

# Understanding the Railway Labor Act of 1926

*“We do not ride on the railroad; it  
rides upon us.”*

**-Henry David Thoreau**

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Revised October 2023



# Learning Objectives

*Upon completion of this training, participants will be able to:*

- Describe the general history of events that led to the passage of the **Railway Labor Act (RLA)**.
- Describe the purposes of the RLA.
- Describe how the RLA governs organizing unions, negotiating contracts, and handling grievances against contract violations.
- Describe how the RLA governs workers' ability to practice self-help.
- Describe how the RLA differs from the **National Labor Relations Act (NLRA)**.

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# First Thing's First...

*“An ACT To provide for the prompt disposition of disputes between carriers and their employees and for other purposes.”*

- The RLA is a US law (**45 United States Code, Chapter 8**) that governs labor relations in the railroad & airline industries.
- The RLA was passed in 1926 and has been amended several times, first in 1934 and through to 2012.
- The RLA is one of several different laws that govern unions and labor relations in the US.
- The RLA is one of several different laws that directly affect rail workers in the US.

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# First Thing's First...

*“An ACT To provide for the prompt disposition of disputes between carriers and their employees and for other purposes.”*

- **GENERAL PURPOSES**

1. To avoid any interruption to commerce or to the operation of any carrier engaged therein;
2. To forbid any limitations upon freedom of association among employees or any denial, as a condition of employment or otherwise, of the right of employees to join a labor organization;

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# First Thing's First...

*“An ACT To provide for the prompt disposition of disputes between carriers and their employees and for other purposes.”*

- **GENERAL PURPOSES**

3. To provide for the complete independence of carriers and of employees in the matter of self-organization to carry out the purposes of this Act;
4. To provide for the prompt and orderly settlement of all disputes concerning rates of pay, rules, or working conditions;

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# First Thing's First...

*“An ACT To provide for the prompt disposition of disputes between carriers and their employees and for other purposes.”*

- **GENERAL PURPOSES**

5. To provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or applications of agreements covering rates of pay, rules, or working conditions.

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# Congress' Authority to Enact the RLA

**US Constitution, Article I, Section 8, Clause 3:**

*[The Congress shall have Power] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;*

The **Commerce Clause** is an enumerated power in our Constitution, granting Congress the authority to pass laws that govern interstate commerce, including rail commerce.

Congress has demonstrated, even recently, it will exercise its power to regulate rail commerce and rail labor disputes.

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# What Caused the RLA to Become Law?

- The **Great Railroad Strike of 1877** demonstrated that railroad workers are critical to our country's economy.
- Several laws (Arbitration Act of 1888, Erdman Act of 1898, Newlands Labor Act of 1913) tried to help resolve disputes and prevent railroad unrest but were ineffective.
- In World War I, President Wilson nationalized the railroads, creating effective **Adjustment Boards** to settle disputes in the wartime administration.

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# What Caused the RLA to Become Law?

- After World War I, railroads returned to private ownership. The postwar Railroad Labor Board was created but proved to be completely biased toward railroads and unworkable.
- The RLA was created after negotiations between railroads and rail labor to fix the problems in the Railroad Labor Board.
- Since its passage, the RLA has been considered effective (by lawmakers and others) at its intended job—to prevent disruption to interstate commerce.

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# What Caused the RLA to Become Law?

The Great Railroad Strike of 1877 demonstrated the power of American rail workers. The **Adamson Act of 1916** (creating the **8-hour workday** and **overtime**) and the **Great Railroad Strike of 1922** (Shopmen's Strike) reinforced this fact. The 1922 strike also demonstrated the problems with the Transportation Act of 1920, the RLA's immediate predecessor.

*Bottom line, the RLA exists because rail workers can shut down the American economy.*

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# So, What Does the RLA Do?

As laid out in its General Purposes, the RLA:

- **Tries to prevent disruptions to railroads operating caused by labor disputes.**
- Guarantees the right of rail workers to form Unions.
- Governs how anyone wanting to organize a Union on a railroad can do that.
- Governs how rail unions and railroads negotiate contracts.
- Governs how unions and railroads handle grievances regarding contracts.

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# So, Why the RLA (and not some other law?)

The RLA governing railroad unions, while not the first labor law, came before almost all other modern labor laws that govern unions and replaced several bad laws that came before.

The National Labor Relations Act (NLRA or Wagner Act) that governs most other private-sector Unions, was passed **AFTER** the RLA, in 1935.

Earlier labor laws governing rail labor only achieved partial success (ending “yellow dog contracts,” improving conditions, settling disputes, etc.).

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# Understanding the Railway Labor Act of 1926

## *Organizing a Property under the RLA*

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# The RLA and Organizing a Union

In the early 1800s, attempting to work with other employees to improve pay or working conditions was considered a criminal conspiracy (known as “combination”). This started to change after *Commonwealth v. Hunt* in 1842.

Railroad Unions, starting out as fraternal organizations, started to appear as America’s rail network grew during and after the Civil War. Almost all rail Unions today existed **BEFORE** the RLA.

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# The RLA and Organizing a Union

To organize a Union under the RLA, you must organize the same “**craft of class**” of employees for an **ENTIRE** company (not just a specific work location).

- > The way some short line railroads are managed and operated (as independent entities like Illinois Railway inside OmniTRAX) allow for their organization.
- > The **National Mediation Board (NMB)** governs the procedures for organizing on railroad properties. RLA election criteria and processes are different than for NLRA elections.

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# The RLA and Organizing a Union

Under the RLA, a railroad can be organized as a **Union Shop**. This is a provision within contracts that make membership in a Union a condition of employment on that railroad for that specific work. Our various Agreements all contain some language preserving a Union Shop.

Because the RLA governs the rail industry and organizes railroads by network, it overrides state boundaries and supersedes any state **Right to Work** laws that prohibit Union Shops.

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# The RLA and Organizing a Union – “Right To Work”

State “Right to Work” laws don’t apply to railroad workers because the federal legislation that allows for such laws, the **Taft-Hartley Act**, did not amend the Railway Labor Act. The Taft-Hartley Act only amended the National Labor Relations Act (NLRA). So, federal preemptions apply to the railroad industry and organizing rail labor.

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# Understanding the Railway Labor Act of 1926

## *Negotiating a Contract under the RLA*

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# The RLA and Negotiating a Contract

Under the RLA, **CONTRACTS NEVER EXPIRE!**

They can, however, become amendable after parties exchange notices of intent (referred to as **Section 6 Notices**, after the part of the RLA that governs them). For stability, the parties agree to **moratorium clauses** that bar Section 6 notices for a set period, the **moratorium period**.

After the exchange of Section 6 notices and the formal opening of bargaining talks, **Status Quo** is maintained.

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# The RLA and Negotiating a Contract – Direct Negotiations

Parties first engage in **Direct Negotiations**. Here, both the railroad and the Union agree to meet and discuss issues, make proposals, and conduct bargaining over a new contract.

Over time, many railroads have opted to consolidate their bargaining power into an organization called the **National Carriers Conference Committee (NCCC)**. The NCCC has power to dictate how individual railroads conduct their bargaining and has dramatic impacts on how bargaining occurs in our industry.

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# The RLA and Negotiating a Contract – Direct Negotiations

While in Direct Negotiations, the **National Mediation Board (NMB)** generally stays out of the process. If a railroad fails to bargain in good faith, attempts to change Status Quo provisions, or does something similar, the NMB doesn't actually have jurisdiction yet, and the issue needs to be resolved in court.

**See the lawsuits BMWED filed in federal court to try and force single-carrier bargaining, or regarding CP's attempt to "split" bargaining over healthcare (NCCC) and wages/work rules (Local, single-carrier).**

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# The RLA and Negotiating a Contract - Mediation

If Direct Negotiations break down, either party (or both) can apply to the NMB for Mediation. NMB will receive the application, docket the case, and assign a mediator. The NMB can also insert itself into a dispute at its own discretion, without the request of either party.

**Mediation is designed to assist the parties in coming to a voluntary agreement.**

**There is NO time limit to Mediation! While in Mediation, Status Quo is maintained.**

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# The RLA and Negotiating a Contract – Proffer of Arbitration

If NMB decides that Mediation will not resolve a bargaining dispute, it will issue a **Proffer of Arbitration**, which would send the dispute to binding arbitration and a resolution.

**Either the railroad or the Union can REJECT the Proffer of Arbitration.**

**Rejection starts a 30-day cooling off period, where Status Quo must be maintained.**

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# The RLA and Negotiating a Contract – Cooling Off Period

During negotiations, if parties are in a **Cooling Off Period**, they must maintain **Status Quo**. That is, they can't strike, lock employees out (keep them from reporting to work), or perform other forms of **Self-Help**.

The NMB will often offer further Mediation attempts during a Cooling Off Period, sometimes called “Public Interest Mediation” or “Super Mediation.”

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# The RLA and Negotiating a Contract – PEB

During a Cooling Off Period, the NMB will notify the President if it determines the dispute can threaten to interrupt interstate commerce. The President may then, at their discretion, create a **Presidential Emergency Board (PEB)** that will develop a proposed agreement to resolve the dispute. Once called, the PEB has 30 days to do its work (a 2<sup>nd</sup> Cooling Off Period).

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# The RLA and Negotiating a Contract – PEB

The freight railroads often insist on bargaining together as the NCCC, which gives any dispute BMWED has with NCCC a potential for national disruption and triggering the NMB's notification. After the mega-mergers of the 1990s, even a dispute with a single Class I railroad could trigger the path to a PEB.

After the PEB submits its recommendations, a third 30-day Cooling Off Period is imposed so parties can take the recommendations back for review, approval, or rejection.

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# The RLA and Negotiating a Contract – Cooling Off Period

While in a Cooling Off Period, parties can still meet and attempt to find a voluntary resolution. As part of those negotiations, they may also voluntarily agree to extend Status Quo periods.

After the end of the third Cooling Off Period, there are no further provisions within the RLA to maintain Status Quo. Unless the parties mutually agree to maintain Status Quo, either party can initiate Self-Help.

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# The RLA and Negotiating a Contract – Self-Help

Self-Help, in the context of contract bargaining, is only permitted after the conclusion of all the steps laid out (Direct Negotiations, Mediation, Proffer or Arbitration, Cooling Off Periods, PEB, etc.).

**Self-Help can include a Strike, where employees withhold work, a Lock-Out, where employers prevent Agreement-covered employees from performing work, a Carrier unilaterally imposing a contract, or similar actions.**

**The RLA was DESIGNED to prevent Self-Help!**

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# The RLA and Negotiating a Contract – Self-Help

Rail labor history and precedent do not prohibit **Secondary Boycotts** to occur when a rail Union opts to exercise Self-Help. Other laws, like the NLRA (as amended by the Taft-Hartley Act), do prohibit this.

This history is what allows rail Unions to honor the picket lines established by other rail Unions. So, if one rail Union goes on strike on a property, all rail Unions can legally honor that strike.

**This is a right protected under the RLA.**

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# The RLA and Negotiating a Contract – Legislation

After the RLA's provisions to prevent Self-Help have run their course, Self-Help is permitted by railroads or Unions.

Since the Great Railroad Strike of 1877, the US Government has kept a keen interest in preventing disruptions to railroad operations (and the US economy).

**Congress will normally quickly end any possible Self-Help by imposing a contract through legislation.**

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# The RLA and Negotiating a Contract – Legislation

Congress' authority to impose a contract comes from the Constitution itself via the **Commerce Clause**.

Article I, Section 8, Clause 3 of the US Constitution in an enumerated power granted to Congress to “regulate the Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

Since railroads conduct interstate commerce, Congress can and will regulate it.

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# The RLA and Negotiating a Contract – Commerce Clause

Many railroad workers see the Commerce Clause, granting Congress the authority to intervene in a railroad strike, as an overreach in their power.

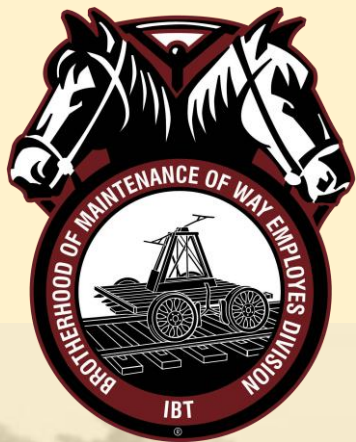
However, the Commerce Clause is also what grants Congress the authority to pass legislation that preserves the rights of railroad workers (like the RLA, RRA, RUIA, FELA, FRSA, OSHA, FMLA, etc.).

**Within Congress' ability to guarantee our right to form a Union is their authority to avert a strike.**

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# Understanding the Railway Labor Act of 1926

## *Arbitrating Disputes under the RLA*

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# The RLA and Arbitrating Disputes

After the railroad and workers sign a contract, the RLA also governs how to resolve disputes that occur for alleged violations of that contract.

The RLA builds on the precedent established by older laws that built “Adjustment Boards” as a method to resolve disputes without resorting to Self-Help.

Where either party attempts Self-Help outside the limitations within the RLA, courts are given authority to enjoin such actions.

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# The RLA and Arbitrating Disputes

The RLA creates two categories for labor disputes. A dispute can be “major” or “minor.”

**Major Disputes** include employer unilateral changes, effort to change agreements through Section 6 processes, and premature exercise of self-help during Section 6 or mediation processes.

**Minor Disputes** involve the interpretation or application of the bargaining agreement. Unions cannot strike over disputes considered (or judged in court) to be “minor disputes.”

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# The RLA and Arbitrating Disputes

For a **Major Dispute**, either the Mediation process (as in contract bargaining) generally resolve these disputes or, after either party files a lawsuit, courts order an injunction or resolution.

For a **Minor Dispute**, the **National Mediation Board (NMB)** administers the processes available. They can be:

**Public Law Boards (PLBs)**

**Special Boards of Adjustment (SBAs)**

**the National Railroad Adjustment Board (NRAB)**

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# The RLA and Arbitrating Disputes – Minor Disputes

Minor Disputes often take the form of **Grievances** or **Claims**.

While the difference is not hugely important, **Claims** usually seek a monetary remedy where **Grievances** may seek an adjustment to practices or applications of the contract.

Many of our members are familiar with, or often part of, a Claim.

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# The RLA and Arbitrating Disputes – Minor Disputes

Specific information regarding Claims and Grievances will be handled in a separate training module, but the RLA governs the overall process:

- The RLA provides for the NMB, the NRAB, and other methods of dispute resolution.
- For disputes resolved through the NMB, NRAB, PLB, or SBA, this **Award** shall be final and binding.
- Awards can be appealed, enforced, or reviewed in federal court.
- **Self-Help is not permitted for Minor Disputes.**

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# Understanding the Railway Labor Act of 1926

## *Other Topics Concerning the RLA*

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# The RLA v/ the NLRA

Many other Union members are familiar with the terms, rights, and prohibitions laid out in the National Labor Relations Act. It's important to know the differences between these two laws, especially when it comes to organizing work or building coalitions with other Union workers near you.

The RLA is an older law than the NLRA and was designed specifically for rail labor (later amended to include airlines).

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# The RLA v/ the NLRA

## Unfair Labor Practices

Under the NLRA, workers can file against what are known as **Unfair Labor Practices (ULPs)**. ULPs are specific, defined provisions within the NLRA. These don't technically exist within the RLA, which instead has provisions regarding the “general rules of fair dealing.”

The NLRB can prosecute and penalize an employer for ULPs. Since there are no specific provisions regarding ULPs, the NMB or NRAB have no similar ability. Under the RLA, such issues must be handled in court.

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# The RLA v/ the NLRA

## Self-Help & Taft-Hartley

The RLA is designed specifically to make Self-Help a hard to reach, final solution. It's designed to prevent a strike.

The NLRA has provisions to make strikes less necessary, or to help end them, but has no power to actively prevent a strike from occurring. It, in fact, refers to a “right to strike” within the legislation itself, something the RLA never does.

The later Taft-Hartley Act (LMRA) added more restrictions to the NLRA regarding strikes.

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# How Does the RLA Affect Me?

The RLA is one of MANY laws that regulate how we do our jobs as rail workers. Specifically, the RLA governs:

- How we can form Unions working in the rail industry. (Organizing)
- How Unions in the rail industry can negotiate our contracts. (Negotiation)
- How we can make sure the railroads honor the terms of the contracts we have with them. (Arbitration)

If you take nothing else away, remember the RLA does these 3 important things for us.

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# Understanding the RLA

## Further Resources

Our website (<https://www.bmwe.org>) has a virtual library of documents you can use to dig deeper into the RLA, bargaining, claims handling, or other topics. This includes copies of the Railway Labor Act itself, quick references, and other resources.

You should also check out the website of the National Mediation Board (<https://nmb.gov>), the primary agency established to apply the provisions of the RLA in rail labor relations.

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# Understanding the RLA

## Other Topics

Understanding the Railway Labor Act is **VITAL** for any rail Union member who wants to understand how their rights are preserved (or hindered) under the law. It does no good to complain about something you don't understand, and you can't change what you don't know.

**Further topics related to Understanding the RLA include:**

- Organizing
- Claims & Grievance Handling
- Representing Members
- Discipline

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# Further Resources

Our Education Department Library has additional tools to help our members learn more or teach others about the RLA. You can find these tools at <https://www.bmwe.org/library>.



Our BMWED YouTube Channel has a short video that covers key terms and concepts regarding the RLA. You can find this video at <https://www.youtube.com/@BMWED>.

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# What Can I Do?

## RLA and Legislative Affairs

If you want to stay involved in government affairs or learn more about how Congress can affect our rights under the RLA, reach out to your Local Lodge Legislative Representative or contact our Director of Government Affairs, Brother Jeff Joines.

## Organizing

If you are interested in how we organize under the RLA, contact our BMWED Director of Organizing, Brother Thomas Kirby.

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# What Can I Do?

## Bargaining

To get more involved in how we conduct bargaining within the RLA or to join one of our bargaining committees, reach out to your General Chairperson.

## Dispute Resolution

You can learn more about the RLA's provisions for arbitration, including the NMB and NRAB, by asking your General Chairperson, who will work with our BMWED Arbitration Department.

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# What Can I Do?

## Communicating

Where you find members or others spreading incorrect information, you should correct them and ensure our members are not misled. Be conscious that social media comment sections are often not accurate sources for information!

## Building Our Strength

By learning, teaching, and staying engaged in our union's business, including knowing the RLA, you help us sustain and advance our rights!

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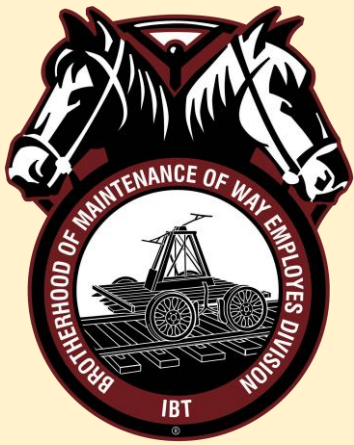
# Closing thoughts from Mark Twain

*“A railroad is like a lie—you have to keep building to it to make it stand.”*

- Mark Twain, discussing the extension of a railroad line from Hannibal to Moberly, MO.

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