

# Railroads, Labor Trade Contract-Change Demands

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Photo courtesy BLET.

**Collective bargaining between most of the nation’s largest railroads, represented by the National Carriers Conference Committee (NCCC), and their 12 craft-specific labor unions commenced Nov. 1 with the two sides exchanging broadly defined demands in preparation for face-to-face talks to amend contracts setting wages, benefits and work rules. Some two-dozen smaller railroads also are participating.**

Railroad labor-management relations are governed by the 1926 Railway Labor Act (RLA), recognized as a manual of peace rather than war—its provisions intended and proven effective at preventing work stoppages via strikes or lockouts in favor of voluntarily negotiated settlements. There has not been a national railroad strike in almost three decades.

As RLA-governed labor agreements never expire, but are periodically amended, there is no clock ticking toward a date-specific settlement lest there be a work stoppage. Should negotiations falter, either side may invite guidance from the National Mediation Board (NMB). Both sides are barred from taking independent strike or lockout action until formally released by the NMB, and then only after following statutorily mandated procedures.

More specifically, should the NMB declare a bargaining impasse, the parties must consider accepting binding arbitration. If not, the White House has opportunity to appoint a Presidential Emergency Board to make non-binding recommendations—with built-in cooling-off periods—before a work stoppage can occur, meaning the public will have significant advance notice.

In fact, on the rare occasions a national railroad work stoppage has occurred—and none since 1992—Congress typically steps in with a back-to-work order that establishes, through legislation, contract amendments. Such an undesired result by both parties exerts persistent pressure to reach voluntary agreements.

While history records national rail agreements being reached within months, negotiations also have dragged on for years—but with trains continuing to run and union-represented employees continuing to work under contracts that remain in force until amended through voluntary agreement or by a third party. The previous round of national negotiations began in November 2014 and continued peacefully through 2018 when the last of the 12 unions reached a voluntary settlement with the railroads.

As the cross-serving of contract-change demands (Section 6 notices in RLA parlance) precedes a previously mutually agreed-upon contract reopening date—Jan. 1, 2020, in this case—direct negotiations are expected to begin in January.

Among the most contentious issues anticipated this round are minimum train-crew staffing (crew consist) related to implementation of train-safety enhancing Positive Train Control (PTC); employee cost-sharing of escalating healthcare insurance costs; and liberalization of work rules to allow carriers greater flexibility in assigning jobs.

Unlike striking United Auto Workers who had suffered economically through the General Motors bankruptcy, rail workers have enjoyed salad days over the past decade, reflecting robust railroad economics.

Since 2005, unionized rail-worker compensation (wages plus the value of benefits) has increased by 43%, versus 29% for other American workers. And since 2015, compensation of the highest paid rail workers has increased by some \$33,000 annually, and some \$16,000 annually for those in the lower wage rungs. Rail workers, with average compensation now exceeding \$120,000 annually, place among the top 6% of wage earners nationwide—above many occupations requiring advanced educational degrees.

But as the American economy is slowing owing to a trade war and other global factors, and rail traffic is showing persistent steep declines as a result—further negatively impacted by the collapse of coal traffic as natural gas and renewable energy takes its place—railroad economics are far less robust. Thus, railroads seek to adjust compensation to market conditions and comparable industries

The NCCC (part of the [\*\*National Railway Labor Conference\*\*](#), or NRLC) says its Section 6 notices are “comprehensive proposals addressing the need to adapt workplace practices to modern technologies, aggressively move healthcare plan design and features toward mainstream standards and achieve better health outcomes, and reach an overall fair and competitive labor cost structure to position the railroads for long-term success in the face of the many industry challenges.”

[\*\*The NCCC is being led this round by veteran labor negotiator Brendan Branon, recruited late in 2018 to head the NRLC from Delta Airlines\*\*](#) (airline labor-management relations also are governed by the RLA).

Class I railroads within the NCCC coalition include:

BNSF

CN U.S. operations (Grand Trunk Western, Illinois Central, Bessemer & Lake Erie and Wisconsin Central).

CSX.

Kansas City Southern.

Norfolk Southern.

Union Pacific.

Among 24 other railroads represented by the NCCC are Conrail Shared Assets, Belt Railway of Chicago and Terminal Railroad Association of St. Louis.

Some railroads are within the NCCC coalition for limited purposes—negotiating nationally with a limited number of unions, or limiting participation to just wages or benefits or work rules, or some combination. CSX, for example, will participate in national handling for wages, benefits and work rules applying to non-operating-craft unions (such as clerical, mechanical and maintenance), but not participate in national handling on wages and work rules with operating crafts (those representing train and engine workers).

Ten of the 12 rail labor unions—representing near 85% of some 125,000 unionized rail workers—have formed a coordinated bargaining coalition for this negotiating round. They are:

American Train Dispatchers Association (ATDA).

Brotherhood of Locomotive Engineers and Trainmen (BLET).

Brotherhood of Railroad Signalmen.

International Association of Machinists.

International Brotherhood of Boilermakers.

National Conference of Firemen & Oilers.

International Brotherhood of Electrical Workers.

Transport Workers Union of America.

Transportation Communications Union/Brotherhood Railway Carmen.

International Association of Sheet Metal, Air, Rail & Transportation Workers Transportation Division/Railroad Yardmasters of America (SMART-TD).

In announcing its formation, the coalition said, “We understand the importance of each union’s autonomy to pursue membership-specific goals within a framework of broad solidarity.”

Not part of the coalition are the Brotherhood of Maintenance of Way Employees and the International Association of Sheet Metal, Air, Rail & Transportation Workers (SMART) Mechanical Division, which will negotiate separately.

Among NCCC objectives for healthcare reform are “changes to achieve mainstream standards in cost-sharing and plan design.” Railroads say their net cost for providing employee healthcare insurance—plan costs minus employee contributions—is 52% greater than average employee plans; even with cost sharing, railroad healthcare plans pay some 90% of each member’s family healthcare costs compared to the employee’s out-of-pocket costs.

Among work rules changes, the NCCC is looking for greater flexibility in subcontracting in areas “not core to our operations” and that “do not align with the best deployment and utilization of our skilled employees.”

Additionally, the NCCC seeks to reform “provisions that restrict management discretion over the assignment of work.” Sought is greater “flexibility over which crafts (as well as employees with certain qualifications within a craft) may perform work in various circumstances, when such work may be assigned and performed, the duration of time the work may be performed, and the circumstances under which work rules may be relaxed to meet customer demands.”

The NCCC also seeks to “consolidate multiple legacy railroad contracts within the same workgroup, reducing methods of payment calculation, and accelerating when certain operational changes may be implemented.” It also seeks to “relax arbitrary geographical limits on work performed by train crews, allowing for greater flexibility to timely deploy well-trained teams to critical projects.”

As to crew consist, two-person crews of one conductor and one locomotive engineer are required on most Class I railroad freight trains. “But,” says the NCCC, “to take full advantage” of billions of dollars in investment in PTC, “railroads must revise outdated or unnecessary staffing rules that effectively freeze in place current crew staffing.”

Class I railroads want to “redeploy conductors to ground-based positions,” calling it “a natural continuation [of the] evolution” that moved conductors from the caboose to locomotive cab as new technologies, such as end-of-train devices, were installed. “In the event that SMART-TD declines to negotiate over crew consist on a multi-carrier basis, or the parties are unable to agree on changes in crew consist,” says the NCCC, “the railroads propose an adjustment to compensation.”