

106TH CONGRESS
1ST SESSION

S. 1590

To amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 1999

Mr. CRAPO introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Surface Transpor-
5 tation Board Improvement Act of 1999”.

6 **SEC. 2. SCOPE OF AUTHORITY; EMPLOYEE PROTECTIVE AR-**
7 **RANGEMENTS.**

8 (a) SCOPE OF AUTHORITY.—Section 11321 of title
9 49, United States Code, is amended—

1 (1) by striking subsection (a) and inserting the
2 following:

3 “(a)(1) The authority of the Board under this sub-
4 chapter is exclusive. A rail carrier or corporation partici-
5 pating in or resulting from a transaction approved by or
6 exempted by the Board under this subchapter may carry
7 out the transaction, own, and operate property, and exer-
8 cise control or franchises acquired through the transaction
9 without the approval of a State authority.

10 “(2) Subject to paragraph (3), a rail carrier, corpora-
11 tion, or person participating in an approved or exempted
12 transaction described in paragraph (1) is exempt from
13 State and municipal laws to the extent that the laws regu-
14 late combinations, mergers, or consolidations of rail car-
15 riers, as necessary to permit that rail carrier, corporation,
16 or person to—

17 “(A) carry out the transaction; and

18 “(B) hold, maintain, and operate property, and
19 exercise control or franchises acquired through the
20 transaction.

21 “(3)(A) If a purchase and sale, a lease, or a corporate
22 consolidation or merger is involved in a transaction de-
23 scribed in paragraph (1), the carrier, or corporation may
24 carry out the transaction only with the assent of a major-
25 ity, or the number required under applicable State law,

1 of the votes of the holders of the capital stock of that cor-
 2 poration entitled to vote.

3 “(B) To meet the requirements of this paragraph—

4 “(i) a vote referred to in subparagraph (A)
 5 shall occur at a regular meeting, or special meeting
 6 called for that purpose, of the stockholders referred
 7 to in that subparagraph; and

8 “(ii) the notice of the meeting shall indicate its
 9 purpose.”; and

10 (2) by adding at the end the following:

11 “(c) The Board shall not, under any circumstances,
 12 have the authority under this subchapter to—

13 “(1) break, modify, alter, override, or abrogate,
 14 in whole or in part, any provision of any collective
 15 bargaining agreement or implementing agreement
 16 made between the rail carrier and an authorized rep-
 17 resentative of the employees of the rail carrier under
 18 the Railway Labor Act (45 U.S.C. 151 et seq.); or

19 “(2) provide the authority described in para-
 20 graph (1) to any other person, carrier or corpora-
 21 tion.”.

22 (b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—Sec-
 23 tion 11326 of title 49, United States Code, is amended
 24 by striking subsection (a) and inserting the following:

1 “(a)(1) Except as otherwise provided in this section,
2 when approval is sought for a transaction under sections
3 11324 and 11325, the Board shall require the rail carrier
4 to provide a fair arrangement at least as protective of the
5 interests of employees who are affected by the transaction
6 as the terms imposed under section 11347 of this title,
7 as in effect on the day before December 29, 1995.

8 “(2) The arrangement and the order approving a
9 transaction referred to in paragraph (1) shall be subject
10 to the following conditions:

11 “(A) The employees of the affected rail carrier
12 shall not be in a worse position related to their em-
13 ployment as a result of the transaction during the
14 6-year period beginning on the date on which the
15 employee is adversely affected by an action taken by
16 the affected rail carrier as a result of the transaction
17 (or if an employee was employed for a lesser period
18 of time by the rail carrier before the action became
19 effective, for that lesser period).

20 “(B)(i) The rail carrier and the authorized rep-
21 resentatives of the rail carrier’s employees shall ne-
22 gotiate under the Railway Labor Act any arrange-
23 ment regarding the selection of forces or assignment
24 of employees caused by the Board’s order of ap-
25 proval under sections 11324 or 11325.

1 “(ii) Arbitration of the proposed arrangement
2 may only occur if both parties agree to that process.

3 “(iii) The Board shall not intervene in the ne-
4 gotiations or arbitration under this subparagraph
5 unless requested to do so by both parties involved.

6 “(iv) The Board shall not, under any cir-
7 cumstances, have the authority under this sub-
8 chapter to—

9 “(I) break, modify, alter, override, or abro-
10 gate, in whole or in part, any provision in any
11 collective bargaining agreements or imple-
12 menting agreements made between the rail car-
13 rier and an authorized representative of its em-
14 ployees under the Railway Labor Act; or

15 “(II) provide the authority described in
16 subclause (I) to any other person, carrier, or
17 corporation.

18 “(3) Beginning on the date of the enactment of the
19 Surface Transportation Board Improvement Act of 1999,
20 this subsection shall apply to any transaction proposed by
21 a rail carrier under conditions previously imposed by the
22 former Interstate Commerce Commission or the Surface
23 Transportation Board under—

24 “(A) section 5(2)(f) of the Interstate Commerce
25 Commission Act before October 1, 1978;

1 “(B) section 11347 of this title, before Decem-
2 ber 29, 1995; or

3 “(C) this section.”.

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