

“(1) in Vancouver, Canada, no later than June 1, 2009; and

“(2) in other areas as determined appropriate by the Secretary.”

§ 24710. Long-distance routes

(a) ANNUAL EVALUATION.—Using the financial and performance metrics developed under section 207 of the Passenger Rail Investment and Improvement Act of 2008, Amtrak shall—

(1) evaluate annually the financial and operating performance of each long-distance passenger rail route operated by Amtrak; and

(2) rank the overall performance of such routes for 2008 and identify each long-distance passenger rail route operated by Amtrak in 2008 according to its overall performance as belonging to the best performing third of such routes, the second best performing third of such routes, or the worst performing third of such routes.

(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak shall develop and post on its website a performance improvement plan for its long-distance passenger rail routes to achieve financial and operating improvements based on the data collected through the application of the financial and performance metrics developed under section 207 of that Act. The plan shall address—

- (1) on-time performance;
- (2) scheduling, frequency, routes, and stops;
- (3) the feasibility of restructuring service into connected corridor service;
- (4) performance-related equipment changes and capital improvements;
- (5) on-board amenities and service, including food, first class, and sleeping car service;
- (6) State or other non-Federal financial contributions;
- (7) improving financial performance;
- (8) anticipated Federal funding of operating and capital costs; and
- (9) other aspects of Amtrak’s long-distance passenger rail routes that affect the financial, competitive, and functional performance of service on Amtrak’s long-distance passenger rail routes.

(c) IMPLEMENTATION.—Amtrak shall implement the performance improvement plan developed under subsection (b)—

- (1) beginning in fiscal year 2010 for those routes identified as being in the worst performing third under subsection (a)(2);
- (2) beginning in fiscal year 2011 for those routes identified as being in the second best performing third under subsection (a)(2); and
- (3) beginning in fiscal year 2012 for those routes identified as being in the best performing third under subsection (a)(2).

(d) ENFORCEMENT.—The Federal Railroad Administration shall monitor the development, implementation, and outcome of improvement plans under this section. If the Federal Railroad Administration determines that Amtrak is not making reasonable progress in implementing its performance improvement plan or, after the performance improvement plan is implemented under subsection (c)(1) in accordance with the terms of that plan, Amtrak has not achieved the outcomes it has established for such routes,

under the plan for any calendar year, the Federal Railroad Administration—

(1) shall notify Amtrak, the Inspector General of the Department of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate of its determination under this subsection;

(2) shall provide Amtrak with an opportunity for a hearing with respect to that determination; and

(3) may withhold appropriated funds otherwise available to Amtrak for the operation of a route or routes from among the worst performing third of routes currently served by Amtrak on which Amtrak is not making reasonable progress, other than funds made available for passenger safety or security measures.

(Added Pub. L. 110-432, div. B, title II, §210(a), Oct. 16, 2008, 122 Stat. 4918.)

REFERENCES IN TEXT

Section 207 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsecs. (a) and (b), is section 207 of Pub. L. 110-432, which is set out in a note under section 24101 of this title.

§ 24711. Competitive passenger rail service pilot program

(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall promulgate a rule to implement a pilot program for competitive selection of eligible petitioners described in subsection (b)(3) in lieu of Amtrak to operate not more than 3 long-distance routes (as defined in section 24102) operated by Amtrak on the date of enactment of such Act.

(b) PILOT PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall—

(A) allow a petitioner described in paragraph (3) to petition the Secretary to provide intercity rail passenger transportation over a long-distance route described in subsection (a) for an operation period of 4 years from the date of commencement of service by the winning bidder and, at the option of the Secretary, consistent with the rule promulgated under subsection (a), allow the contract to be renewed for 1 additional operation period of 4 years;

(B) require the Secretary to—

(i) notify the petitioner and Amtrak of receipt of the petition under subparagraph (A) and to publish in the Federal Register a notice of receipt not later than 30 days after the date of receipt;

(ii) establish a deadline, of not more than 120 days after the notice of receipt is published in the Federal Register under clause (i), by which both the petitioner and Amtrak, if Amtrak chooses to do so, would be required to submit a complete bid to provide intercity rail passenger transportation over the applicable route; and

(iii) upon selecting a winning bid, publish in the Federal Register the identity of the winning bidder, the long distance route that the bidder will operate, a detailed jus-

tification of the reasons why the Secretary selected the bid, and any other information the Secretary determines appropriate for public comment for a reasonable period of time not to exceed 30 days after the date on which the Secretary selects the bid;

(C) require that each bid—

(i) describe the capital needs, financial projections, and operational plans, including staffing plans, for the service, and such other factors as the Secretary considers appropriate; and

(ii) be made available by the winning bidder to the public after the bid award with any appropriate redactions for confidential or proprietary information;

(D) for a route that receives funding from a State or States, require that for each bid received from a petitioner described in paragraph (3), other than such State or States, the Secretary have the concurrence of the State or States that provide funding for that route; and

(E) for a winning bidder that is not or does not include Amtrak, require the Secretary to execute a contract not later than 270 days after the deadline established under subparagraph (B)(ii) and award to the winning bidder—

(i) subject to paragraphs (4) and (5), the right and obligation to provide intercity rail passenger transportation over that route subject to such performance standards as the Secretary may require; and

(ii) an operating subsidy, as determined by the Secretary, for—

(I) the first year at a level that does not exceed 90 percent of the level in effect for that specific route during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation; and

(II) any subsequent years at the level calculated under subclause (I), adjusted for inflation.

(2) **LIMITATION.**—The requirements under paragraph (1)(E), including the amounts of operating subsidies in the first and any subsequent years under paragraph (1)(E)(ii), shall not apply to a winning bidder that is or includes Amtrak.

(3) **ELIGIBLE PETITIONERS.**—The following parties are eligible to submit petitions under paragraph (1):

(A) A rail carrier or rail carriers that own the infrastructure over which Amtrak operates a long-distance route, or another rail carrier that has a written agreement with a rail carrier or rail carriers that own such infrastructure.

(B) A State, group of States, or State-supported joint powers authority or other sub-State governance entity responsible for provision of intercity rail passenger transportation with a written agreement with the rail carrier or rail carriers that own the infrastructure over which Amtrak operates a long-distance route and that host or would host the intercity rail passenger transportation.

(C) A State, group of States, or State-supported joint powers authority or other sub-State governance entity responsible for provision of intercity rail passenger transportation and a rail carrier with a written agreement with another rail carrier or rail carriers that own the infrastructure over which Amtrak operates a long-distance route and that host or would host the intercity rail passenger transportation.

(4) **PERFORMANCE STANDARDS.**—The performance standards required under paragraph (1)(E)(i) shall meet or exceed the performance required of or achieved by Amtrak on the applicable route during the last fiscal year.

(5) **AGREEMENT GOVERNING ACCESS ISSUES.**—Unless the winning bidder already has applicable access rights or agreements in place or includes a rail carrier that owns the infrastructure used in the operation of the route, a winning bidder that is not or does not include Amtrak shall enter into a written agreement governing access issues between the winning bidder and the rail carrier or rail carriers that own the infrastructure over which the winning bidder would operate and that host or would host the intercity rail passenger transportation.

(c) **ACCESS TO FACILITIES; EMPLOYEES.**—If the Secretary awards the right and obligation to provide intercity rail passenger transportation over a route described in this section to an eligible petitioner—

(1) the Secretary shall, if necessary to carry out the purposes of this section, require Amtrak to provide access to the Amtrak-owned reservation system, stations, and facilities directly related to operations of the awarded routes to the eligible petitioner awarded a contract under this section, in accordance with subsection (g);

(2) an employee of any person, except as provided in a collective bargaining agreement, used by such eligible petitioner in the operation of a route under this section shall be considered an employee of that eligible petitioner and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak; and

(3) the winning bidder shall provide hiring preference to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan submitted by the bidder, and shall be subject to the grant conditions under section 24405.

(d) **CESSATION OF SERVICE.**—If an eligible petitioner awarded a route under this section ceases to operate the service or fails to fulfill an obligation under a contract required under subsection (b)(1)(E), the Secretary, in collaboration with the Surface Transportation Board, shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including—

(1) the installment of an interim rail carrier;

(2) providing to the interim rail carrier under paragraph (1) an operating subsidy necessary to provide service; and

(3) rebidding the contract to operate the intercity rail passenger transportation.

(e) BUDGET AUTHORITY.—

(1) IN GENERAL.—The Secretary shall provide to a winning bidder that is not or does not include Amtrak and that is selected under this section any appropriations withheld under section 11101(e) of the Passenger Rail Reform and Investment Act of 2015, or any subsequent appropriation for the same purpose, necessary to cover the operating subsidy described in subsection (b)(1)(E)(ii).

(2) ATTRIBUTABLE COSTS.—If the Secretary selects a winning bidder that is not or does not include Amtrak, the Secretary shall provide to Amtrak an appropriate portion of the appropriations under section 11101(b) of the Passenger Rail Reform and Investment Act of 2015, or any subsequent appropriation for the same purpose, to cover any cost directly attributable to the termination of Amtrak service on the route and any indirect costs to Amtrak imposed on other Amtrak routes as a result of losing service on the route operated by the winning bidder. Any amount provided by the Secretary to Amtrak under this paragraph shall not be deducted from or have any effect on the operating subsidy described in subsection (b)(1)(E)(ii).

(f) REPORTING.—If the Secretary does not promulgate the final rule before the deadline under subsection (a), the Secretary shall, not later than 19 months after the date of enactment of the Passenger Rail Reform and Investment Act of 2015 and every 90 days thereafter until the rule is complete, notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives in writing—

- (1) the reasons why the rule has not been issued;
- (2) a plan for completing the rule as soon as reasonably practicable; and
- (3) the estimated date of completion of the rule.

(g) DISPUTES.—

(1) PETITIONING SURFACE TRANSPORTATION BOARD.—If Amtrak and the eligible petitioner awarded a route under this section cannot agree upon terms to carry out subsection (c)(1), either party may petition the Surface Transportation Board for a determination as to—

- (A) whether access to Amtrak's facility or equipment, or the provisions of services by Amtrak, is necessary under subsection (c)(1); and
- (B) whether the operation of Amtrak's other services will not be unreasonably impaired by such access.

(2) SURFACE TRANSPORTATION BOARD DETERMINATION.—If the Surface Transportation Board determines access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary under paragraph (1)(A) and the operation of Amtrak's other services will not be unreasonably impaired under paragraph (1)(B), the Board shall issue an order that—

- (A) requires Amtrak to provide the applicable facilities, equipment, and services; and

(B) determines reasonable compensation, liability, and other terms for the use of the facilities and equipment and the provision of the services.

(h) LIMITATION.—Not more than 3 long-distance routes may be selected under this section for operation by a winning bidder that is not or does not include Amtrak.

(i) PRESERVATION OF RIGHT TO COMPETITION ON STATE-SUPPORTED ROUTES.—Nothing in this section shall be construed as prohibiting a State from introducing competition for intercity rail passenger transportation or services on its State-supported route or routes.

(j) SAVINGS CLAUSE.—Nothing in this section shall affect Amtrak's access rights to railroad rights-of-way and facilities.

(Added Pub. L. 110-432, div. B, title II, §214(a), Oct. 16, 2008, 122 Stat. 4927; amended Pub. L. 114-94, div. A, title XI, §11307(a), Dec. 4, 2015, 129 Stat. 1660.)

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsecs. (a) and (f), is the date of enactment of title XI of div. A of Pub. L. 114-94, which was approved Dec. 4, 2015.

Section 11101 of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (e), is section 11101 of title XI of div. A of Pub. L. 114-94, Dec. 4, 2015, 129 Stat. 1622, which is not classified to the Code.

AMENDMENTS

2015—Pub. L. 114-94 amended section generally. Prior to amendment, section related to alternate passenger rail service pilot program.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

REPORT

Pub. L. 114-94, div. A, title XI, §11307(c), Dec. 4, 2015, 129 Stat. 1664, provided that: "Not later than 4 years after the date of implementation of the pilot program under section 24711 of title 49, United States Code, and quadrennially thereafter until the pilot program is discontinued, the Secretary [of Transportation] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the pilot program to date and any recommendations for further action."

EMPLOYEE TRANSITION ASSISTANCE

Pub. L. 110-432, div. B, title II, §215, Oct. 16, 2008, 122 Stat. 4929, provided that:

"(a) PROVISION OF FINANCIAL INCENTIVES.—For Amtrak employees who are adversely affected by the cessation of the operation of a long-distance route or any other route under section 24711 of title 49, United States Code, previously operated by Amtrak, the Secretary [of Transportation] shall develop a program under which the Secretary may, at the Secretary's dis-

cretion, provide grants for financial incentives to be provided to Amtrak employees who voluntarily terminate their employment with Amtrak and relinquish any legal rights to receive termination-related payments under any contractual agreement with Amtrak.

“(b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, Amtrak must certify that—

“(1) a reasonable attempt was made to reassign an employee adversely affected under section 24711 of title 49, United States Code, or by the elimination of any route, to other positions within Amtrak in accordance with any contractual agreements;

“(2) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

“(3) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

“(4) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

“(c) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may be no greater than \$100,000 per employee.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to make grants to Amtrak to provide financial incentives under subsection (a).

“(e) TERMINATION-RELATED PAYMENTS.—If Amtrak employees adversely affected by the cessation of Amtrak service resulting from the awarding of a grant to an operator other than Amtrak for the operation of a route under section 24711 of title 49, United States Code, or any other route, previously operated by Amtrak do not receive financial incentives under subsection (a), then the Secretary shall make grants to Amtrak from funds authorized by section 101 of this division [122 Stat. 4908] for termination-related payments to employees under existing contractual agreements.”

§ 24712. State-supported routes operated by Amtrak

(a) STATE-SUPPORTED ROUTE COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish the State-Supported Route Committee (referred to in this section as the “Committee”) to promote mutual cooperation and planning pertaining to the rail operations of Amtrak and related activities of trains operated by Amtrak on State-supported routes and to further implement section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall consist of—

- (i) members representing Amtrak;
- (ii) members representing the Department of Transportation, including the Federal Railroad Administration; and
- (iii) members representing States.

(B) NON-VOTING MEMBERS.—The Committee may invite and accept other non-voting members to participate in Committee activities, as appropriate.

(3) DECISIONMAKING.—The Committee shall establish a bloc voting system under which, at a minimum—

(A) there are 3 separate voting blocs to represent the Committee’s voting members, including—

- (i) 1 voting bloc to represent the members described in paragraph (2)(A)(i);
- (ii) 1 voting bloc to represent the members described in paragraph (2)(A)(ii); and
- (iii) 1 voting bloc to represent the members described in paragraph (2)(A)(iii);

(B) each voting bloc has 1 vote;

(C) the vote of the voting bloc representing the members described in paragraph (2)(A)(iii) requires the support of at least two-thirds of that voting bloc’s members; and

(D) the Committee makes decisions by unanimous consent of the 3 voting blocs.

(4) MEETINGS; RULES AND PROCEDURES.—The Committee shall convene a meeting and shall define and implement the rules and procedures governing the Committee’s proceedings not later than 180 days after the date of establishment of the Committee by the Secretary. The rules and procedures shall—

(A) incorporate and further describe the decisionmaking procedures to be used in accordance with paragraph (3); and

(B) be adopted in accordance with such decisionmaking procedures.

(5) COMMITTEE DECISIONS.—Decisions made by the Committee in accordance with the Committee’s rules and procedures, once established, are binding on all Committee members.

(6) COST ALLOCATION METHODOLOGY.—

(A) IN GENERAL.—Subject to subparagraph (B), the Committee may amend the cost allocation methodology required and previously approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(B) PROCEDURES FOR CHANGING METHODOLOGY.—The rules and procedures implemented under paragraph (4) shall include procedures for changing the cost allocation methodology.

(C) REQUIREMENTS.—The cost allocation methodology shall—

(i) ensure equal treatment in the provision of like services of all States and groups of States; and

(ii) allocate to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

(b) INVOICES AND REPORTS.—Not later than April 15, 2016, and monthly thereafter, Amtrak shall provide to each State that sponsors a State-supported route a monthly invoice of the cost of operating such route, including fixed costs and third-party costs. The Committee shall determine the frequency and contents of financial and performance reports that Amtrak shall provide to the States, as well as the planning and demand reports that the States shall provide to Amtrak.

(c) DISPUTE RESOLUTION.—

(1) REQUEST FOR DISPUTE RESOLUTION.—If a dispute arises with respect to the rules and