

**ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE
ASSISTANCE ACT**

[Public Law 96-254]

[As Amended Through P.L. 117–58, Enacted November 15, 2021]

【Currency: This publication is a compilation of the text of Public Law 96-254. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**TITLE I—ROCK ISLAND TRANSITION AND EMPLOYEE
ASSISTANCE**

SHORT TITLE

SEC. 101. This title may be cited as the “Rock Island Railroad Transition and Employee Assistance Act”.

【45 U.S.C. 1001 nt】

CONGRESSIONAL FINDINGS

SEC. 102. Congress hereby finds that—

(1) uninterrupted continuation of services over Rock Island lines is dependent on adequate employee protection provisions covering Rock Island Railroad employees who are not hired by other railroads;

(2) for those Rock Island Railroad employees not hired by other rail carriers, there is no other practicable means of obtaining funds to meet the necessary costs of such employee protection that are assumed by the Rock Island Railroad;

(3) a cessation of necessary operations of the Rock Island Railroad would have serious repercussions on the economies of the States in which such railroad principally operates; and

(4) premature cessation of services over lines which are the subject of pending purchase application would result in harm to the shipping public and could imperil continuation of vital commuter service.

【45 U.S.C. 1001】

DEFINITIONS

SEC. 103. As used in this title, the term—

(1) “bankruptcy court” means the court having jurisdiction over the reorganization of the Rock Island Railroad;

(2) “Board” means the Railroad Retirement Board;

(3) “Commission” means the Interstate Commerce Commission;

(4) “employee” includes any employee of the Rock Island Railroad as of August 1, 1979, but 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 “Rock Island Railroad” means the Chicago, Rock Island and Pacific Railroad Company, the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding; and

(6) the term “Secretary” means the Secretary of Transportation.

【45 U.S.C. 1002】

SERVICE CONTINUATION

SEC. 104. (a) Notwithstanding the provisions of Public Law 96-131, the Commission shall order directed service for a period of not to exceed 90 days over any line of the Rock Island Railroad if the Secretary finds and certifies to the Commission that—

(1) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and grains or foods are ready to be shipped to market; or

(2) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and a rail carrier, shipper, State, or other interested party has expressed in writing to the Secretary an interest in purchasing, leasing, or rehabilitating the particular rail line or facility for purposes of providing rail services, and there is a reasonable expectation that such transaction will be consummated.

(b)(1) Not more than \$15,000,000 of the funds available for expenditure by the Secretary out of the Railroad Rehabilitation and Improvement Fund established under chapter 224 of title 49, United States Code, may be made available by the Secretary to the Commission for purposes of providing direct service under this section.

(2) Funds may be made available for directed service under this section without regard to the findings of the Secretary required under chapter 224 of title 49, United States Code, including section 22404 of such title, shall not apply to any directed service provided with such funds.

(c) The terms of compensation for all trackage rights, joint facilities, and similar arrangements between other rail carriers and the trustee of the Rock Island Railroad which are in effect on or after March 15, 1980, on portions of the lines of the Rock Island Railroad involved in temporary emergency operations shall be continued in effect during the duration of the temporary emergency operating authority with the carrier providing temporary emergency service substituting for the trustee, except where the Rock Island Railroad has been given more favorable treatment by virtue of its bankruptcy. Such continuation shall not alter or affect the ultimate rights of other rail carriers under trackage rights, joint facilities, or similar arrangements nor prejudice the ultimate determination of any controversy or proceeding concerning rights of the parties with regard to assignment by the trustee of rights in or to the facilities or under the arrangements.

【45 U.S.C. 1003】

RAILROAD HIRING¹

SEC. 105. (a) Each person who is an employee of the Rock Island Railroad on August 1, 1979, and who, prior to January 1, 1984, is separated or furloughed (other than for cause) from his employment with such railroad, or from his employment with another rail carrier providing temporary service over lines of the Rock Island Railroad, as a result of a reduction of service by such railroad or such temporary service carrier shall, unless found to be less qualified than 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 the Pacific Railroad Company employees by section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907).

【45 U.S.C. 1004】

EMPLOYEE PROTECTION AGREEMENT

SEC. 106. (a) 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 the date of enactment of the

¹ Section 4011(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272; 100 Stat. 109; April 7, 1986) provided as follows:

“(c) EXEMPTION.—The provisions of section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b), section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), and section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004) shall not apply to the National Railroad Passenger Corporation in the hiring of qualified train and engine employees who hold 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.”.

Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, 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) 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 Act.

(c) 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 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973, 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) 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.

【45 U.S.C. 1005】

【Section 107 repealed by section 1144(b) of P.L. 97-35, 95 Stat. 669.】

ELECTION

SEC. 108. (a) Any employee who receives any assistance under an employee protection agreement entered into or benefit schedule prescribed under section 106 of this title or any new career training assistance under section 119 of this title shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, 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 Em-

ployees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association").

(b) Any employee of the Rock Island Railroad who is entitled to receive assistance under this title shall, no later than 120 days after the effective date of any agreement entered into under section 106(a) of this title or of any benefit schedule prescribed under section 106(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 title; or (2) any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11, United States Code, subtitle IV of title 49, United States Code, or any applicable contract or agreement.

(c) With regard to any employee who elects benefits under subsection (b)(2) of this section, nothing in this title 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 title.

(d) 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 106 of this title or any new career training assistance under section 119 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.

【45 U.S.C. 1007】

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. (a) Section 14(c) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(c)) is amended—

(1) by inserting “and the Rock Island Railroad Transition and Employee Assistance Act” immediately after “this Act”; and

(2) by adding at the end thereof the following new sentence: “Effective October 1, 1980, there is authorized to be appropriated to the Board an additional \$1,000,000 to carry out its administrative expenses under this Act and the Rock Island Railroad Transition and Employee Assistance Act.”

(b) Section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is amended by adding at the end thereof the following new sentence: “Effective October 1, 1980, there is authorized to be appropriated an additional \$1,500,000 for new career training assistance under section 12 of this Act and section 119 of the Rock Island Railroad Transition and Employee Assistance Act.”

【Section 110 repealed by section 234(a) of P.L. 97-468, 96 Stat. 669.】

EXPEDITED PROCEEDINGS

SEC. 111. (a) The Commission shall give all proceedings involving the Rock Island Railroad preference over all other pending proceedings related to rail carriers and make all of its decisions at the earliest practicable time.

(b) The Commission shall, within 100 days of the filing of an application (or such shorter period as the court may set) pursuant to section 17 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915), reach a decision on all proceedings filed after January 1, 1980, which involve a sale, transfer or lease of any line of the Rock Island Railroad to a solvent carrier.

[45 U.S.C. 1009]

TRANSACTION ASSISTANCE

SEC. 112. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

(h) "PURCHASE OF ESSENTIAL PROPERTIES FOR COMMON CARRIER SERVICE.—(1) Notwithstanding subsections (a) through (g) of this section (other than subsections (b)(2) and (d)(3)), the Secretary shall, upon application of a noncarrier entity—

"(A) purchase, from funds available on May 1, 1980, not less than \$25,000,000 in redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase, lease, or rehabilitation of properties of the Rock Island Railroad by responsible noncarrier entities to be used for common carrier rail service; and

"(B) purchase not more than \$18,000,000 in redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase of properties of the Milwaukee Railroad by responsible noncarrier entities to be used for common carrier rail service, to the extent that the Secretary determines that funds are available.

"(2) Preference shares, bonds, and trustee certificates purchased under this subsection shall be purchased under terms and conditions that insure that the applicant will be financially capable of making the requisite dividend or interest and redemption or principal payments without impairing its financial resources, and the Secretary shall insure that all assistance provided under this subsection is likely to be repaid or can be secured.

"(3)(A)(i) For purposes of this subsection, a responsible noncarrier entity may include an association composed of representatives of national railway labor organizations, employee coalitions, shippers, or any combination thereof, and States or State organizations, which wish to acquire, lease, or rehabilitate properties of the Rock Island Railroad or the Milwaukee Railroad pursuant to a feasible employee, employee-shipper, or State ownership plan. A responsible noncarrier entity may also include any railroad that wishes to contribute any of its properties under common ownership with the property being acquired by the association.

“(ii) Any ownership plan described in clause (i) of this subparagraph shall be submitted to the Secretary no later than August 20, 1980, or such later date as the Secretary considers appropriate.

“(B) For purposes of this subsection, the return on redeemable preference shares shall be the minimum established pursuant to section 506(a)(3) of this title.

“(4) This subsection shall apply to purchase applications filed with the Commission prior to September 15, 1980, and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.”.

APPLICABILITY OF NEPA AND EPCA

SEC. 113. The provisions of the National Environmental Policy Act and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to transactions carried out pursuant to this title.

【45 U.S.C. 1010】

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 114. (a) The Board may prescribe such regulations as may be necessary to carry out its duties under this title.

(b) In carrying out its duties under this title, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a), (b), and (d)) as are not inconsistent with the provisions of this title.

【45 U.S.C. 1011】

PUBLICATIONS AND REPORTS

SEC. 115. Within 45 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Rock Island Railroad to all eligible employees, a document which describes in detail the rights of such employees under sections 106¹, 107, 108, and 119 of this title.

【45 U.S.C. 1012】

AMENDMENTS TO MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 116. Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is amended—

(1) by striking “Until” and inserting in lieu thereof “(a) Except as provided in subsection (b) of this section, until”; and

(2) by adding at the end thereof the following new subsection:

“(b) The Commission shall upon request provide for directed service, not to exceed 30 days during the period immediately prior to acquisition, on the Milwaukee Railroad under section 11125 of title 49, United States Code. Such directed service shall be limited to those lines or line segments where legislation has been enacted

¹This reference to section “106” probably should be stricken. Section 1144(b) of P.L. 97-35 repealed section 106.

by a State legislature prior to the date of enactment of this subsection which would provide for such State to tender a bona fide offer for acquisition of such lines or line segments. The Commission may order directed service by the Milwaukee Railroad under this subsection without inclusion of a 6 percent profit factor. The Commission shall take the action described in this subsection only in the event that the Secretary of Transportation determines that such service cannot be continued under the Emergency Rail Service Assistance Act.”.

【Section 117 repealed by section 7(b) of P.L. 103–272, 108 Stat. 1391.】

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 118. 【(a) Amended the Regional Rail Reorganization Act of 1973】

NEW CAREER TRAINING ASSISTANCE

SEC. 119. (a) An employee who elects to receive a separation allowance under an employee protection agreement entered into or a benefit schedule prescribed under section 106 of this title may, if so provided under such agreement or benefit schedule, receive from the Board reasonable expenses for training in qualified institutions for new career opportunities.

(b) To be eligible for assistance under this section, an employee—

(1) must first exhaust any Federal educational benefits available to such employee under any existing program; and

(2) must begin his course of training within 2 years following the date of such employee’s separation from employment with the Rock Island Railroad.

(c) Reasonable expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

(1) the term “expenses” means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed \$3,000; and

(2) the term “qualified institution” means an educational institution accredited for payment by the Veterans’ Administration under chapter 36 of title 38 of the United States Code, or a State-accredited institution which has been in existence for not less than 2 years.

【45 U.S.C. 1014】

(f) Section 12(e)(2) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 911(e)(2)) is amended by inserting the following immediately before the period at the end thereof: “, or a State-accredited institution which has been in existence for not less than two years”.

【Section 120 repealed by section 329(2) of Public Law 104–88 (109 Stat. 952).】

TEMPORARY RAIL BANKING

SEC. 121. During the 180-day period beginning on the date of enactment of this Act, no rail line or facility of the Rock Island Railroad which has been approved for abandonment by the Commission or the bankruptcy court may be downgraded, scrapped, or otherwise disposed of without the approval of the Secretary under this section. In no case before abandonment has been approved and before the 180-day period has elapsed shall the Secretary approve a disposition of such portion of the rail line or related facility to any carrier or other entity not engaged in providing railroad services or not formed for the purpose of providing railroad services. The Secretary upon application by the Rock Island Railroad, shall grant such approval unless he finds that—

- (1) a rail carrier, shipper, State, or other interested party has expressed in writing an interest in purchasing, leasing or rehabilitating the particular rail line or facility for purposes of providing rail service; and
- (2) there is a reasonable expectation that such purchase transaction will be consummated.

【45 U.S.C. 1016】

TEMPORARY OPERATING APPROVAL

SEC. 122. (a) The Commission may authorize any rail carrier willing to do so voluntarily to use the tracks and facilities of a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code. The use of such tracks and facilities shall be under such terms of compensation as the carriers establish between themselves, or if the carriers are unable to agree, under such terms of compensation as the Commission finds to be reasonable. The Commission shall have authority to authorize continued rail service under this section over the lines of any such carrier which has been ordered by the court having jurisdiction over such a carrier to liquidate its properties until the disposition of the properties of the estate of such carrier.

(b) In carrying out the provisions of this section, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.

【45 U.S.C. 1017】

DEFINITION OF RESTRUCTURED MILWAUKEE RAILROAD

SEC. 123. Section 3(6) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 902(6)) is amended to read as follows:

“(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.”.

JUDICIAL REVIEW

SEC. 124. (a) Notwithstanding any other provision of law, any appeal from—

(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.),

shall be taken to the United States Court of Appeals for the Seventh Circuit.

(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc.

(c) Nothing in this Act or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).

【45 U.S.C. 1018】

SAVINGS PROVISION

SEC. 125. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

【45 U.S.C. 1001 nt】