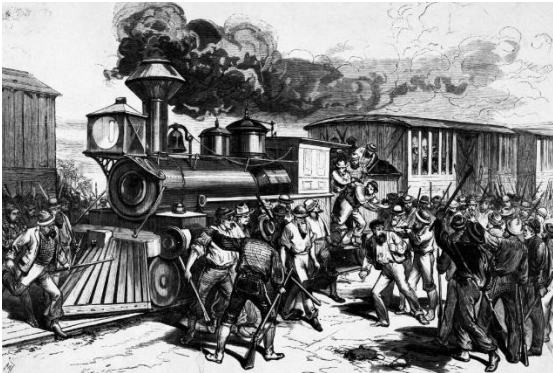


## **NJ TRANSIT ENGINEERS MAY NOT BE “WORKING ON THE RAILROAD”**



*Baltimore and Ohio Railroad strike, circa 1877. Photo courtesy of Bettmann / Getty Images*

The Railway Labor Act (45 U.S.C. §151 et. Seq.) (“RLA”) was enacted almost one hundred years ago (1926) as railways became critical cogs in the American economy and while the Federal Government attempted to influence and regulate labor relations in various American industries. The RLA was amended in the 1930’s and remains divided into two sections. Section one is about railway carriers and section two is about air carriers.

Today it is still one of the pivotal, yet archaic, laws that govern labor disputes between railway and air carriers and their labor unions. The RLA details dispute resolution processes and time lines and establishes the National Railroad Adjustment Board (“NRAB”) and a National Mediation Board (“NMB”) for minor and major disputes.

Here we are in first quarter 2023, and NJ Transit, our local commuter rail service which happens to be one of the on largest commuter rail services in the US, and a 2019 labor dispute still threaten a railway engineer / rail commuter line strike in 2024. NJ Transit railway engineers, number about 500 and are the skilled and extensively trained laborers who drive the trains and are responsible for their safe passage. The engineers are part of the union called the Brotherhood of Locomotive Engineers and Trainmen (“BLET”). Said engineers are asking for a wage increase from employer NJ Transit so that their wages are on par with other local railway engineers. The engineers are specifically seeking a 18-23% wage increase so that they make a similar wage to comparable engineers who work for competing organizations.

Some BLET engineers have stated that due to the wage disparity, many engineers use NJ Transit only to receive training and to gain experience. Other BLET engineers opine that if the competing railway companies implement a hiring campaign to once again hire engineers, many NJ Transit engineers will leave NJ Transit and go work for the competition to earn a better living. This potential exodus could likely cause serious labor shortages and rail service disruptions for NJ and the tri-state area.



*Photo courtesy of NJ Transit*

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The BLET engineer’s Collective Bargaining Agreement (“CBA”) (contract) expired in 2019 and wage negotiations have been ongoing since the expiration. The other 14 (out of 15) unions of NJ Transit have accepted new terms for their CBA contract, but many of these other laborers are less skilled and have less responsibility than the engineers.



*Photo courtesy of NJ Transit*

In response to the active negotiations, the NMB has organized a March 2023 meeting in Washington D.C. between the Union and the representatives of the railroad’s management.

Railway management is positive and hopeful for a prompt resolution of the wage dispute. BLET engineers endeavor to keep the trains running but want to earn competitive wages for the job that they do. Many BLET engineers feel that the meeting in Washington, D.C. will be unproductive and they stated that they will continue to push for a strike.

### **What could come of the March 2023 meeting in Washington D.C.?**

- The NMB could see if both sides would acquiesce to attend binding arbitration to find a resolution.
- If binding arbitration is not achieved, the engineer’s procedural clock may start ticking and pointing towards a future strike.
- Since this is a commuter rail dispute (versus a freight rail or an airline), not only will there be the legally mandated 90 day waiting period, BLET engineers would have to follow additional processes before a strike could happen and this could take up to nine months.
- NOTE: Even after the nine-month waiting period, Congress still has the authority to get involved and implement a contract that would prevent the engineers from striking.

Looking back at history, Congress has at times declined to get involved with commuter railway strikes and, as such, several commuter strikes have lasted several months without Congressional intervention. Some examples include another NJ Transit strike in the 1980’s as well as strikes with Metro North (New York), SEPTA (Pennsylvania), and Long Island Railroad (NY). These historical strikes lasted for a few hours up to several months. Commuter railroads operate under and answer to governmental agencies so politics can add another layer of complexity to the grievances. This is in contrast to freight railroads who answer primarily to corporations and shareholders.

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Mon February 27, 2023



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If this sounds familiar, a similar scenario happened last year with the US freight railroads. Congress stepped in to avert a strike on the freight rails which could have caused catastrophic effects to the US economy and US product’s supply chain (which was already strained to begin with).

The good news for those who rely on NJ Transit rails is that the procedural and temporal requirements of the RLA could push back the real threat of a streak until at least 2024. This is because the requirements of the RLA, to get to the walk out point, could likely take as much as nine months.



*Photo courtesy of NY Times*

After the March 2023 meeting in Washington, D.C., there will be more color on whether or not a BLET engineering strike is likely in the future or whether an amenable salary will be accepted by the BLET engineers thus keeping them working on the trains. If NJ Transit engineers do in fact strike, this would negatively impact all levels of New Jersey commuting, including the thousands of commuters that ride NJ Transit each day.



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