Railroad Collective Bargaining Process

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Summary

U.S. freight railroad industry labor relations are subject to the Railway Labor Act (RLA). Under the RLA, labor contracts do not expire. Rather, they remain in effect until modified by the parties involved through a complex process that can take years to complete. 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: Dedicated, Professional, and Highly Compensated

- U.S. freight railroads had around 187,000 employees as of the end of 2007, including some 167,000 on Class I railroads and more than 19,000 on non-Class I carriers. Around 85 percent of Class I employees and 60 percent of non-Class I employees are unionized. Collectively, rail labor unions exert substantial influence on rail management, legislators, and others in determining the environment in which railroads and rail employees operate.
- Freight railroading is among America's highest-paying industries. In 2007, the average U.S. freight railroad employee earned wages of $68,200 and fringe benefits of $27,100 — for total compensation of $95,300.
- By contrast, the average wage per full-time employee in the United States in 2007 was $49,100 (72 percent of the comparable rail figure) and average total compensation was $60,300 (63 percent of the comparable rail figure).

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

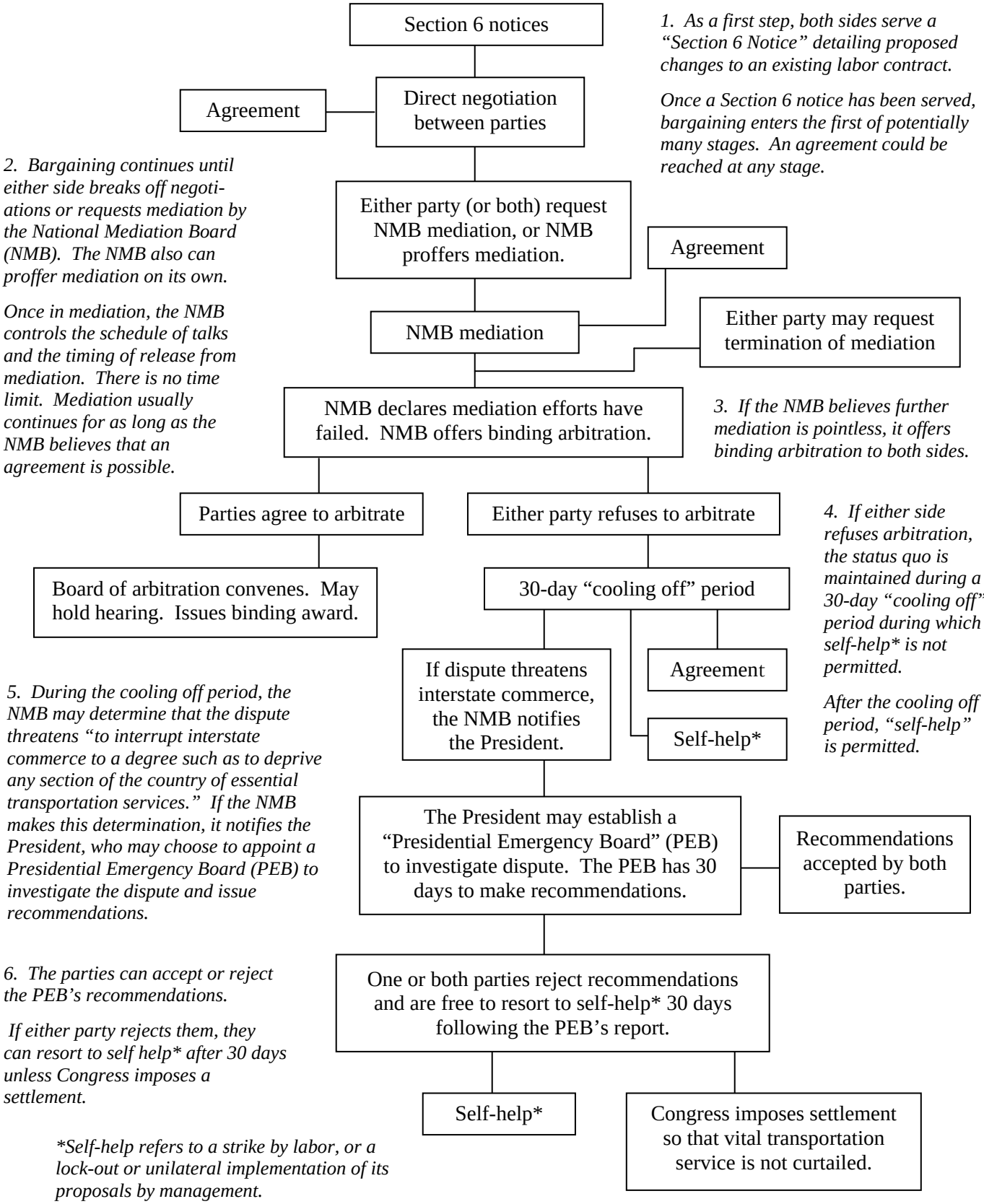
- The 1926 Railway Labor Act (RLA) governs collective bargaining between freight railroads and their employees. (Collective bargaining for most other industries is governed by the National Labor Relations Act.)
- Most Class I and numerous non-Class I railroads bargain on a "national handling" basis. Under national handling, a group of railroads bargains jointly with a union or group of unions for a single agreement that applies to all those who participate in the bargaining. Railroads that engage in national handling do so through the National Carriers' Conference Committee of the National Railway Labor Conference.
- 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, each railroad maintains separate agreements with their unions that cover local issues.

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 the section of the RLA in which it is defined) which 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 labor nor management 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 that there is no prospect of reaching an agreement, it may invite the National Mediation Board (NMB), an independent federal agency, to mediate. The NMB can also offer to mediate on its own volition.
- Once it becomes involved, the NMB will continue in this effort as long as it thinks an agreement is achievable, often spending months trying to shape a compromise acceptable to both sides. Either side can also petition the NMB to be released from mediation. Once the NMB believes further mediation is unlikely to produce an agreement, it will offer 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 President, who 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.
- Typically, the NMB has found that railway 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 (more if the parties agree to an extension) to investigate the dispute and report its findings. During this period, no self-help is permitted. The findings of the PEB form the basis for a non-binding recommended settlement to the parties.
- If both sides accept the recommendations, the dispute is over. If one or both sides reject the recommendations, another 30-day cooling off period begins, during which self-help remains prohibited and the parties are encouraged to continue to try to reach an agreement. At the end of this final cooling off period, parties can exercise self-help.
- Congress can impose a settlement if it finds such action is warranted. Over the past 25 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 rail strike.

THE U.S. FREIGHT RAILROAD COLLECTIVE BARGAINING PROCESS



1. As a first step, both sides serve a "Section 6 Notice" detailing proposed changes to an existing labor contract.

Once a Section 6 notice has been served, bargaining enters the first of potentially many stages. An agreement could be reached at any stage.

2. Bargaining continues until either side breaks off negotiations or requests mediation by the National Mediation Board (NMB). The NMB also can proffer mediation on its own.

Once in mediation, the NMB controls the schedule of talks and the timing of release from mediation. There is no time limit. Mediation usually continues for as long as the NMB believes that an agreement is possible.

3. If the NMB believes further mediation is pointless, it offers binding arbitration to both sides.

4. If either side refuses arbitration, the status quo is maintained during a 30-day "cooling off" period during which self-help is not permitted.*

After the cooling off period, "self-help" is permitted.

5. 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 President, who may choose to appoint a Presidential Emergency Board (PEB) to investigate the dispute and issue recommendations.

6. The parties can accept or reject the PEB's recommendations.

If either party rejects them, they can resort to self help after 30 days unless Congress imposes a settlement.*

**Self-help refers to a strike by labor, or a lock-out or unilateral implementation of its proposals by management.*