

able expectation that such transaction will be consummated.

(b) Availability of funds

(1) Not more than \$15,000,000 of the funds available for expenditure by the Secretary out of the Railroad Rehabilitation and Improvement Fund established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) may be made available by the Secretary to the Commission for purposes of providing directed service under this section and section 916(b)¹ of this title.

(2) Funds may be made available for directed service under this section without regard to the findings of the Secretary required under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 821 et seq.], and section 516 of such Act (45 U.S.C. 836) shall not apply to any directed service provided with such funds.

(c) Continuation of compensation terms for trackage rights, joint facilities, etc.

The terms of compensation for all trackage rights, joint facilities, and similar arrangements between other rail carriers and the trustee of the Rock Island Railroad which are in effect on or after March 15, 1980, on portions of the lines of the Rock Island Railroad involved in temporary emergency operations shall be continued in effect during the duration of the temporary emergency operating authority with the carrier providing temporary emergency service substituting for the trustee, except where the Rock Island Railroad has been given more favorable treatment by virtue of its bankruptcy. Such continuation shall not alter or affect the ultimate rights of other rail carriers under trackage rights, joint facilities, or similar arrangements nor prejudice the ultimate determination of any controversy or proceeding concerning rights of the parties with regard to assignment by the trustee of rights in or to the facilities or under the arrangements.

(Pub. L. 96-254, title I, § 104, May 30, 1980, 94 Stat. 400; Pub. L. 104-88, title III, § 329(1), Dec. 29, 1995, 109 Stat. 952.)

REFERENCES IN TEXT

Public Law 96-131, referred to in subsec. (a), is Pub. L. 96-131, Nov. 30, 1979, 93 Stat. 1023, known as the Department of Transportation and Related Agencies Appropriation Act, 1980, which enacted provisions set out as notes under former section 851 of this title, section 92 of Title 14, Coast Guard, and section 106 and former section 10344 of Title 49, Transportation. For complete classification of this Act to the Code, see Tables.

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (b), is Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended. Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 is classified generally to subchapter II (§ 821 et seq.) of chapter 17 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

Section 916(b) of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 104-88, title III, § 328, Dec. 29, 1995, 109 Stat. 952.

¹ See References in Text note below.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104-88 substituted “the provisions of Public Law 96-131” for “the provisions of section 11125 of title 49 or Public Law 96-131”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 1004. Railroad hiring

(a) Each person who is an employee of the Rock Island Railroad on August 1, 1979, and who, prior to January 1, 1984, is separated or furloughed (other than for cause) from his employment with such railroad, or from his employment with another rail carrier providing temporary service over lines of the Rock Island Railroad, as a result of a reduction of service by such railroad or such temporary service carrier shall, unless found to be less qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulations, or Executive order, or by the order of a Federal or State court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

(b) The rights afforded to Rock Island Railroad employees by this section shall be coequal to the rights afforded to Chicago, Milwaukee, Saint Paul and Pacific Railroad Company employees by section 907 of this title.

(Pub. L. 96-254, title I, § 105, May 30, 1980, 94 Stat. 400; Pub. L. 97-468, title II, § 236(b), Jan. 14, 1983, 96 Stat. 2547.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 97-468 substituted “January 1, 1984” for “January 1, 1981”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appro-

pritate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

EXEMPTION OF NATIONAL RAILROAD PASSENGER CORPORATION IN HIRING QUALIFIED TRAIN AND ENGINE EMPLOYEES

Section inapplicable to National Railroad Passenger Corporation in hiring of qualified train and engine employees holding seniority rights to work in intercity rail passenger service in connection with the assumption by such Corporation of functions previously performed under contract by other carriers, see section 4011(c) of Pub. L. 99-272, set out as a note under section 797b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 797b, 797c of this title.

§ 1005. Employee protection agreement

(a) Authorization; time for agreement; use of funds

The Secretary and the representatives of the various classes and crafts of employees of the Rock Island Railroad shall, not later than 90 days after January 14, 1983, enter into an agreement providing protection for employees of the Rock Island Railroad who are adversely affected as a result of a reduction in service by such Railroad. Such agreement may provide for the use of funds described in subsection (c) of this section for the following purposes:

- (1) Subsistence allowances to employees.
- (2) Moving expenses for employees who must make a change in residence.
- (3) Retraining expenses for employees who are seeking employment in new areas.
- (4) Separation allowances for employees.
- (5) Health and welfare insurance premiums.
- (6) Such other purposes as may be agreed upon by the parties.

(b) Failure to reach agreement; benefit schedule

If the parties are unable to reach agreement within the time period specified in subsection (a) of this section, the Secretary shall, within 30 days after the expiration of such time period, prescribe a schedule of benefits for employee protection not inconsistent with the provisions of this chapter.

(c) Limitations on funds

Any agreement entered into under subsection (a) of this section, and any benefit schedule prescribed under subsection (b) of this section, shall not require the expenditure of funds in excess of amounts authorized to be appropriated under section 727(f)(1)(C) of this title, nor shall any individual employee receive benefits in excess of \$20,000 under such agreement or benefit schedule. No benefits or assistance may be provided under any agreement entered into or benefit schedule prescribed under this section after April 1, 1984.

(d) Administration of funds; promulgation of regulations

The Board shall, in such manner as it shall prescribe by regulation, administer the distribution of funds under any agreement entered into or benefit schedule prescribed under this section, and shall determine the amount for which each employee is eligible under such agreement

or benefit schedule. Such regulation shall include procedures to resolve by final and binding arbitration any dispute over an employee's eligibility or claim.

(Pub. L. 96-254, title I, §106, May 30, 1980, 94 Stat. 401; Pub. L. 96-448, title VII, §701(b)(1), Oct. 14, 1980, 94 Stat. 1959; Pub. L. 97-468, title II, §231, Jan. 14, 1983, 96 Stat. 2546.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", which probably was meant to be a reference to "this title", meaning title I (§101 et seq.) of Pub. L. 96-254, May 30, 1980, 94 Stat. 399, as amended, known as the Rock Island Railroad Transition and Employee Assistance Act, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Prior to the general amendment of section 106 of Pub. L. 96-254 by Pub. L. 97-468, section was comprised of subsecs. (a) to (e) of section 106 of Pub. L. 96-254, and subsec. (f) of section 106 amended section 231f(b)(7) of this title.

AMENDMENTS

1983—Subsec. (a). Pub. L. 97-468 substituted provisions relating to an agreement between the Secretary and the employees for provisions relating to an agreement between the Rock Island Railroad and the employees.

Subsec. (b). Pub. L. 97-468 substituted provisions relating to the prescription of benefits by the Secretary if no agreement is reached with the employees, for provisions relating to imposition of agreement by the Interstate Commerce Commission if none was reached between the Rock Island Railroad and the employees.

Subsec. (c). Pub. L. 97-468 added subsec. (c). Former subsec. (c), which related to direction to the bankruptcy trustee to carry out the agreement between the Rock Island Railroad and the employees, was struck out.

Subsec. (d). Pub. L. 97-468 added subsec. (d). Former subsec. (d), which prescribed conditions for appeals from orders of the Commission or bankruptcy court, limiting them to the Seventh Circuit Court of Appeals, was struck out.

Subsec. (e). Pub. L. 97-468 struck out subsec. (e) which related to prescription of regulations by the Board for the filing and payment of benefits and allowances.

1980—Subsec. (a). Pub. L. 96-448 substituted "5 days after October 14, 1980" for "10 days after May 30, 1980".

Subsec. (b). Pub. L. 96-448 substituted "5 days after October 14, 1980" for "10 days after May 30, 1980" and "15 days after October 14, 1980" for "30 days after May 30, 1980".

Subsec. (c). Pub. L. 96-448 reenacted subsec. (c) without change.

Subsec. (d). Pub. L. 96-448 substituted provision that any order of the Commission or bankruptcy court be appealed only to the United States Court of Appeals for the Seventh Circuit for provision that an order of the Commission not be stayed by the Commission or any other court, an order by the bankruptcy court not be stayed by any other court, appeals of Commission or bankruptcy court orders only be made to the court of appeals of the United States having jurisdiction to review decisions and orders of the bankruptcy court, and no determinations of the court of appeals be review in any other court.

Subsec. (e). Pub. L. 96-448 reenacted subsec. (e) without change.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 14, 1980, see section 710(d) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.