

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.)

Editorial Notes

AMENDMENTS

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

Statutory Notes and Related Subsidiaries

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.

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.

§ 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.)

Editorial Notes

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 subssecs. (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 pro-

visions 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.

Statutory Notes and Related Subsidiaries

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.

§ 1006. Repealed. Pub. L. 97-35, title XI, § 1144(b), Aug. 13, 1981, 95 Stat. 669

Section, Pub. L. 96-254, title I, §107, May 30, 1980, 94 Stat. 402, set forth provisions respecting employment of Rock Island Railroad employees. See section 797c of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 1007. Election

(a) Assistance received under employee protection agreement; waiver of other employee protection benefits; exception

Any employee who receives any assistance under an employee protection agreement entered into or benefit schedule prescribed under section 1005 of this title or any new career training assistance under section 1014 of this title shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, subtitle IV of title 49 or any applicable contract or agreement (other than as provided in the agreement entered into in Washington, District of Columbia,

on March 4, 1980, entitled “Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives’ Association”).

(b) Filing of statement

Any employee of the Rock Island Railroad who is entitled to receive assistance under this chapter shall, no later than 120 days after the effective date of any agreement entered into under section 1005(a) of this title or of any benefit schedule prescribed under section 1005(b) of this title, as the case may be, file a statement with the Board indicating whether such employee elects to receive (1) assistance under this chapter; or (2) any employee protection benefits otherwise available to such employee under the Bankruptcy Act, subtitle IV of title 49, or any applicable contract or agreement.

(c) Effect on priority, timing, etc., of employee protection payments

With regard to any employee who elects benefits under subsection (b)(2) of this section, nothing in this chapter shall be deemed to determine or otherwise affect the priority, status, or timing of payment of, or the liability for any claim for, employee protection which might have existed in the absence of this chapter.

(d) Limitation on assistance eligibility

An employee shall not be eligible to receive any assistance (other than moving expenses) under an employee protection agreement entered into or benefit schedule prescribed under section 1005 of this title or any new career training assistance under section 1014 of this title—

(1) during any period in which such employee is employed by any rail carrier providing temporary service over any lines of the Rock Island Railroad; or

(2) at any time after the date such employee receives an offer of employment, in his craft and for which such employee is qualified, from a rail carrier acquiring lines of the Rock Island Railroad.

(Pub. L. 96-254, title I, §108, May 30, 1980, 94 Stat. 402; Pub. L. 96-448, title VII, §701(b)(2), Oct. 14, 1980, 94 Stat. 1960; Pub. L. 97-468, title II, §232, Jan. 14, 1983, 96 Stat. 2547.)

Editorial Notes

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsecs. (a) and (b), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

This chapter, referred to in subsecs. (b) and (c), was in the original “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.