



October 2, 2023

# The UAW-Automakers Labor Dispute and Taft-Hartley's National Emergency Provisions

## Introduction

On September 22, 2023, union workers at 38 General Motors and Stellantis parts warehouses in 20 states walked off their jobs and joined an ongoing strike against the two automakers and Ford Motor Company. One week earlier, workers at three factories began to strike after the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (“United Auto Workers” or “UAW”) collective bargaining agreements with the automakers expired without reaching a new deal.

The Labor Management Relations Act, popularly known as the Taft-Hartley Act, establishes a framework for addressing serious labor disputes outside of the rail and air industries. Although Congress has enacted legislation in the past to resolve rail labor disputes that are governed by the Railway Labor Act, it has never intervened in a labor dispute subject to the Taft-Hartley Act’s national emergency provisions. (For additional information on congressional intervention in rail labor disputes, see CRS Legal Sidebar LSB10861, *The Railway Labor Act and Congressional Action*.) This In Focus provides background on the dispute between the three automakers and the UAW and explains legally available options for the executive and legislative branches to intervene in labor disputes governed by the Taft-Hartley Act.

## Background

UAW is a labor union representing approximately 400,000 active workers, including nearly 150,000 workers at the “Big Three” American car manufacturers—Ford, General Motors, and Stellantis. Prior collective bargaining agreements between UAW and the automakers were ratified in 2019, with General Motors reaching an agreement after a 40-day strike by approximately 48,000 workers. In advance of the agreements expiring on September 14, 2023, UAW proposed including in the agreements general 40% wage increases over four years, cost-of-living adjustments to wages tied to inflation, enhanced profit sharing, a cap on the use of temporary workers, and the elimination of the two-tiered compensation and benefit system. UAW argues that workers gave up cost-of-living adjustments and accepted tiered wage and benefits structures in response to the 2008 financial crisis.

On August 31, 2023, the UAW president announced that the union had filed unfair labor practice charges against General Motors and Stellantis with the National Labor Relations Board (NLRB), accusing the companies of refusing to bargain in good faith. The union reportedly did not include Ford in the complaint because the company had participated in negotiations by submitting a proposal in

response to union demands. UAW leadership subsequently rejected the Ford proposal.

On September 15, 2023, union workers at General Motors, Ford, and Stellantis plants located in Michigan, Missouri, and Ohio began to strike. On September 22, the strike expanded to 20 Stellantis parts distribution centers and 18 General Motors centers. On September 29, UAW announced additional walkouts at a Ford facility and a General Motors facility.

## Legal Framework

The National Labor Relations Act (NLRA), enacted in 1935, governs private sector labor-management relations in the United States outside of the rail and air industries. The Taft-Hartley Act, enacted in 1947, amended the NLRA to provide for the settlement of labor disputes. The act also established the Federal Mediation and Conciliation Service (FMCS), an independent federal agency that attempts to resolve disputes by providing mediation services to the parties, and allows for the involvement of the President if he makes certain determinations about the dispute.

Section 206 of the Taft-Hartley Act, found at 29 U.S.C. § 176, authorizes the President to get involved in a labor dispute if he makes the following determination:

- There is “a threatened or actual strike or lockout;”
- The strike or lockout affects all or a substantial part of an industry engaged in “trade, commerce, transportation, transmission, or communication among the several States or with foreign nations;” and
- The strike or lockout, if permitted to occur or continue, would “imperil the national health or safety.”

Upon making such a determination, the President may appoint a board of inquiry (BOI) that will examine the issues involved with the labor dispute and issue a written report. Once the President receives the BOI’s report, he may direct the Attorney General to petition any federal district court having jurisdiction over the parties to enjoin any strike or lockout that may be occurring. The issuance of an injunction triggers an 80-day “cooling off” period. During this period, the parties are required to “make every effort to adjust and settle their differences” with the assistance of the FMCS.

If there is no agreement within 60 days from the start of the injunction, the BOI is to report the parties’ current positions and the employer’s last settlement offer to the President. In the succeeding 15 days, the NLRB is to conduct a secret

ballot to determine whether the employees want to accept the employer's last offer. Within five days of the balloting, the BOI is to certify the results to the Attorney General, who is to move for the injunction to be discharged. If the employees have accepted the employer's final offer, the dispute is resolved. If the offer has not been accepted, however, the parties may engage in self-help. After the injunction is discharged, the President is to submit a "full and comprehensive" report of the proceedings to Congress with "such recommendations as he may see fit to make for consideration and appropriate action."

Since the enactment of Section 206, Presidents have intervened in labor disputes on 37 occasions. However, not all labor disputes have been found by the President to "imperil the national health or safety." In 1997, President Bill Clinton did not intervene in a strike involving the United Parcel Service, which reportedly handled 80% of all packages moved by ground transportation in the country at the time. President Clinton maintained that there must be "severe damage to the country" before he may intervene under Section 206. In 1998, President Clinton also declined to intervene in a labor dispute involving the UAW and General Motors. Strikes at two General Motors parts plants reportedly idled approximately 70,000 workers and 90% of the company's production. When asked about possible intervention, President Clinton expressed support for the "collective bargaining system" and "encourage[d] the parties to work it out."

In October 2002, President George W. Bush appointed a BOI after a labor dispute involving the Pacific Maritime Association (PMA) and the International Longshore and Warehouse Union (ILWU) resulted in a lockout. The PMA represents cargo carriers and terminal operators on the West Coast, and the ILWU represents longshore workers at various West Coast ports. The President determined that the dispute "affect[ed] a substantial part of the maritime industry, an industry engaged in trade, commerce, transportation (including the transportation of military supplies), transmission, and communication among the several States and with foreign nations[.]" President Bush found that the lockout, if permitted to continue, would have imperiled the national health and safety. Following the issuance of the BOI's report, the parties reached a tentative agreement in November 2002.

A BOI has not been appointed since 2002. In 2015, there was discussion in the Obama Administration about appointing a BOI after the 2014 expiration of a collective bargaining agreement between the ILWU and PMA and a work slowdown at West Coast ports. The parties were able to negotiate a new agreement with the involvement of then-U.S. Secretary of Labor Thomas Perez without the President appointing a BOI.

### Considerations for Congress

Article I, Section 8, Clause 3, of the U.S. Constitution states that the Congress shall have power "[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes[.]" In *Wilson v. New*, the

Supreme Court recognized Congress's constitutional authority to intervene in rail labor disputes that threaten to disrupt interstate commerce. Following a bargaining impasse and strike threat that would have affected the entire country, Congress enacted a law that established an eight-hour workday and temporarily regulated the wages for rail carrier employees engaged in interstate and foreign commerce. The carriers challenged the law, arguing that Congress lacked the authority to enact it. The Court determined, however, that Congress's authority over rail carriers in interstate commerce was within its legislative power to regulate commerce and "not subject to dispute." The Court maintained that Congress has the ability to "guard against the cessation of interstate commerce" by responding legislatively to a failure of employers and employees to agree on working conditions, such as a wage standard that was "an essential prerequisite to the uninterrupted flow of interstate commerce."

Although Congress has not enacted similar legislation to resolve a non-rail-labor dispute, *New* arguably suggests that this kind of legislation would be permissible if a strike could disrupt interstate commerce. An extended strike by autoworkers, according to some observers, would negatively impact the U.S. economy. Given the threat to interstate commerce, it seems that Congress may be able to enact legislation establishing employment conditions for the relevant employees.

Furthermore, while Congress has not intervened historically in labor disputes involving BOIs, legislation that would have amended the Taft-Hartley Act's national emergency provisions has been introduced in the past. For example, during the 114th Congress, some Members introduced the Protecting Orderly and Responsible Transit of Shipments Act of 2015 (H.R. 3433/S. 1519) in response to work slowdowns and lockouts at U.S. ports. The Act would have allowed a state or territorial governor to appoint a BOI if the President did not make such an appointment. The bill would have also allowed for the appointment of a BOI if a work slowdown occurred that affected "an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations." Also introduced during the 114th Congress, the Ensuring Continued Operations and No Other Major Incidents, Closures, or Slowdowns Act (H.R. 3932) would have directed the President to appoint a BOI not later than 10 days after "the U.S. Census Bureau reports that the monthly Import or Export Vessel Value decreased by 20 percent or more in any one month from the previous month in any one of the four metric identification regions," among other events. Thus, these pieces of legislation would have allowed a BOI to be appointed even if there were no threatened or actual strike or lockout.

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