



A bold voice for transportation workers

REJECTING CYNICAL ATTEMPTS TO USE PORT DATA COLLECTION TO UNDERMINE COLLECTIVE BARGAINING

During consideration of the surface transportation bill, the Fixing America's Surface Transportation System Act (FAST), a coalition of anti-worker special interests unsuccessfully pushed to undermine the collective bargaining rights of longshore workers. Their principal line of attack was to require the Department of Transportation's (DOT) data collection agency – the Bureau of Transportation Statistics (BTS) – to create new, standardized metrics on the productivity of ports, including measurements on worker productivity. These metrics would then be used to justify federal intervention in port labor-management disputes. While Congress eventually saw the dangers these measures posed to the collective bargaining process and subsequently stripped them from the bill, the same business interests – primarily retailers, shippers, and anti-union organizations – are trying to have DOT impose a port metric program that Congress specifically rejected. TTD and our member unions urge the DOT to reject this end run around lawmakers and implement the Port Performance Freight Statistics Program as directed and intended by Congress.

In the aftermath of the contract dispute between the International Longshore and Warehouse Union (ILWU) and the Pacific Maritime Association (PMA), elements of the business community, and their friends on Capitol Hill, engaged in a concerted effort to undermine port workers' collective bargaining rights. These efforts have included a series of interrelated bills that seek to collect metrics on worker productivity and use the data as a means to either compel the President of the United States to enjoin a workplace dispute or trigger other, more radical anti-worker reforms under congressional consideration.

Specifically, Senator John Thune, the Chair of the Senate Commerce Committee, introduced partisan legislation, the Port Performance Act (S. 1298), which was shoehorned into the Senate version of the surface transportation reauthorization. The language, not surprisingly, included the exact same prescriptive measures of worker productivity that retailers and other anti-union business groups had sought to use as evidence of an ILWU slowdown and to compel the President to issue a Taft-Hartley injunction against the union.

After significant pushback from the labor movement and sensible lawmakers, Congress saw through this transparent power grab and removed both the monthly reports and all metrics, including those related to workers. The final provision, the Port Performance Freight Statistics Program (sec. 6018) simply requires BTS to issue an annual report on throughput and capacity at the nation's largest ports with input from stakeholders, including transportation labor.

Unsatisfied by the outcome, the corporate lobby – led by the National Retail Federation (NRF) on behalf of 100 trade associations – is now seeking to achieve at the executive level what they could not through Congress. Specifically, they have publicly called on the BTS to ignore the statute and adopt, by fiat, all of the worker productivity metrics rejected by Congress. TTD and its affiliates call on the Bureau to categorically reject this attempt to circumvent the statute and only implement the Port Performance Freight Statistics Program as directed by Congress.

There is nothing in section 6018 that requires the Bureau to collect worker productivity metrics or issue any reports related to union contract negotiations. To the contrary, the legislative history shows that Congress examined precisely whether or not to include worker productivity metrics and specifically decided that they not be included in the final program. During the surface transportation legislation conference committee, all worker productivity metrics were removed because they advanced a hostile agenda meant to undermine collective bargaining.

Additionally, the worker productivity metrics are a deeply – and intentionally – misleading statistical tool. The core problems responsible for port congestion stem from rising tonnage as the economy recovers and demand for both imports and exports increases. This growth in cargo has ushered in larger ships and increased container volumes that outstrip the available space at seaports to effectively process and organize shipments. And with growing demand, meanwhile, mounting port dredging needs, overwhelmed intermodal capacity, and the lack of sufficient chassis and trucks further conspire to slow the movement of goods. These are systemic problems that predate and postdate any labor-management contract negotiations. To suggest that worker productivity exists in a vacuum outside of these macro problems completely ignores the long-standing issues that beset our ports. This poorly veiled campaign by some of the largest anti-union special interests in America is about isolating specific workplace activities and job functions in our ports, measuring their frequency, and subsequently holding such metrics as the variable responsible for delays at ports. The Obama Administration must reject this misleading and cynical assault on basic employee rights on the job.

The goal of the NRF and its allies is not to address these real issues of port congestion. Instead, they hope to use the metrics to create the pretense of statistical evidence to superficially document workplace slowdowns, blame port unions, and put pressure on the President of the United States to invoke Taft-Hartley injunctions allowed under current law or help support further injunctions and labor law reforms proposed in separate bills pending this Congress. TTD's Executive Committee has already condemned these far-reaching labor law reforms governing port workers, and we will continue to oppose all efforts designed to weaken longshore collective bargaining rights.

The Port Performance Freight Statistics Program, as authorized by the FAST Act, was meant simply to provide information to better understand our ports and multimodal freight network, not undermine workers' rights. Transportation labor believes the BTS should honor the spirit and letter of the law and reject any attempts by special interests to advance these anti-worker measures.

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