

shall enter into an agreement with the Secretary, or otherwise certify in such form and manner as the Secretary shall prescribe, that the passenger air carrier or contractor shall—

(1) refrain from conducting involuntary furloughs or reducing pay rates and benefits until—

(A) with respect to passenger air carriers, March 31, 2021; or

(B) with respect to contractors, March 31, 2021, or the date on which the contractor expends such financial assistance, whichever is later;

(2) ensure that neither the passenger air carrier or contractor nor any affiliate of the passenger air carrier or contractor may, in any transaction, purchase an equity security of the passenger air carrier or contractor or the parent company of the passenger air carrier or contractor that is listed on a national securities exchange through—

(A) with respect to passenger air carriers, March 31, 2022; or

(B) with respect to contractors, March 31, 2022, or the date on which the contractor expends such financial assistance, whichever is later;

(3) ensure that the passenger air carrier or contractor shall not pay dividends, or make other capital distributions, with respect to common stock (or equivalent interest) of the air carrier or contractor through—

(A) with respect to passenger air carriers, March 31, 2022; or

(B) with respect to contractors, March 31, 2022, or the date on which the contractor expends such financial assistance, whichever is later; and

(4) meet the requirements of sections 9095 and 9096 of this title.

(b) Recalls of employees

An agreement or certification under this section shall require a passenger air carrier or contractor to perform the following actions:

(1) In the case of a passenger air carrier or contractor that received financial assistance under title IV of the CARES Act [15 U.S.C. 9041 et seq., 9071 et seq.] —

(A) recall (as defined in section 9091 of this title), not later than 72 hours after executing such agreement or certification, any employees involuntarily furloughed by such passenger air carrier or contractor between October 1, 2020, and the date such passenger air carrier or contractor enters into an agreement with the Secretary with respect to financial assistance under this part;

(B) compensate returning employees for lost pay and benefits (offset by any amounts received by the employee from a passenger air carrier or contractor as a result of the employee's furlough, including, but not limited to, furlough pay, severance pay, or separation pay) between—

(i) in the case of a passenger air carrier, December 1, 2020, and the date on which such passenger air carrier enters into an agreement with the Secretary with respect to financial assistance under this part; or

(ii) in the case of a contractor, December 27, 2020, and the date on which such contractor enters into an agreement with the Secretary with respect to financial assistance under this part; and

(C) restore the rights and protections for such returning employees as if such employees had not been involuntarily furloughed.

(2) In the case of a passenger air carrier or contractor that did not receive financial assistance under title IV of the CARES Act [15 U.S.C. 9041 et seq., 9071 et seq.] to—

(A) recall (as defined in section 9091 of this title), within 72 hours after executing such agreement or certification, any employees involuntarily furloughed by such passenger air carrier or contractor between March 27, 2020, and the date such passenger air carrier or contractor enters into an agreement with the Secretary for financial assistance under this part;

(B) compensate returning employees under this paragraph for lost pay and benefits (offset by any amounts received by the employee from a passenger air carrier or contractor as a result of the employee's furlough, including, but not limited to, furlough pay, severance pay, or separation pay) between—

(i) in the case of a passenger air carrier, December 1, 2020, and the date such passenger air carrier enters into an agreement with the Secretary for financial assistance under this part; or

(ii) in the case of a contractor, December 27, 2020, and the date on which such contractor enters into an agreement with the Secretary with respect to financial assistance under this part; and

(C) restore the rights and protections for such returning employees as if such employees had not been involuntarily furloughed.

(Pub. L. 116-260, div. N, title IV, §404, Dec. 27, 2020, 134 Stat. 2055.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle A (§§401-412) of title IV of div. N of Pub. L. 116-260, Dec. 27, 2020, 134 Stat. 2052, which enacted this part and amended sections 9041, 9071, and 9074 of this title. For complete classification of subtitle A to the Code, see Tables.

Title IV of the CARES Act, referred to in subsec. (b), is title IV of div. A of Pub. L. 116-136, Mar. 27, 2020, 134 Stat. 469, which is classified principally to parts A (§9041 et seq.) and B (§9071 et seq.) of this subchapter. For complete classification of title IV to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and also as part of the Consolidated Appropriations Act, 2021, and not as part of the CARES Act which in part comprises this chapter.

§ 9095. Protection of collective bargaining agreements

(a) In general

Neither the Secretary, nor any other actor, department, or agency of the Federal Government,

shall condition the issuance of financial assistance under this part on a passenger air carrier's or contractor's implementation of measures to enter into negotiations with the certified bargaining representative of a craft or class of employees of the passenger air carrier or contractor under the Railway Labor Act (45 U.S.C. 151 et seq.) or the National Labor Relations Act (29 U.S.C. 151 et seq.), regarding pay or other terms and conditions of employment.

(b) Passenger air carrier period of effect

With respect to any passenger air carrier to which financial assistance is provided under this part, this section shall be in effect with respect to the passenger air carrier for the period beginning on the date on which the passenger air carrier is first issued such financial assistance and ending on March 31, 2021.

(c) Contractor period of effect

With respect to any contractor to which financial assistance is provided under this part, this section shall be in effect with respect to the contractor beginning on the date on which the contractor is first issued such financial assistance and ending on March 31, 2021, or until the date on which all funds are expended, whichever is later.

(Pub. L. 116-260, div. N, title IV, § 405, Dec. 27, 2020, 134 Stat. 2057.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle A (§§ 401-412) of title IV of div. N of Pub. L. 116-260, Dec. 27, 2020, 134 Stat. 2052, which enacted this part and amended sections 9041, 9071, and 9074 of this title. For complete classification of subtitle A to the Code, see Tables.

The Railway Labor Act, referred to in subsec. (a), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The National Labor Relations Act, referred to in subsec. (a), is act July 5, 1935, ch. 372, 49 Stat. 449, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and also as part of the Consolidated Appropriations Act, 2021, and not as part of the CARES Act which in part comprises this chapter.

§ 9096. Limitation on certain employee compensation

(a) In general

The Secretary may only provide financial assistance under this part to a passenger air carrier or contractor after such carrier or contractor enters into an agreement with the Secretary that provides that, during the 2-year period beginning October 1, 2020, and ending October 1, 2022—

- (1) no officer or employee of the passenger air carrier or contractor whose total compensation exceeded \$425,000 in calendar year

2019 (other than an employee whose compensation is determined through an existing collective bargaining agreement entered into prior to December 27, 2020) will receive from the passenger air carrier or contractor—

(A) total compensation that exceeds, during any 12 consecutive months of such 2-year period, the total compensation received by the officer or employee from the passenger air carrier or contractor in calendar year 2019; or

(B) severance pay or other benefits upon termination of employment with the passenger air carrier or contractor which exceeds twice the maximum total compensation received by the officer or employee from the passenger air carrier or contractor in calendar year 2019; and

(2) no officer or employee of the passenger air carrier or contractor whose total compensation exceeded \$3,000,000 in calendar year 2019 may receive during any 12 consecutive months of such period total compensation in excess of the sum of—

(A) \$3,000,000; and

(B) 50 percent of the excess over \$3,000,000 of the total compensation received by the officer or employee from the passenger air carrier or contractor in calendar year 2019.

(b) Total compensation defined

In this section, the term "total compensation" includes salary, bonuses, awards of stock, and other financial benefits provided by a passenger air carrier or contractor to an officer or employee of the passenger air carrier or contractor.

(Pub. L. 116-260, div. N, title IV, § 406, Dec. 27, 2020, 134 Stat. 2057.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in subsec. (a), was in the original "this subtitle", meaning subtitle A (§§ 401-412) of title IV of div. N of Pub. L. 116-260, Dec. 27, 2020, 134 Stat. 2052, which enacted this part and amended sections 9041, 9071, and 9074 of this title. For complete classification of subtitle A to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and also as part of the Consolidated Appropriations Act, 2021, and not as part of the CARES Act which in part comprises this chapter.

§ 9097. Minimum air service guarantees

(a) In general

The Secretary of Transportation is authorized to require, to the extent reasonable and practicable, an air carrier provided financial assistance under this part to maintain scheduled air transportation, as the Secretary of Transportation determines necessary, to ensure services to any point served by that air carrier before March 1, 2020.

(b) Required considerations

When considering whether to exercise the authority provided by this section, the Secretary of Transportation shall take into consideration