

waukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(6) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(7) cessation of such services is imminent; and

(8) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this chapter must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential services by the Milwaukee Railroad would otherwise cause.

(Pub. L. 96-101, § 2, Nov. 4, 1979, 93 Stat. 736.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 736, as amended, known as the Milwaukee Railroad Restructuring Act, which enacted this chapter and amended sections 231f, 662, 721, 821, and 825 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97-468, title II, § 201, Jan. 14, 1983, 96 Stat. 2543, provided that: "This title [amending sections 797c, 907, 913, 915, 1004, 1005, 1007, 1014, and 1017 of this title, repealing section 1008 of this title and enacting provisions set out as notes under this section] may be referred to as the 'Bankrupt Railroad Service Preservation and Employee Protection Act of 1982'."

SHORT TITLE

Pub. L. 96-101, § 1, Nov. 4, 1979, 93 Stat. 736, provided: "That this Act [enacting this chapter and amending sections 231f, 662, 721, 821, and 825 of this title] may be cited as the 'Milwaukee Railroad Restructuring Act'."

STATEMENT OF PURPOSE

Pub. L. 97-468, title II, subtitle A, § 211, Jan. 14, 1983, 96 Stat. 2543, provided that: "It is the purpose of this subtitle [amending sections 915 and 1017 of this title and enacting provisions set out as notes under this section] to continue the effort by Congress to assure service over the lines of rail carriers subject to liquidation in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations."

CONGRESSIONAL FINDINGS

Pub. L. 97-468, title II, § 212, Jan. 14, 1983, 96 Stat. 2543, provided that: "The Congress finds that—

"(1) it is necessary to establish procedures to facilitate and expedite the acquisition of rail lines of carriers subject to liquidation by financially responsible persons in instances where service is not being provided over the line by the carrier and where the financially responsible person seeks to provide rail service over the line;

"(2) procedures set forth in the amendments made by this title [see Short Title of 1983 Amendment note above] represent an exercise of the powers of the Congress under the Constitution to regulate commerce among the several States which will provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such carriers subject to liquidation

have operated service, and for facilitating interstate commerce, while at the same time providing safeguards to protect the interest of the estates of such carriers by requiring compensation which is not less than the constitutionally required minimum; and

"(3) it is in the public interest that the Interstate Commerce Commission's authority to issue orders involving temporary authority to operate service over lines of carriers subject to liquidation be clarified."

[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 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 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 1301 of Title 49.]

§ 902. Definitions

As used in this chapter—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "Commission" means the Interstate Commerce Commission;

(4) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(5) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(6) the term "restructured Milwaukee Railroad" means the entity that is designated as the reorganized railroad under the reorganization plan for the Milwaukee Railroad finally certified by the Commission.

(Pub. L. 96-101, § 3, Nov. 4, 1979, 93 Stat. 736; Pub. L. 96-254, title I, § 123, May 30, 1980, 94 Stat. 409.)

AMENDMENTS

1980—Par. (6). Pub. L. 96-254 redefined "restructured Milwaukee Railroad" to mean the entity that is designated as the reorganized railroad under the reorganization plan for the Milwaukee Railroad finally certified by the Commission.

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 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 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 1301 of Title 49.

§ 903. Sales and transfers

(a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another

rail carrier or any other person, all or any portion of its rail properties used in railroad operations as of October 15, 1979. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 920(b) of this title, or April 1, 1980, whichever first occurs. In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.

(b)(1) The Secretary of Transportation, under the authority of section 333 of title 49, may develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of October 15, 1979. In taking action under this paragraph, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court. Such a proposal may in no event become final or effective until the occurrence of an event described in section 920(b) of this title, or April 1, 1980, whichever first occurs.

(Pub. L. 96-101, § 4, Nov. 4, 1979, 93 Stat. 737.)

CODIFICATION

In subsec. (b)(1), "section 333 of title 49" was substituted for "section 5(a)-(e) of the Department of Transportation Act [49 U.S.C. 1654(a)-(e)]", on authority of Pub. L. 97-449, § 6(b), Jan. 12, 1983, 96 Stat. 2443, the first section of which enacted subtitle I (§101 et seq.) and chapter 31 (§3101 et seq.) of subtitle II of Title 49, Transportation.

§ 904. Court approved abandonments and sales

(a) Abandonment of lines of railroad under section 1170 of title 11

(1) Upon the occurrence of an event described in section 920(b) of this title, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347¹ of title 49.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b) Sale or transfer of lines of railroad

(1) Upon the occurrence of an event described in section 920(b) of this title, or on April 1, 1980,

whichever first occurs, the bankruptcy court may authorize the sale or transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest² of employees as that required under section 11347¹ of title 49.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Effect on priorities and timing of employee protection payments

Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this chapter.

(Pub. L. 96-101, § 5, Nov. 4, 1979, 93 Stat. 737.)

REFERENCES IN TEXT

Section 11347 of title 49, referred to in subsecs. (a)(1) and (b)(1), was omitted in the general amendment of subtitle IV of Title 49, Transportation, by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804. Provisions similar to those in section 11347 are contained in section 11326(a) of Title 49.

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 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 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 1301 of Title 49.

¹ See References in Text note below.

² So in original. Probably should be "interests".