

Public Law 93-69

AN ACT

July 10, 1973
[H. R. 7200]

To amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise certain eligibility conditions for annuities; to change the railroad retirement tax rates; and to amend the Interstate Commerce Act in order to improve the procedures pertaining to certain rate adjustments for carriers subject to part I of the Act, 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—RAILROAD RETIREMENT ACT AMENDMENTS

SEC. 101. Section 2(a) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out “Women” in paragraph 2 and inserting in lieu thereof “Individuals”;

(2) by striking out “Men who will have attained the age of sixty and will have completed thirty years of service, or individuals” in paragraph 3 and inserting in lieu thereof “Individuals”; and

(3) by striking out “such men or” in paragraph 3 thereof.

SEC. 102. (a) Section 3201 of the Internal Revenue Code of 1954 (relating to the rate of tax on employees under the Railroad Retirement Tax Act) is amended by striking out all that appears therein and inserting in lieu thereof the following:

“In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to the rate of the tax imposed with respect to wages by section 3101(a) of the Internal Revenue Code of 1954 plus the rate imposed by section 3101(b) of such Code of so much of the compensation paid to such employee for services rendered by him after September 30, 1973, as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable ‘wages’ as defined in section 3121 of the Internal Revenue Code of 1954 for any month after September 30, 1973.”

(b) Section 3202(a) of such Code is amended—

(1) by striking out “1965” wherever it appears in the second sentence thereof and inserting in lieu thereof “1973”;

(2) by striking out “(i) \$450, or (ii)” wherever it appears in the second sentence thereof; and

(3) by striking out “, whichever is greater,” wherever it appears in the second sentence thereof.

(c) Section 3211(a) of such Code (relating to the rate of tax on employee representatives under the Railroad Retirement Tax Act) is amended by striking out all that appears therein and inserting in lieu thereof the following:

“(a) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 9.5 percent plus the sum of the rates of tax imposed with respect to wages by sections 3101(a), 3101(b), 3111(a), 3111(b) of the Internal Revenue Code of 1954 of so much of the compensation paid to such employee representative for services rendered by him after September 30, 1973, as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable ‘wages’ as defined in section 3121 of the Internal Revenue Code of 1954 for any month after September 30, 1973.”

(d) Section 3221(a) of such Code (relating to the rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out “In addition to other taxes” and all that follows to “except that” and inserting in lieu thereof the following:

Railroads.
Retirement
annuities and tax
rates.

Interstate and
intrastate rate
adjustments.
60 Stat. 727;
75 Stat. 585.
45 USC 228b.

Employee retire-
ment tax rates,
reduction.
73 Stat. 28;
80 Stat. 1078.
26 USC 3201.

86 Stat. 1362,
1363.

68A Stat. 417;
86 Stat. 419, 1365.

80 Stat. 1088.

Employee repre-
sentatives, tax.
73 Stat. 29;
80 Stat. 1078,
1088.

Employers,
excise tax.

"In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 9.5 percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1973, as is, with respect to any employee for any calendar month, not in excess of an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for any month after September 30, 1973;".

68A Stat. 417;
86 Stat. 419, 1365.
26 USC 3121.

(e) Section 3221(a) of such Code, as amended by section 102(d) of this Act, is further amended—

(1) by striking out "1965" wherever it appears in the first sentence thereof and inserting in lieu thereof "1973";

(2) by striking out "(i) \$450, or (ii)" wherever it appears in the first sentence thereof; and

(3) by striking out "whichever is greater," wherever it appears in the first sentence thereof.

(f) Section 3221(b) of such Code is amended by striking out all that appears therein and inserting in lieu thereof the following:

73 Stat. 29.

"(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after September 30, 1973, by the rate of tax imposed with respect to wages by section 3111(a) of the Internal Revenue Code of 1954 plus the rate imposed by section 3111(b) of such Code."

79 Stat. 396;
86 Stat. 1364.

SEC. 103. (a) Section 6 of Public Law 91-377, as amended by section 8(c) of Public Law 92-46, is further amended by striking out "June 30, 1973" each time that date appears and inserting in lieu thereof "December 31, 1974".

Annuity
increase, termina-
tion date, exten-
sion.
84 Stat. 792;
85 Stat. 102.
45 USC 228c
note.

(b) Section 8(b) of Public Law 92-46 is amended by striking out "June 30, 1973" each time that date appears and inserting in lieu thereof "December 31, 1974".

(c) Section 5(b) of Public Law 92-460 is amended by striking out "June 30, 1973" each time that date appears and inserting in lieu thereof "December 31, 1974".

86 Stat. 767.
45 USC 228c
note.

SEC. 104. (a) Section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

82 Stat. 17;
86 Stat. 765.
45 USC 228c.

"(6) If title II of the Social Security Act is amended to provide an increase in benefits payable thereunder at any time during the period July 1, 1973, through December 31, 1974, the individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased in an amount equal to the difference between (i) the amount (before any reduction on account of age) which would be payable to such individual under the then current law if his or her annuity were computed under the first proviso of section 3(e) of this Act, without regard to the words 'plus 10 per centum of such amount' contained therein; and (ii) the amount (before any reduction on account of age) which would have been payable to such individual under the law as in effect prior to July 1, 1973, if his or her annuity had been computed under such first proviso of section 3(e) of this Act, without regard to the words 'plus 10 per centum of such total amount' contained therein (assuming for this purpose that the eligibility conditions and the proportions of the primary insurance amounts payable under the then current Social Security Act had been in effect prior to July 1, 1973): *Provided, however,* That, in computing such amount, only the social security benefits which would have been payable to the individual whose annuity is being computed under this Act shall be taken into account: *Provided further,* That if an annuity accrues to an individual for a part of a month the added

Annuity com-
putation.
42 USC 401.

42 USC 1305.

amount payable for such part of a month under this section shall be one-thirtieth of the added amount payable under this section for an entire month, multiplied by the number of days in such part of a month. If wages or compensation prior to 1951 are used in making any computation required by this paragraph, the Railroad Retirement Board shall have the authority to approximate the primary insurance amount to be utilized in making such computation. In making any computation required by this paragraph, any benefit to which an individual may be entitled under title II of the Social Security Act shall be disregarded. For purposes of this paragraph, individuals entitled to an annuity under section 2(a)(2) of this Act shall be deemed to be age 65, and individuals entitled to an annuity under section 2(a)(3) of this Act who have not attained age 62 shall be deemed to be age 62. Individuals entitled to annuities under section 2(a)(4) or 2(a)(5) of this Act for whom no disability freeze has been granted shall be treated in the same manner for purposes of this paragraph as individuals entitled to annuities under section 2(a)(4) or 2(a)(5) for whom a disability freeze has been granted. In the case of an individual who is entitled to an annuity under this Act but whose annuity is based on insufficient quarters of coverage to have a benefit computed, either actually or potentially, under the first proviso of section 3(e) of this Act, the average monthly wage to be used in determining the amount to be added to the annuity of such individual shall be equal to the average monthly compensation or the average monthly earnings, whichever is applicable, used to enter the table in section 3(a)(2) of such Act for purposes of computing other portions of such individual's annuity."

(b) Section 2(e) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out "section 3(a), (3), (4), or (5) of this Act" and inserting in lieu thereof "section 3(a), (3), (4), (5), or (6) of this Act";

(2) by striking out the second sentence of the last paragraph; and

(3) by adding at the end thereof the following new paragraph:
 "The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased in an amount determined by the method of computing increases set forth in subsection (a)(6) of section 3. The preceding sentence and the other provisions of this subsection shall not operate to increase the annuity of a spouse (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding three paragraphs."

(c) Section 2(i) of the Railroad Retirement Act of 1937 is amended by striking out "the last paragraph plus the two preceding paragraphs" and inserting in lieu thereof "the last paragraph plus the three preceding paragraphs".

(d) Section 5 of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new subsection:

"(q) A survivor's annuity computed under the preceding provisions of this section shall be increased in an amount determined by the method of computing increases set forth in subsection (a)(6) of section 3: *Provided, however,* That in computing such an amount for an individual entitled to an annuity under subsection 5(a)(2), the 90.75 per centum figure appearing in the third paragraph of section 3(e) of this Act shall be deemed to be 82.5 per centum."

SEC. 105. If title II of the Social Security Act is amended to provide an increase in benefits payable thereunder at any time during the period July 1, 1973, through December 31, 1974, the pension of each

42 USC 401.

45 USC 228b.

Spouse's annuity.
 86 Stat. 765.
 45 USC 228b.

Ante, p. 163.

45 USC 228b.

Survivor's annuities.
 86 Stat. 766.
 45 USC 228e.

82 Stat. 19.
 45 USC 228c.

Benefit increases.

individual under section 6 of the Railroad Retirement Act of 1937 and the annuity of each individual under the Railroad Retirement Act of 1935 shall be increased in an amount determined by the method of computing increases set forth in subsection (a) of section 104 of this Act, deeming for this purpose the average monthly earnings (in the case of a pension) or the average monthly compensation (in the case of an annuity under the Railroad Retirement Act of 1935) which would be used to compute the basic amount if the individual were to die to be the average monthly wage.

SEC. 106. All recertifications required by reason of the amendments made by sections 104 and 105 of this Act shall be made by the Railroad Retirement Board without application therefor.

SEC. 107. (a) For the purpose of preparing and submitting the report provided for in subsection (c), it shall be the duty and responsibility of representatives of employees to designate (within the thirty-day period commencing on the date of enactment of this Act) and notify the Senate Committee on Labor and Public Welfare and the House Committee on Interstate and Foreign Commerce of the identity (by name and position) of the labor members, and of representatives of carriers to designate (within such thirty-day period) and notify such committees of the identity (by name and position) of the management members, who shall compose the group authorized to prepare in their behalf, the report provided for in subsection (c).

(b) The group so authorized to prepare the report provided for in subsection (c) shall—

(1) hold such meetings (which shall not be less often than once each month) as may be necessary to assure that such report will be submitted within the time provided, and contain the material prescribed, under subsection (c); and

(2) submit to such committees on September 1, 1973, November 1, 1973, and January 1, 1974, interim reports as to the progress being made toward completion of the report provided for in subsection (c); except that no such interim report shall be submitted after the submission of the report provided for in subsection (c).

(c) (1) Not later than April 1, 1974, representatives of employees and representatives of carriers, acting through the group designated by them pursuant to subsection (a), shall submit to such committees a report containing their joint recommendations for restructuring the railroad retirement system in a manner which will assure the long-term actuarial soundness of such system, which recommendations shall take into account the specific recommendations of the Commission on Railroad Retirement.

(2) The joint recommendations contained in such report shall be specific and shall be presented in the form of a draft bill.

SEC. 108. The Congress hereby declares its intent to enact legislation in 1974, effective not later than January 1, 1975, which will assure the long-term actuarial soundness of the railroad retirement system.

SEC. 109. (a) The amendments made by section 101 of this Act shall become effective on July 1, 1974: *Provided, however*, That those amendments shall not apply to individuals whose annuities began to accrue prior to that date.

(b) The amendments made by section 102 of this Act shall become effective on October 1, 1973, and shall apply only with respect to compensation paid for services rendered on or after that date: *Provided, however*, That such amendments shall not be applicable to any dock company, common carrier railroad, or railway labor organization described in section 1(a) of the Railroad Retirement Act of 1937, with respect to those of its employees covered as of October 1, 1973, by a private supplemental pension plan established through collective bargaining, where a moratorium in an agreement made on or before

50 Stat. 312.
45 USC 228f.

49 Stat. 967.
45 USC 215
note.
Ante, p. 163.

Labor-management group, report; notice to congressional committees.

Progress reports.

Report to congressional committees.

Effective dates.

50 Stat. 307.
45 USC 228a.

March 8, 1973, is applicable to changes in rates of pay contained in the current collective-bargaining agreement covering such employees, until the earlier of (1) the date as of which such moratorium expires, or (2) the date as of which such dock company, common carrier railroad, or railway labor organization agrees through collective bargaining to make the provisions of such amendments applicable.

Effective date.
Ante, p. 163.

(c) The amendments made by sections 103 and 104 of this Act shall be effective on the enactment date of this Act: *Provided, however*, That any increases in annuities or pensions resulting from the provisions of sections 104 and 105 of this Act shall be effective on the same date or dates as the benefit increases under title II of the Social Security Act which gave rise to such annuity or pension increases are effective.

42 USC 401.

Citation of title.

SEC. 110. This title may be cited as the "Railroad Retirement Amendments of 1973".

TITLE II—INTERSTATE COMMERCE ACT AMENDMENTS

Rate increase
petitions.
41 Stat. 488;
72 Stat. 572.

SEC. 201. Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended by adding at the end thereof the following new paragraph:

Ante, p. 162.
26 USC 3201.

Supra.

80 Stat. 383.

"(4) (a) The Commission shall by rule, on or before August 1, 1973, establish requirements for petitions for adjustment of interstate rates of common carriers subject to this part based upon increases in expenses of such carriers resulting from any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973. Such requirements, established pursuant to section 553 of title 5 of the United States Code (with time for comment limited so as to meet the required date for establishment and subject to future amendment or revocation), shall be designed to facilitate fair and expeditious action on any such petition as required in subparagraph (b) of this paragraph by disclosing such information as the amount needed in rate increases to offset such increases in expenses and the availability of means other than a rate increase by which the carrier might absorb or offset such increases in expenses.

Interim rates.

"(b) Notwithstanding any other provision of law, the Commission shall, within thirty days of the filing of a verified petition in accordance with rules promulgated under subparagraph (a) of this paragraph, by any carrier or group of carriers subject to this part, permit the establishment of increases in the general level of the interstate rates of said carrier or carriers in an amount approximating that needed to offset increases in expenses theretofore experienced or demonstrably certain to occur commencing on or before the effective date of the increased rates, as a result of any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973. Such increases in rates may be made effective on not more than thirty nor less than ten days' notice to the public, notwithstanding any outstanding orders of the Commission. To the extent necessary to effectuate their establishment, rates so increased shall be relieved from the provisions of section 4 of this part and may be published in tariff supplements of the kind ordinarily authorized in general increase proceedings.

Public notice
requirement.

Final rate deter-
mination, hear-
ings.

"(c) The Commission shall within sixty days from the date of establishment of interim rates under paragraph (4) (b) of this section commence hearings for the purpose of making the final rate determination. The Commission shall then proceed to make such final rate determination with the carrier having the burden of proof. In making such

determination, the Commission may take into account all factors appropriate to ratemaking generally under part I of this Act and shall determine such final rates under the standards and limitations applicable to ratemaking generally under part I of this Act. If the increases in rates finally authorized by the Commission are less than the increases in rates initially made effective, the carrier or carriers shall, subject to such tariff provisions as the Commission shall deem sufficient, make such refunds (in the amount by which the initially increased rate collected exceeds the finally authorized increased rate) as may be ordered by the Commission, plus a reasonable rate of interest as determined by the Commission. Nothing contained in this paragraph shall limit or otherwise affect the authority of the Commission to authorize or to permit to become effective any increase in rates other than the increases herein specified.

“(d) (A) The State authority having jurisdiction over petitions for intrastate rate increases by any carrier or group of carriers subject to part I of this Act shall, within 60 days of the filing of a verified petition for such increases based upon increases in expenses of such carriers as a result of any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973, act upon said petition. Such State authority may grant an interim rate increase or a final rate increase. If such State authority grants any interim rate increases, it shall thereafter investigate and determine the reasonableness of such increases and modify them to the extent required by applicable law. To the extent that any such interim increases are reduced as a result of the action of a State authority, the carrier or carriers shall make such refunds (in the amount by which the initially increased rate collected exceeds the finally authorized increased rate) as may be ordered by such State authority, plus a reasonable rate of interest as determined by the State authority.

“(B) If a State authority denies in toto such a petition filed with it by such carrier or group of carriers seeking relief regarding such intrastate rate increases or does not act finally on such petition within 60 days from the presentation thereof, the Commission shall, within 30 days of the filing of a verified petition by such carrier or group of carriers relating to such intrastate rates, act upon such petition by applying the ratemaking criteria of subparagraph (4) (c) of this paragraph. If the Commission grants, in whole or in part, such petition by any carrier or group of carriers, the increase authorized shall be considered as an interim rate increase as provided in subparagraph (A) above and shall be subject to final determination by the State authority in accordance with the procedures prescribed for interim intrastate rate increases as provided above, including the ordering of refunds by such State authority.

“(C) If a State authority denies in part such a petition filed with it by such carrier or group of carriers, within 60 days from the presentation thereof, the Commission shall, within 30 days of the filing of a verified petition by such carrier or group of carriers relating to the intrastate rates involved, act upon such petition by applying the criteria of section 13(4) of this part.

“(D) Nothing in subparagraph (A) or (B) shall be construed to abrogate the authority of the Commission under section 13(4) of this part and in the event a carrier or group of carriers subject to a refund requirement under subparagraph (A) or (B) files a petition under section 13(3), the refund requirement shall be stayed pending final order of the Commission under section 13(4) of this part.

“(e) Any increased freight rates authorized shall not exceed a reasonable level by types of traffic, commodities, or commodity groups and

49 USC 1.

Intrastate rate increase, State authority.

Ante, p. 162.
26 USC 3201.

Ante, p. 166.

72 Stat. 570.
49 USC 13.

shall preserve existing market patterns and relationships and present port relationships by increase limitations within and between the major districts to the extent possible without authorizing unreasonable increases in any district."

Citation of title.

SEC. 202. This title may be cited as the "Railroad Rate Adjustment Act of 1973".

TITLE III—SEPARABILITY

SEC. 301. If any provision of this Act or the application thereof to any person or circumstances should be held invalid, the remainder of such Act or the application of such provision to other persons or circumstances shall not be affected thereby.

Approved July 10, 1973.

Public Law 93-70

AN ACT

July 10, 1973
[H. R. 7670]

To authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce.

Commerce
Department mari-
time programs.
Appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1974, as follows:

(a) acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, \$275,000,000: *Provided*, That the appropriation Act may provide that unobligated balances previously appropriated for purchase of modern or reconstructed United States-flag vessels for layup in the National Defense Reserve Fleet, may also be used for construction-differential subsidy;

(b) payment of obligations incurred for ship operation subsidies, \$221,515,000;

(c) expenses necessary for research and development activities (including reimbursement of the vessel operations revolving fund for losses resulting from expenses of experimental ship operations), \$20,000,000;

(d) reserve fleet expenses, \$3,773,000;

(e) maritime training at the Merchant Marine Academy at Kings Point, New York, \$8,600,000; and

(f) financial assistance to State marine schools, \$2,427,000.

Additional ap-
propriation.

SEC. 2. In addition to the amounts authorized by section 1 of this Act, there are authorized to be appropriated for fiscal year 1974 such additional supplemental amounts for the activities for which appropriations are authorized under section 1 of this Act as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

86 Stat. 910.

SEC. 3. Section 1103(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1273(f)), is amended by striking the figure "\$3,000,000,000", and inserting in lieu thereof the figure "\$5,000,000,000".

Approved July 10, 1973.