

111TH CONGRESS
2D SESSION

S. 3831

To amend the provisions of title 5, United States Code, relating to the methodology for calculating the amount of any Postal surplus or supplemental liability under the Civil Service Retirement System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2010

Mr. CARPER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the provisions of title 5, United States Code, relating to the methodology for calculating the amount of any Postal surplus or supplemental liability under the Civil Service Retirement System, 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 “Postal Operations
5 Sustainment and Transformation Act of 2010” or the
6 “POST Act of 2010”.

1 **SEC. 2. MODIFIED METHODOLOGY.**

2 (a) IN GENERAL.—Section 8348(h) of title 5, United
3 States Code, is amended—

4 (1) in paragraph (2)—

5 (A) by striking subparagraph (B) and in-
6 serting the following:

7 “(B) The Office shall redetermine the
8 Postal surplus or supplemental liability as of
9 the close of the fiscal year ending September
10 30, 2010, and for each year thereafter, through
11 the fiscal year ending September 30, 2042. The
12 results of the redetermination, including appro-
13 priate supporting analyses and documentation,
14 shall be reported to the Postal Service on or be-
15 fore March 31 of the subsequent fiscal year. If
16 the result for a fiscal year is a surplus, that
17 amount shall remain in the Fund until distribu-
18 tion is authorized under subparagraph (C). Be-
19 ginning March 31, 2017, if the result is a sup-
20 plemental liability, the Office shall establish an
21 amortization schedule, including a series of an-
22 nual installments commencing on September 30
23 of the subsequent fiscal year, which provides for
24 the liquidation of such liability by September
25 30, 2042.”; and

26 (B) in subparagraph (C)—

1 (i) by inserting “(i)” after “(C)”;

2 (ii) by striking “2015, 2025, 2035,
3 and 2039” and inserting “2017, 2022,
4 2027, 2032, 2037, and 2042”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(ii)(I) As of the close of the fiscal years
8 ending September 30, 2010, 2011, 2012, 2013,
9 2014, 2015, and 2016, if the result is a sur-
10 plus, that amount, or any part of that amount,
11 may be transferred to the Postal Service Re-
12 tiree Health Benefits Fund.

13 “(II) Any transfer under subclause (I)
14 shall be—

15 “(aa) made at the discretion of the
16 Board of Governors of the Postal Service
17 in the amount determined by the Board of
18 Governors, except the amount may not ex-
19 ceed the amount under section
20 8909a(d)(3)(A) for the applicable fiscal
21 year; and

22 “(bb) credited to the Postal Service
23 for payment of the amount required under
24 section 8909a(d)(3)(A) for the applicable
25 fiscal year.

1 “(III) The Board of Governors shall—

2 “(aa) provide written notice to the Of-
3 fice of any amount to be transferred under
4 this clause; and

5 “(bb) take all actions under this
6 clause by a majority vote.

7 “(IV) The Office shall transfer any
8 amount determined by the Board of Governors
9 to the credit of the Postal Service in accordance
10 with this clause.”; and

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

12 “(4) To the extent that a determination under
13 paragraph (1)(A), relating to benefits attributable to
14 civilian employment with the United States Postal
15 Service, is based on the first sentence of section
16 8339(a), such determination shall be made in ac-
17 cordance with such sentence and otherwise applica-
18 ble provisions of law, subject to the following:

19 “(A) The ‘average pay’ used in the case of
20 any individual shall be a single amount, deter-
21 mined in accordance with section 8331(4), tak-
22 ing into account the rates of basic pay in effect
23 for such individual during the periods of cred-
24 itable service performed by such individual.

1 Nothing in this subsection shall be considered
2 to permit or require—

3 “(i) one determination of average pay
4 with respect to service performed with the
5 United States Postal Service; and

6 “(ii) a separate determination of aver-
7 age pay with respect to service performed
8 with its predecessor entity in function.

9 “(B) To determine the portion of an annu-
10 ity attributable to civilian employment with the
11 United States Postal Service, the appropriate
12 percentage to apply under the provisions of sec-
13 tion 8339(a) with respect to such employment
14 is, in the case of—

15 “(i) any period of employment with
16 the United States Postal Service which fol-
17 lows

18 “(ii) any other period of employment
19 creditable under section 8332 (whether
20 with the entity referred to under subpara-
21 graph (A)(ii) or otherwise),

22 the applicable percentage under such provisions,
23 determined after taking into account any peri-
24 ods of employment described in clause (ii)
25 which precede the period of employment (de-

1 scribed in clause (i)) as to which the determina-
 2 tion of the appropriate percentage to apply
 3 under section 8339(a) is being made.”.

4 (b) INTENT OF CONGRESS.—It is the intent of Con-
 5 gress that the amendments made by this section apply
 6 with respect to the allocation of past, present, and future
 7 benefit liabilities between the United States Postal Service
 8 and the Treasury of the United States.

9 **SEC. 3. OTHER POSTAL SERVICE PROVISIONS.**

10 (a) POSTAL POLICY.—Section 101(b) of title 39,
 11 United States Code, is amended—

12 (1) by striking “a maximum degree of”; and
 13 (2) by striking “where post offices” and all that
 14 follows through “a deficit”.

15 (b) SPECIFIC POWERS.—Section 404 of title 39,
 16 United States Code, is amended—

17 (1) in subsection (a)—

18 (A) by redesignating paragraphs (6)
 19 through (8) as paragraphs (7) through (9), re-
 20 spectively; and

21 (B) by inserting after paragraph (5) the
 22 following:

23 “(6) to provide other services that are not post-
 24 al services, as defined in section 102(5), after deter-
 25 mining that the provision of such services utilizes

the processing, transportation, delivery, retail network, or technology of the Postal Service in a manner that is consistent with the public interest;”;

(2) in subsection (d)(2)—

(A) in subparagraph (A), by striking “shall consider—” and inserting the following: “shall give primary consideration to whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide effective and regular postal services to rural areas, communities, and small towns;

“(B) shall also consider—”;

(B) by striking “whether such closing” and all that follows through “(iv)”;

(C) by striking “(v)” and inserting “(iv)”;

and

(D) by striking “(B)” and inserting “(C)”;

and

(3) in subsection (e)(1), by inserting before the period at the end the following: “, except that the term ‘nonpostal service’ shall not include any service that may be offered pursuant to specific authority in this title or pursuant to other statutory authority”.

1 (c) COOPERATION WITH OTHER AGENCIES.—Section
 2 411 of title 39, United States Code, is amended in the
 3 first sentence by striking “and the Government Printing
 4 Office” inserting “, the Government Printing Office, and
 5 agencies and other units of State and local governments”.

6 (d) WINE AND BEER SHIPPING.—

7 (1) MAILABILITY.—

8 (A) NONMAILABLE ARTICLES.—Section
 9 1716(f) of title 18, United States Code, is
 10 amended, by striking “mails” and inserting
 11 “mails, except to the extent that the mailing is
 12 allowable under section 3001(p) of title 39”.

13 (B) INTOXICANTS.—Section 1154(a) of
 14 title 18, United States Code, is amended, by in-
 15 serting “or, with respect to the mailing of wine
 16 or malt beverages, to the extent allowed under
 17 section 3001(p) of title 39” after “mechanical
 18 purposes”.

19 (2) REGULATIONS.—Section 3001 of title 39,
 20 United States Code, is amended by adding at the
 21 end the following subsection:

22 “(p)(1) Wine or malt beverages shall be considered
 23 mailable if mailed by a licensed winery or brewery, in ac-
 24 cordance with applicable regulations under paragraph (2).

1 “(2) The Postal Service shall prescribe such regula-
2 tions as may be necessary to carry out this subsection,
3 including regulations providing that—

4 “(A) the mailing shall be by a means estab-
5 lished by the Postal Service to ensure direct delivery
6 to the addressee or a duly authorized agent at a
7 postal facility;

8 “(B) the addressee (and any duly authorized
9 agent) shall be an individual at least 21 years of
10 age, and shall present a valid, government-issued
11 photo identification at the time of delivery;

12 “(C) the wine or malt beverages may not be for
13 resale or other commercial purpose; and

14 “(D) the winery or brewery involved shall—

15 “(i) certify in writing to the satisfaction of
16 the Postal Service that the mailing is not in vio-
17 lation of any provision of this subsection or reg-
18 ulation prescribed under this subsection; and

19 “(ii) provide any other information or af-
20 firmation that the Postal Service may require,
21 including with respect to the prepayment of
22 State alcohol beverage taxes.

23 “(3) For purposes of this subsection, a winery or
24 brewery shall be considered to be licensed if it holds an

1 appropriate basic permit issued under the Federal Alcohol
2 Administration Act.”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall take effect 180 days after
5 the date of enactment of this Act.

6 (e) ARBITRATION; LABOR DISPUTES.—Section
7 1207(c)(2) of title 39, United States Code, is amended—

8 (1) by inserting “(A)” after “(2)”;

9 (2) by striking the last sentence and inserting
10 “The arbitration board shall render a decision not
11 later than 45 days after the date of its appoint-
12 ment.”; and

13 (3) by adding at the end the following:

14 “(B) In rendering a decision under this para-
15 graph, the arbitration board shall consider such rel-
16 evant factors as—

17 “(i) the financial condition of the Postal
18 Service;

19 “(ii) the flexibilities and restrictions in the
20 rate system established under the Postal Ac-
21 countability and Enhancement Act (Public Law
22 109–435), and the amendments made by that
23 Act; and

1 “(iii) the requirement related to pay and
2 compensation comparability included in section
3 1003(a) of this title.”.

4 (f) REVISED REPORTING REQUIREMENT.—Section
5 3652(a) of title 39, United States Code, is amended by
6 striking “90 days after the end of each year” and insert-
7 ing “the next January 15 after the end of each year”.

8 (g) NO LIMITATION ON FREQUENCY OF MAIL DELIV-
9 ERY.—Notwithstanding any other provision of law, the
10 United States Postal Service shall exercise authority
11 under section 3691 of title 39, United States Code, and
12 section 301 of the Postal Accountability and Enhancement
13 Act to adjust the frequency of the delivery of mail.

14 **SEC. 4. EFFECTIVE DATE.**

15 This Act and the amendments made by this Act shall
16 take effect on the date of enactment of this Act.

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