

pensation and years of service of an individual by reason of the provisions of subsection (a), (b), or (c) of this section if, and to the extent that, such annuity or other benefit would duplicate a benefit payable to such person on the basis of such compensation and years of service under a provision of the Social Security Act [42 U.S.C. 301 et seq.], or any other Act of Congress, which becomes effective after December 31, 1974.

(2) No annuity shall be payable to a person by reason of subsection (a) or (b) of this section unless the individual upon whose compensation and years of service such annuity would be based will have (A) completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995), and (B) in the case of a survivor, had a current connection with the railroad industry at the time of his death.

(3) If the Social Security Act [42 U.S.C. 301 et seq.] is amended after December 31, 1974, to remove any, or all, restriction on the receipt of more than one monthly insurance benefit thereunder, annuity amounts provided a person under section 231b(h), 231c(e), or 231c(h) of this title, or under section 204(a)(3), 204(a)(4), 206(3), or 207(3) of title II of this Act, shall be reduced (but not below zero) by the amount of any annuity provided such person under this subchapter by reason of such amendment.

(4) If and to the extent that an annuity or other benefit payable to a person by reason of the provisions of subsection (a), (b), or (c) of this section duplicates an annuity or other benefit then payable to such person under other provisions of this subchapter, such annuity or other benefit then payable under other provisions of this subchapter shall be reduced (but not below zero) by the amount of the annuity or other benefit payable by reason of subsection (a), (b), or (c).

(Aug. 29, 1935, ch. 812, §19, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1350; amended Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 107-90, title I, §103(h), Dec. 21, 2001, 115 Stat. 881.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a), (b), (c), and (d)(1), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Titles II and XVIII of the Social Security Act are classified generally to subchapters II (§401 et seq.) and XVIII (§1395 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Sections 204(a)(3), 204(a)(4), 206(3), 207(3) of title II of this Act, referred to in subsec. (d)(3), are sections 204(a)(3), 204(a)(4), 206(3), 207(3) of title II of Pub. L. 93-445 and are set out as part of a Transitional Provisions note under section 231 of this title.

AMENDMENTS

2001—Subsec. (c). Pub. L. 107-90, §103(h)(1), inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “ten years of service”.

Subsec. (d)(2). Pub. L. 107-90, §103(h)(2), inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “ten years of service”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (c) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

§ 231s. Separability

If any provision of this subchapter, or the application thereof to any person or circumstance, should be held invalid, the remainder of such subchapter, or the application of such provision to other persons or circumstances, shall not be affected thereby.

(Aug. 29, 1935, ch. 812, §20, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1351.)

§ 231t. Short title

This subchapter may be cited as the “Railroad Retirement Act of 1974”.

(Aug. 29, 1935, ch. 812, §21, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1351.)

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 109-478, §1, Jan. 12, 2007, 120 Stat. 3573, provided that: “This Act [amending section 231a of this title and enacting provisions set out as a note under section 231a of this title] may be cited as the ‘Railroad Retirement Disability Earnings Act’.”

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-305, §1, Oct. 6, 2006, 120 Stat. 1719, provided that: “This Act [amending section 231f of this title] may be cited as the ‘Railroad Retirement Technical Improvement Act of 2006’.”

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107-90, §1(a), Dec. 21, 2001, 115 Stat. 878, provided that: “This Act [enacting section 231v of this title and subchapter E of chapter 22 of Title 26, Internal Revenue Code, amending sections 231a to 231f, 231n, 231n-1, 231q, 231r, and 231u of this title, sections 24, 72, 501, 3201, 3211, 3221, and 3231 of Title 26, and section 405 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 231b, 231c, and 231n of this title, sections 24 and 3211 of Title 26, and section 405 of Title 42] may be cited as the ‘Railroad Retirement and Survivors’ Improvement Act of 2001’.”

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-76, §1, Aug. 12, 1983, 97 Stat. 411, provided: “That this Act [enacting sections 231f-1, 231n-1 and 231v of this title and sections 3321 to 3323 and 6050G of Title 26, Internal Revenue Code, amending sections 231 to 231f, 231m, 231n, 231u, 351 to 354, 358, and 360 of this title, sections 72, 86, 105, 3201, 3202, 3211, 3221, 3231, 6157, 6201, 6317, 6513, and 6601 of Title 26, and section 430 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 231 to 231d, 231f, 231m, 231n, 231n-1, 351, 352, and 362 of this title and sections 1, 72, 105, 3201, 3321, and 6302 of Title 26] may be

cited as the 'Railroad Retirement Solvency Act of 1983'."

§ 231u. Benefit preservation

(a)(1) On or before May 1 of each year beginning in 1984, the Railroad Retirement Board shall prepare a five-year projection of anticipated revenues to and payments from the Railroad Retirement Account to determine the ability of such Account to pay benefits in each of the next succeeding five calendar years. On or before May 1 of each year beginning in 2003, the Railroad Retirement Board shall compute its projection of the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Revenue Code of 1986 [26 U.S.C. 3241(c)]) for each of the next succeeding five fiscal years. No later than July 1 of each year, the Board shall submit a written report to the President, the Speaker of the House, and the President of the Senate setting forth the results of the projections prepared pursuant to the preceding two sentences. If the projection indicates that the funds in the Railroad Retirement Account will be insufficient to pay the full amount of the benefits under this subchapter which are payable from that Account at any time during the five-year period, the Board's report shall include—

(A) the first fiscal year during which benefits under this subchapter must be reduced, in the absence of any adjustments, because insufficient funds (including any general revenue borrowing authority under this subchapter) would preclude payment of full benefits (other than benefits¹ payable from the Dual Benefits Payments Account) for every month in such fiscal year;

(B) the first fiscal year during which the Board would recommend suspension of the authority to borrow contained in section 360(d) of this title, in order to prevent depletion of the Railroad Retirement Account; and

(C) the amount, if any, of adjustments (stated in terms of percentage of taxable payroll), and any other changes such as cash flow adjustments, necessary to preserve the financial solvency of the Railroad Retirement Account, if such adjustments were effective at the beginning of the next succeeding fiscal year.

(2) Not less than 20 nor more than 30 days after the submission of a written report under this subsection which indicates that, in the absence of any adjustments, the Railroad Retirement Account will contain insufficient funds to pay the full amount of the benefits under this subchapter which are payable from that Account at some time during the five-year period covered by the report, the Board shall publish such report in the Federal Register.

(b) Not later than 180 days after the publication in the Federal Register of any Board report referred to in subsection (a) of this section which states an amount of adjustments (in terms of percentage of taxable payroll) necessary to preserve the financial solvency of the railroad retirement account—

(1) representatives of railroad employees and carriers shall, jointly or separately, submit to

the President, the Speaker of the House, and the President of the Senate, funding proposals designed to preserve the financial solvency of the Railroad Retirement Account; and

(2) the President shall submit to the Speaker of the House and the President of the Senate such recommendations as he may deem appropriate with respect to the preservation of the Railroad Retirement Account, including a specific proposal to assure continuous payments of social security equivalent benefits by separating the social security equivalent benefits from industry pension equivalent benefits payable under this subchapter.

(c) Not later than 180 days after the submission of a written report under subsection (a) of this section which states the first fiscal year during which benefits under this subchapter must be reduced because insufficient funds would preclude payment of full benefits for every month of that year, the Board shall issue and publish in the Federal Register such regulations as may be necessary which shall be designed to—

(1) provide a constant level of benefits at the maximum level possible for every month of that fiscal year; and

(2) provide that no individual shall receive less during that fiscal year than the amount otherwise payable if the employee's service as an employee after December 31, 1936, had been covered under the Social Security Act [42 U.S.C. 301 et seq.], minus the amount of any reduction required under section 231b(m) or 231c(i) of this title.

Unless otherwise provided by law enacted after August 13, 1981, or by a later report filed by the Board under subsection (a) of this section, regulations issued by the Board under this subsection shall apply beginning with the fiscal year designated by the Board in its written report under subsection (a) of this section. Any Board regulation which becomes effective under this subsection may be modified, rescinded, or superseded in the same manner and to the same extent as in the case of any other Board regulation issued under authority of this subchapter.

(Aug. 29, 1935, ch. 812, § 22, as added Pub. L. 97-35, title XI, § 1126(b), Aug. 13, 1981, 95 Stat. 639; amended Pub. L. 98-76, title I, § 105, Aug. 12, 1983, 97 Stat. 416; Pub. L. 104-66, title II, § 2221(b), Dec. 21, 1995, 109 Stat. 733; Pub. L. 107-90, title I, § 108(a), Dec. 21, 2001, 115 Stat. 890.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107-90 in introductory provisions, inserted after first sentence "On or before May 1 of each year beginning in 2003, the Railroad Retirement Board shall compute its projection of the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Rev-

¹ So in original. Probably should be "benefits".