

Public Law 98-214
98th Congress

An Act

To authorize appropriations for the Federal Communications Commission for fiscal years 1984 and 1985, and for other purposes.

Dec. 8, 1983
[H.R. 2755]

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

Federal
Communications
Commission
Authorization
Act of 1983.
47 USC 609 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Communications Commission Authorization Act of 1983".

FEDERAL COMMUNICATIONS COMMISSION APPROPRIATIONS
AUTHORIZATION

SEC. 2. (a) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission \$91,156,000, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1984 and 1985."

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1983.

Effective date.
47 USC 156 note.

INCREASE IN PUBLIC BROADCASTING APPROPRIATIONS AUTHORIZATION

SEC. 3. (a) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended by striking out "and \$130,000,000 for each of the fiscal years 1984, 1985, and 1986." and inserting in lieu thereof "and \$145,000,000 for fiscal year 1984, \$153,000,000 for fiscal year 1985, and \$162,000,000 for fiscal year 1986."

(b) Paragraph (10) of such section 396(k) is amended by inserting before the period at the end thereof the following: "and unless further assurances are provided to the Corporation that no officer or employee of such an entity will be loaned money by that entity on an interest-free basis".

FEDERAL COMMUNICATIONS COMMISSION ADMINISTRATIVE MATTERS

SEC. 4. (a) Section 316 of the Communications Act of 1934 (47 U.S.C. 316) is amended—

(1) in subsection (a), by inserting "(1)" after "(a)" and by striking out "and shall have been given reasonable opportunity" and all that follows and inserting in lieu thereof "and

shall be given reasonable opportunity, of at least thirty days, to protest such proposed order of modification; except that, where safety of life or property is involved, the Commission may by order provide, for a shorter period of notice.”;

(2) by adding at the end of subsection (a) the following new paragraphs:

“(2) Any other licensee or permittee who believes its license or permit would be modified by the proposed action may also protest the proposed action before its effective date.

“(3) A protest filed pursuant to this subsection shall be subject to the requirements of section 309 for petitions to deny.”; and

(3) in subsection (b), by inserting before the period at the end thereof the following: “; except that, with respect to any issue that addresses the question of whether the proposed action would modify the license or permit of a person described in subsection (a)(2), such burdens shall be as determined by the Commission”.

(b) Section 503(b)(5) of such Act (47 U.S.C. 503(b)(5)) is amended by inserting, before the period in the second sentence, the following: “or if the person involved is transmitting on frequencies assigned for use in a service in which individual station operation is authorized by rule pursuant to section 307(e)”.

FINANCIAL OVERSIGHT OF NATIONAL PUBLIC RADIO BY CORPORATION FOR PUBLIC BROADCASTING

SEC. 5. Section 396(l) of the Communications Act of 1934 (47 U.S.C. 396(l)) is amended by adding at the end thereof the following:

“(4)(A) Subject to subparagraph (C), the Corporation may not distribute to National Public Radio any funds authorized to be appropriated by this Act unless there is in effect a determination by the Corporation that—

“(i) National Public Radio has adopted and is implementing a system of financial controls and procedures devised in consultation with, and recommended by, an independent certified public accountant and determined by the Comptroller General as sufficient to assure that the financial transactions of National Public Radio reflect prudent management practices and are accounted for in a manner consistent with generally accepted accounting principles;

“(ii) National Public Radio has adopted a budget under which reasonably projected expenditures will not exceed reasonably projected revenues from all sources for any fiscal year in which such funds are distributed to National Public Radio; and

“(iii) financial reporting systems of National Public Radio provide the Corporation with continuous access to all financial books and records of National Public Radio.

“(B) Not later than fifteen days after the date of the enactment of this paragraph, the Corporation shall report to the appropriate committees of the Congress on actions taken by National Public Radio to meet the conditions described in subparagraph (A) and on actions taken by the Corporation with respect to the indebtedness of National Public Radio related to deficits accumulated before October 1, 1983. The Corporation shall certify to such committees when such conditions have been met.

“(C) The requirements of subparagraphs (A) and (B) shall cease to be effective on and after the date on which the Corporation certifies

Funds,
distribution.

Report to
congressional
committees.

to the appropriate committees of Congress that all indebtedness of National Public Radio related to deficits accumulated before October 1, 1983, has been liquidated in full."

CORPORATION FOR PUBLIC BROADCASTING

ADMINISTRATIVE MATTERS

SEC. 6. (a) Section 396(c)(1) of the Communications Act of 1934 (47 U.S.C. 396(c)(1)) is amended—

(1) in the first sentence, by striking out "and the President of the Corporation"; and

(2) by striking out the third sentence.

(b)(1) Section 396(d)(1) of such Act is amended by inserting after "annually" the following: "elect one of their members to be Chairman and".

(2) The subsection heading for section 396(d) of such Act is amended by striking out "VICE CHAIRMAN" and inserting in lieu thereof "CHAIRMAN AND VICE CHAIRMAN".

(c) Section 396(e)(1) of such Act is amended by striking out "No officer of the Corporation, other than a Vice Chairman" and inserting in lieu thereof "No officer of the Corporation, other than the Chairman or a Vice Chairman".

ADMINISTRATION OF REGIONAL CONCENTRATION RULES FOR BROADCAST STATIONS

SEC. 7. Section 310 of the Communications Act of 1934 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

"(e)(1) In the case of any broadcast station, and any ownership interest therein, which is excluded from the regional concentration rules by reason of the savings provision for existing facilities provided by the First Report and Order adopted March 9, 1977 (docket No. 20548; 42 Fed. Reg. 16145), the exclusion shall not terminate solely by reason of changes made in the technical facilities of the station to improve its service.

"(2) For purposes of this subsection, the term 'regional concentration rules' means the provisions of sections 73.35, 73.240, and 73.636 of title 47, Code of Federal Regulations (as in effect June 1, 1983), which prohibit any party from directly or indirectly owning, operating, or controlling three broadcast stations in one or several services where any two of such stations are within 100 miles of the third (measured city-to-city), and where there is a primary service contour overlap of any of the stations."

"Regional concentration rules."

CLARIFICATION AND ADMINISTRATION OF SECTION 223

SEC. 8. (a) Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(1) by striking out "\$500" and inserting in lieu thereof "\$50,000";

(2) by inserting "(a)" before "Whoever"; and

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

"(b)(1) Whoever knowingly—

"(A) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by

Violations and penalties.

recording device) any obscene or indecent communication for commercial purposes to any person under eighteen years of age or to any other person without that person's consent, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A), shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

"(2) It is a defense to a prosecution under this subsection that the defendant restricted access to the prohibited communication to persons eighteen years of age or older in accordance with procedures which the Commission shall prescribe by regulation.

"(3) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, intentionally violates paragraph (1)(A) or (1)(B) shall be subject to a fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4)(A) In addition to the penalties under paragraphs (1) and (3), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1)(A) or (1)(B) shall be subject to a civil fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

Litigation.

"(5) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1)(A) or (1)(B). An injunction may be granted in accordance with the Federal Rules of Civil Procedure."

28 USC app.

(b) Section 223(a) of the Communications Act of 1934 (as redesignated by subsection (a) of this section) is amended in paragraph (2) by inserting "facility" after "telephone".

Regulations.

47 USC 223 note.

(c) The Federal Communications Commission shall issue regulations pursuant to section 223(b)(2) of the Communications Act of 1934 (as added by subsection (a) of this section) not later than one hundred and eighty days after the date of the enactment of this Act.

47 USC 223 note.

Ante, p. 1469.

(d) The Commission shall act on all complaints alleging violation of section 223 of the Communications Act of 1934 which are pending on the date of the enactment of this Act within ninety days of such date of enactment.

DIRECTION ON USE OF FUNDS REGARDING SPECTRUM ALLOCATION AND ASSIGNMENTS FOR PUBLIC SAFETY PURPOSES

47 USC 303 note.

SEC. 9. (a) Funds authorized to be appropriated under section 2 of this Act shall be used by the Federal Communications Commission to establish a plan which adequately ensures that the needs of State and local public safety authorities would be taken into account in making allocations of the electromagnetic spectrum. In establishing such a plan the Commission shall (1) review the current and future needs of such public safety authorities in light of suitable and commercially available equipment and (2) consider the need for a

nationwide contiguous frequency allocation for public safety purposes.

(b) Pending adoption of a plan, the Commission, while making assignments and allocations, shall duly recognize the needs of State and local public safety authorities.

CERTIFICATION OF TECHNICIANS

SEC. 10. Section 4(f)(4) of the Communications Act of 1934 (47 U.S.C. 154(f)(4)) is amended—

(1) by redesignating subparagraphs (E) through (H) as subparagraphs (F) through (I), respectively; and

(2) by inserting immediately after subparagraph (D) the following new subparagraph:

“(E) The Commission shall have the authority to endorse certification of individuals to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services (as defined by the Commission by rule) if such certification programs are conducted by organizations or committees which are representative of the users in those services and which consist of individuals who are not officers or employees of the Federal Government.”.

VOLUNTEER ADMINISTERED AMATEUR RADIO EXAMINATIONS

SEC. 11. Section 4(f)(4) of the Communications Act of 1934 (47 U.S.C. 154(f)(4)), as amended by section 10 of this Act, is further amended by adding at the end thereof the following new subparagraph:

“(J) With respect to the acceptance of voluntary uncompensated services for the preparation, processing, or administration of examinations for amateur station operator licenses pursuant to subparagraph (A) or (B) of this paragraph, individuals, or organizations which provide or coordinate such authorized volunteer services may recover from examinees reimbursement for out-of-pocket costs. The total amount of allowable cost reimbursement per examinee shall not exceed \$4, adjusted annually every January 1 for changes in the Department of Labor Consumer Price Index. Such individuals and organizations shall maintain records of out-of-pocket expenditures and shall certify annually to the Commission that all costs for which reimbursement was obtained were necessarily and prudently incurred.”.

Reimbursement.

Records.

NEW TECHNOLOGIES AND SERVICES

SEC. 12. Title I of the Communications Act of 1934 is amended by inserting after section 6 the following new section:

“NEW TECHNOLOGIES AND SERVICES

“SEC. 7. (a) It shall be the policy of the United States to encourage the provision of new technologies and services to the public. Any person or party (other than the Commission) who opposes a new technology or service proposed to be permitted under this Act shall have the burden to demonstrate that such proposal is inconsistent with the public interest.

47 USC 157.

“(b) The Commission shall determine whether any new technology or service proposed in a petition or application is in the public interest within one year after such petition or application is filed or twelve months after the date of the enactment of this section, if later. If the Commission initiates its own proceeding for a new technology or service, such proceeding shall be completed within 12 months after it is initiated or twelve months after the date of the enactment of this section, if later.”.

RADIO COMMUNICATION CONFERENCE PARTICIPANTS

SEC. 13. Not fewer than three vice chairpersons shall be appointed to any United States delegation to or for radio communications conferences held under the auspices of the International Telecommunications Union. Notwithstanding any other provision of law, and unless declined by the head of the entity involved, such chairpersons shall be officers or employees of the Department of State, the Department of Commerce, and the Federal Communications Commission.

Approved December 8, 1983.

LEGISLATIVE HISTORY—H.R. 2755:

HOUSE REPORT No. 98-356 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Nov. 17, considered in House.

Nov. 18, considered and passed House and Senate.