

SUBCHAPTER II—UNITED STATES
RAILWAY ASSOCIATION

§ 711. Formation and structure

(a) Establishment

There is established, in accordance with the provisions of this section, an incorporated non-profit association to be known as the United States Railway Association.

(b) Administration

The Association shall be directed by a Board of Directors. The individuals designated, pursuant to subsection (d)(2) of this section, as the Government members of such Board shall be deemed the incorporators of the Association and shall take whatever steps are necessary to establish the Association, including filing of articles of incorporation, and serving as an acting Board of Directors for a period of not more than 45 days after the date of incorporation of the Association.

(c) Status

The Association shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this subchapter, to the District of Columbia Nonprofit Corporation Act. Except as otherwise provided, employees of the Association shall not be deemed employees of the Federal Government. The Association shall have succession until dissolved by Act of Congress, shall maintain its principal office in the District of Columbia, and shall be deemed to be a resident of the District of Columbia with respect to venue in any legal proceeding.

(d) Board of Directors

(1) The Board of Directors of the Association shall consist of five individuals, as follows:

(A) The Chairman, who shall be the individual serving as Chairman on August 13, 1981, until the expiration of his term of office or his resignation, or his replacement, who shall be selected by the outgoing Chairman and the other members of the Board.

(B) The Secretary of Transportation.

(C) The Comptroller General of the United States.

(D) The Chairman of the Commission.

(E) The Chairman of the Board of Directors of the Corporation.

(2) The Chairman may not have any employment or other direct financial relationship with any freight railroad. The Chairman shall receive \$300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(e) Term of office

The term of office of the Chairman of the Board of Directors of the Association shall expire on December 31, 1987. The Chairman may be reappointed and the term of the Chairman shall be 3 years.

(f) Quorum

Three members of the Board of Directors, or their representatives, shall constitute a quorum

for the transaction of any function of the Association.

(g) Assumption of Finance Committee functions

The Board of Directors shall, on August 13, 1981, assume the functions previously performed by the Finance Committee.

(h) Representation at meetings

The members of the Board of Directors may send representatives to meetings of such Board, and such representatives may exercise full powers of the members.

(i) Miscellaneous¹

(1) The Association shall have a seal which shall be judicially recognized.

(2) The Administrator of General Services shall furnish the Association with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(3) The Secretary is authorized to transfer to the Association or the Corporation rights in intellectual property which are directly related to the conduct of the functions of the Association or the Corporation, to the extent that the Federal Government has such rights and to the extent that transfer is necessary to carry out the purposes of this chapter.

(4) Any reference in this chapter to the Chairman of the Commission is to the Chairman of the Commission or the person who is at the time performing the duties of the Chairman of the Commission in accordance with law.

(j) Use of names¹

No person, except the Association, shall hereafter use the words "United States Railway Association" as a name for any business purpose. Violations of this provision may be enjoined by any court of general jurisdiction in an action commenced by the Association. In any such action, the Association may recover any actual damages flowing from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damage) in an amount not to exceed \$100 for each day during which such violation was committed. The district courts of the United States shall have jurisdiction over actions brought under this subsection, without regard to the amount in controversy or the citizenship of the parties.

(Pub. L. 93-236, title II, §201, Jan. 2, 1974, 87 Stat. 988; Pub. L. 94-210, title VI, §§603(a), (b), 607(a), 612(j)(2), Feb. 5, 1976, 90 Stat. 88, 96, 109; Pub. L. 94-555, title II, §211(b)-(e), Oct. 19, 1976, 90 Stat. 2624; Pub. L. 95-611, §2, Nov. 8, 1978, 92 Stat. 3089; Pub. L. 96-448, title V, §508(c), Oct. 14, 1980, 94 Stat. 1957; Pub. L. 97-35, title XI, §1147, Aug. 13, 1981, 95 Stat. 673; Pub. L. 98-181, title II, §2003(c)(1), Nov. 30, 1983, 97 Stat. 1297; Pub. L. 99-190, §101(e) [title III, §332], Dec. 19, 1985, 99 Stat. 1267, 1290.)

Editorial Notes

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (c), is Pub. L. 87-569, Aug. 6, 1962,

¹ See Codification note below.

76 Stat. 265, as amended, which is not classified to the Code.

CODIFICATION

Section 1147 of Pub. L. 97-35 directed that subsecs. (d) to (i) be struck out and replaced by new subsecs. (d) to (h), and that subsecs. (j) and (k) be redesignated (g) and (h), respectively. Because a literal execution of the amendment would result in two subsections designated (g) and two subsections designated (h), and to reflect the probable intent of Congress, subsecs. (j) and (k) have been editorially redesignated (i) and (j), respectively.

AMENDMENTS

1985—Subsec. (d)(2). Pub. L. 99-190, § 101(e) [title III, § 332(1)], inserted “freight” before “railroad”.

Subsec. (e). Pub. L. 99-190, § 101(e) [title III, § 332(2)], substituted “1987” for “1985”.

1983—Subsec. (e). Pub. L. 98-181 substituted “1985” for “1983”.

1981—Subsec. (d). Pub. L. 97-35 substituted provisions respecting a five-member board for provisions respecting an eleven-member board.

Subsec. (e). Pub. L. 97-35 substituted provisions respecting term of office and reappointment of Chairman for provisions respecting term of office of Chairman and nongovernmental members, reappointment of members, and vacancies.

Subsec. (f). Pub. L. 97-35 substituted provisions respecting three-member quorum requirement for provisions respecting six-member quorum requirement.

Subsec. (g). Pub. L. 97-35 substituted provisions relating to assumption of Finance Committee functions for provisions relating to appointment of the President of the Association. See Codification note above.

Subsec. (h). Pub. L. 97-35 substituted provisions relating to representation at meetings for provisions relating to the executive committee of the Board of Directors. See Codification note above.

Subsec. (i). Pub. L. 97-35 redesignated subsec. (j) as (i). Former subsec. (i), which related to membership, functions, etc., of the Finance Committee, was struck out. See Codification note above.

Subsecs. (j), (k). Pub. L. 97-35 redesignated former subsecs. (j) relating to miscellaneous provisions, and (k) relating to use of names, as (i) and (j), respectively. See Codification note above.

1980—Subsec. (d)(2). Pub. L. 96-448, § 508(c)(1), inserted provision authorizing Secretary of Transportation to act directly or through the General Counsel of Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration and substituted provision authorizing Secretary of the Treasury to act directly or through an officer of Department of the Treasury who has been appointed with the advice and consent of the Senate for provision authorizing Secretary of the Treasury to act directly or through Deputy Secretary of the Treasury.

Subsec. (i). Pub. L. 96-448, § 508(c)(2), substituted “in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advice and consent of the Senate” for “through their respective Deputy Secretaries”.

Subsec. (j)(4). Pub. L. 96-448, § 508(c)(3), struck out provision that any reference in this chapter to Secretary of the Treasury is to Secretary of the Treasury or person who is at time performing duties of the Office of Secretary of the Treasury or, in his absence, Deputy Secretary of the Treasury.

1978—Subsec. (e). Pub. L. 95-611 inserted provision that members of Board shall continue to serve until their successors have been appointed and qualified.

1976—Subsec. (d)(2). Pub. L. 94-555, § 211(b), substituted “the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Deputy Secretary of the Treasury, as the case may be” for “their duly authorized representatives” after “at any time through”.

Pub. L. 94-210, § 603(b)(2), substituted “acting directly or at any time through” for “or”.

Subsec. (h). Pub. L. 94-555, § 211(c), struck out “The Secretary and the Chairman of the Commission may act in such capacity directly or at any time through their duly authorized representatives” after “members of the Board”.

Pub. L. 94-210, § 603(b)(1), inserted provision authorizing Secretary and Chairman to act directly or through their duly authorized representatives.

Subsec. (i). Pub. L. 94-555, § 211(d), substituted “Deputy Secretaries” for “duly authorized representatives” after “through their respective”.

Pub. L. 94-210, § 603(a), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 94-210, §§ 603(a), 607(a), redesignated former subsec. (i) as (j) and added par. (4). Former subsec. (j) redesignated (k).

Subsec. (j)(4). Pub. L. 94-555, § 211(e), inserted “who is” after “Treasury or the person” and “Commission or the person”, and substituted “in his absence, the Deputy Secretary of the Treasury” for “the duly authorized representatives of either of them” after “Treasury in accordance with law”.

Subsec. (k). Pub. L. 94-210, §§ 603(a), 612(j)(2), redesignated former subsec. (j) as (k), substituted “this provision” for “these provisions”, and struck out “or the Corporation” after “Association” in two places and provisions relating to use of “Consolidated Rail Corporation” as a name for any business purpose.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

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.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

§ 712. Functions of Association

(a) General

The Association is authorized to—

(1) monitor the financial performance of the Corporation;

(2) review whether the goals and requirements of this chapter are met;

(3) purchase or otherwise acquire or receive, and hold and dispose of securities (whether debt or equity) of the Corporation under sections 726 and 727 of this title and exercise all of the rights, privileges, and powers of a holder of any such securities;

(4) purchase accounts receivable of the Corporation in accordance with section 727 of this title;

(5) appoint and fix the compensation of such personnel as the Association considers necessary and appropriate; and

(11)¹ determine the value of the Alaska Railroad, as required by section 1204 of this title.

(b) Investment of funds

Uncommitted funds of the Association shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other investments which are lawful investments for fiduciary, trust, or public funds.

(c) Exemption from taxation

The Association, including its franchise, capital reserves, surplus, security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States, any commonwealth, territory, dependency, or possession thereof, or by any State or political subdivision thereof, except that any real property of the Association shall be subject to taxation to the same extent according to its value as other real property is taxed.

(d) Reports

(1)² The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Association during the preceding fiscal year. Each such report shall include (A) the Association's statement of specific and detailed objectives for the activities and programs conducted and assisted under this chapter; (B) statements of the Association's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this chapter, measured through the end of the preceding fiscal year; (C) recommendations with respect to any legislation or administrative action which the Association deems necessary or desirable; (D) a statistical compilation of the obligations issued, certificates of value issued, securities purchased, and loans made under this chapter; (E) a summary of outstanding problems confronting the Association, in order of priority; (F) all other information required to be submitted to the Congress pursuant to any other provision of this chapter; and (G) the Association's projections and plans

for its activities and programs during the next fiscal year.

(2) For the fiscal year beginning October 1, 1977, and ending September 30, 1978, the Association shall transmit to the Congress and the President, not later than 30 days after the end of each quarter of such fiscal year, a comprehensive and detailed report on all expenditures and use of funds during the preceding fiscal quarter, including an assessment of the status of projects for such preceding fiscal quarter and a projection of activities proposed for the next fiscal quarter.

(3) The Association shall transmit to the Congress, no later than 30 days after the end of each fiscal quarter, a report with respect to the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 743 of this title. Each such report shall include—

(A) a detailed accounting of the Federal funds expended during such quarter in connection with such proceedings, and the purposes for which such funds were expended;

(B) an explanation of the status of such proceedings, including the prospects for settlement or conclusion; and

(C) an identification of which responsibilities in connection with such proceedings are being carried out directly by the Association, and which are being carried out by contract with private organizations.

(e) Budget

The receipts and disbursements of the Association (other than administrative expenses referred to in subsection (g)³ of this section and receipts and disbursements under section 726 of this title and section 746 of this title) in the discharge of its functions shall not be included in the totals of the budget of the United States Government, and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on a budget of the United States Government. The Chairman of the Association shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Association. The Chairman shall report annually to the Congress the amount of net lending of the Association, which would be included in the totals of the budgets of the United States Government, if the Association's activities were not excluded from those totals as a result of this section.

(f) Accountability

The Chairman of the Association shall transmit annually to the Office of Management and Budget a budget for administrative expenses of the Association. Whenever the Association submits any budget estimate or request to the Office of Management and Budget, it shall concurrently transmit a copy of the estimate or request to the Congress. Within budgetary constraints of the Congress, the maximum feasible and prudent budgetary flexibility shall be provided to the Association to permit effective operations.

(g) Transfer of litigation

No later than March 1, 1980, the Association and the Attorney General of the United States

¹ So in original. Probably should be "(6)".

² Par. "(1)" designation supplied editorially.

³ So in original. Subsec. (g) redesignated (f) by Pub. L. 97-35.