similar to the NMB, Congress established the National Labor Relations Board (NLRB) to administer and enforce the NLRA, but the two agencies are profoundly different. There are significant differences between the two labor statutes.

National Labor Relations Act	Railway Labor Act
NLRB has authority to investigate and prosecute violations of the statute.	NMB has no comparable authority. Parties must enforce statute on their own in federal court.
NLRB does not participate in negotiation or mediation process.	NMB may participate in the negotiation and mediation process.
Arbitration of unresolved grievances is only by agreement.	Arbitration of unresolved grievances is required.
Either party may request mediation services of the Federal Mediation and Conciliation Service (FMCS), but FMCS has no authority to keep parties in mediation.	Once invoked, NMB mediation is mandatory. The NMB has authority to keep parties in mediation.
Under the NLRA, a collective bargaining unit may be limited to one location.	Under the RLA, the appropriate bargaining unit is system-wide.
NLRA permits states with right-to-work laws to prohibit union shop agreements in those states.	RLA has no comparable provision, and state right-to-work laws don’t apply.