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Ari Ashe, Senior Editor | Nov 21, 2022 2:38PM EST



The two largest rail unions, which announced vote totals on Monday, represent nearly half the 110,000 workers that could go on strike in December. Photo credit: Mouiii/Shutterstock.com.

The labor peace negotiated in September between US railroads and their unions got shakier Monday after a split vote among the country's two largest rail unions — one's membership ratifying the tentative deal and the other's rejecting it. The split votes raise fresh concerns that a crippling strike could occur in early December.

The Brotherhood of Locomotive Engineers and Trainmen (BLET) ratified the agreement brokered in September with the help of the Biden administration, but it was rejected by members of the International Association of Sheet Metal Workers Air, Rail, and Transportation (SMART-TD). Four rail unions have now turned down the deal, while eight have approved it.

If any union walks off the job, however, others are unlikely to cross the picket lines.

"Today, the BLET joined the majority of our unions in approving the largest wage increases in nearly five decades and also paved a path toward greater scheduling predictability for its members," Association of American Railroads CEO Ian Jefferies said in a statement Monday. "Let's be clear, if the remaining unions do not accept an agreement, Congress should be prepared to act."

A "cooling off" period when no strikes or lockouts can occur will run through Dec. 8 for SMART-TD, leaving less than two weeks for a deal to be ratified. It is not known whether the Brotherhood of Maintenance of Way Employees Division (BMWED) and Brotherhood of Signalmen (BRS), which also rejected the tentative agreement and can walk off the job as soon as Dec. 5, will grant an extension to negotiate in unison with SMART-TD and the International Brotherhood of Boilermakers (IBB). The IBB also rejected the deal.

The BLET and SMART-TD are the two most important unions because they represent nearly half the 110,000 US rail employees covered under the tentative agreement, including brakemen, conductors, engineers, trainmen, yardmen, and yard masters.

Jeremy Ferguson, president of SMART-TD, struck a conciliatory tone despite the rejection.

"SMART-TD members with their votes have spoken; it's now back to the bargaining table for our operating craft members," Ferguson said in a statement Monday. "This can all be settled through negotiations and without a strike. A settlement would be in the best interests of the workers, the railroads, shippers, and the American people."

Potential strike ahead of holidays

Lawmakers in Washington will face pressure to bridge the divide between labor and management because any job action could snarl supply chains in the weeks leading up to Christmas and end-of-year holidays. The timing would be particularly bad for parcel shippers because FedEx and UPS are major intermodal shippers using the US rail network to haul ground packages cross country, and business will pick up in December amid holiday shopping.

“American businesses and families are already facing increased prices due to persistent inflation, and a rail strike will create greater inflationary pressures and will threaten business resiliency,” National Retail Federation CEO Matthew Shay said in a statement Monday. “Congress must intervene immediately to avoid a rail strike and a catastrophic shutdown of the freight rail system.”

While Congress has the authority to force an agreement on both sides, those involved with the negotiations to date have indicated they prefer any disputes are settled at the bargaining table. That is also the position of the White House.

The major disagreement between management and labor is over sick pay, not salaries.

The unions pushed for 15 paid sick days per year, but the Presidential Emergency Board created by President Joe Biden recommended negotiating the issue on a local level, not nationally. After negotiations with Secretary of Labor Marty Walsh, the two sides agreed to a tentative deal that called for one additional paid sick day annually.

But many rank-and-file members do not think that is enough, especially after the work they did during the COVID-19 pandemic when they were viewed as essential workers needed to keep supply chains moving. The BMWED has written to lawmakers to support a compromise of seven days. Workers are worried that getting sick could result in losing their jobs with strict railroad-imposed attendance policies.

Previous collective bargaining agreements did not include paid sick time for short-term absences. Rail management has countered that it provides generous long-term sick benefits and says the average salary for a union employee is in the top 10 percent of all US workers, which management considers compensation for unpaid short-term leave.

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