The National **Labor** Relations Act of 1935, commonly referred to as the [Wagner Act](http://online.vitalsource.com/books/9780470894446/content/id/decenzo9681c14-tdef-0009), is the basic bill of rights for unions. This law guarantees workers the right to organize and join unions, bargain collectively, strike, and pursue activities that support their objectives. In terms of **labor** relations, the Wagner Act specifically requires employers to bargain in good faith over mandatory bargaining issues—wages, hours, and terms and conditions of employment.

**Wagner Act**

Also known as the National **Labor** Relations Act of 1935, this act gave employees the right to form and join unions and to engage in collective bargaining.

The Wagner Act is cited as shifting the balance of power to favor unions for the first time in U.S. **labor** history. This was achieved in part through the establishment of the [National **Labor** Relations Board (NLRB)](http://online.vitalsource.com/books/9780470894446/content/id/decenzo9681c14-tdef-0010). This administrative body, consisting of five members appointed by the president of the United States, was given the responsibility for determining appropriate bargaining units, conducting elections to determine union representation, and preventing or correcting employer actions that can lead to unfair **labor** practice charges. The NLRB, however, has only remedial and no punitive powers.

**National Labor Relations Board (NLRB)**

Established to administer and interpret the Wagner Act, the NLRB has primary responsibility for conducting union representation elections.

Unfair labor practices are defined in Section 8 of the act and include any employer tactics that

* ▪ Interfere with, restrain, or coerce employees in the exercise of rights to join unions and to bargain collectively
* ▪ Dominate or interfere with the formation or administration of any labor organization or discriminate against anyone because of union activity
* ▪ Discharge or otherwise discriminate against any employee because he or she filed or gave testimony under the act
* ▪ Refuse to bargain collectively with the representatives chosen by the employees

The Wagner Act provided the legal recognition of unions as legitimate interest groups in American society, but many employers opposed its purposes. Some employers, too, failed to live up to the requirements of its provisions. That's because employers recognized that the Wagner Act didn't protect them from unfair union labor practices such as holding “wildcat strikes,” which involve striking against the employer even though a valid contract is in effect. Thus, the belief that the balance of power had swung too far to labor's side, and the public outcry stemming from post—World War II strikes, led to passage of the Taft-Hartley Act (Labor-Management Relations Act) in 1947.

**The Taft-Hartley Act**

The major purpose of the [Taft-Hartley Act](http://online.vitalsource.com/books/9780470894446/content/id/decenzo9681c14-tdef-0011) was to amend the Wagner Act by addressing employers' concerns in terms of specifying unfair union labor practices. Under Section 8(b), Taft-Hartley states

## Taft-Hartley Act

Amended the Wagner Act by addressing employers' concerns in terms of specifying unfair union labor practices.

The Taft-Hartley Act also made closed shop arrangements illegal. Prior to passage of the act, the closed shop dominated labor contracts. In closed shops a union controlled the source of labor. Under this arrangement, an individual would join the union, be trained by the union, and was sent to work for an employer by the union. In essence, the union acted as the clearinghouse of employees. When an employer needed employees—for whatever duration—the employer would contact the union and request that these employees start work. When the job was completed, and the employer no longer needed the employees, they were sent back to the union. By declaring the closed shop illegal, Taft-Hartley began to shift the pendulum of power away from unions. Furthermore, in doing so, the act enabled states to enact laws that would further reduce compulsory union membership.

Taft-Hartley also included provisions that prohibited secondary boycotts and gave the president of the United States the power to issue an eighty-day cooling-off period when labor–management disputes affect national security. President Bush used this provision in 2002 during the International Longshore and Warehouse Union and the Pacific Maritime Association's labor dispute—the first time the injunction had been used in about twenty-five years.[12](http://online.vitalsource.com/books/9780470894446/content/id/decenzo9681c14-note-0012) A secondary boycott occurs when a union strikes against Employer A (a primary and legal strike) and then strikes and pickets against Employer B (an employer against which the union has no complaint) because of a relationship that exists between Employers A and B, such as Employer B handling goods made by Employer A. Taft-Hartley also set forth procedures for workers to decertify, or vote out, their union representatives.

Whereas the Wagner Act required only employers to bargain in good faith, Taft-Hartley imposed the same obligation on unions. Although the negotiation process is described later in this chapter, it is important to understand the term *bargaining in good faith*. This does not mean that the parties must reach agreement, but rather that they must come to the bargaining table ready, willing, and able to meet and deal, open to proposals made by the other party, and with the intent to reach a mutually acceptable agreement. Realizing that unions and employers might not reach agreement and that work stoppages might occur, Taft-Hartley also created the [Federal Mediation and Conciliation Service (FMCS)](http://online.vitalsource.com/books/9780470894446/content/id/decenzo9681c14-tdef-0012) as an independent agency separate from the Department of Labor. The mission of the FMCS is to send a trained representative to assist in negotiations. Both employer and union have the responsibility to notify the FMCS when other attempts to settle the dispute have failed or contract expiration is pending. An FMCS mediator is not empowered to force parties to reach an agreement, but he or she can use persuasion and other means of diplomacy to help them reach their own resolution of differences. Finally, a fact worth noting was the amendment in 1974 to extend coverage to the health-care industry. This health-care amendment now affords Taft-Hartley coverage to for-profit and nonprofit hospitals, as well as special provisions for the health care industry, both profit and nonprofit, as to bargaining notice requirements and the right to picket or strike.[13](http://online.vitalsource.com/books/9780470894446/content/id/decenzo9681c14-note-0013)

## Other Laws Affecting Labor–Management Relations

The Wagner and Taft-Hartley Acts are the most important laws influencing labor– management relationships in the United States, but other laws, too, are pertinent to our discussion (see [Diversity Issues in HRM](http://online.vitalsource.com/books/9780470894446/content/id/i0901bd6f8040789c)). Specifically, these are the Railway Labor Act; the Landrum-Griffin Act; Executive Orders 10988 and 11491; the Racketeer Influenced and Corrupt Organizations Act of 1970; and the Civil Service Reform Act of 1978. Let's briefly review the notable aspects of these laws.