

from the date of agreement until September 30, 2021, or the duration of the agreement and receipt of public contributions under this part, whichever period ends later; or

(ii) in the case of corporation, firm, or other business entity not specified under subparagraph (i), agrees to refrain from conducting involuntary layoffs or furloughs, or reducing pay rates and benefits, for the eligible employee group, subject to the employer's right to discipline or terminate an employee in accordance with employer policy for the duration of the agreement and receipt of public contributions under this part.

(3) Employee

The term “employee” has the meaning given that term in section 203 of title 29.

(4) Employer

The term “employer” means an aviation manufacturing company that is an employer (as defined in section 203 of title 29).

(5) Private contribution

The term “private contribution” means the contribution funded by the employer under this part to maintain 50 percent of the eligible employee group's total compensation level, and combined with the public contribution, is sufficient to maintain the total compensation level for the eligible employee group as of April 1, 2020.

(6) Public contribution

The term “public contribution” means the contribution funded by the Federal Government under this part to provide 50 percent of the eligible employees group's total compensation level, and combined with the private contribution, is sufficient to maintain the total compensation level for those in the eligible employee group as of April 1, 2020.

(7) Secretary

The term “Secretary” means the Secretary of Transportation.

(8) Total compensation level

The term “total compensation level” means the level of total base compensation and benefits being provided to an eligible employee group employee, excluding overtime and premium pay, and excluding any Federal, State, or local payroll taxes paid, as of April 1, 2020.

(Pub. L. 117–2, title VII, §7201, Mar. 11, 2021, 135 Stat. 101.)

Editorial Notes

CODIFICATION

Section was enacted as part of the American Rescue Plan Act of 2021, and not as part of the CARES Act which in part comprises this chapter.

§ 9132. Payroll support program

(a) In General

The Secretary shall establish a payroll support program and enter into agreements with employers who meet the eligibility criteria

specified in subsection (b) and are not ineligible under subsection (c), to provide public contributions to supplement compensation of an eligible employee group. There is appropriated for fiscal year 2021, out of amounts in the Treasury not otherwise appropriated, \$3,000,000,000, to remain available until September 30, 2023, for the Secretary to carry out the payroll support program authorized under the preceding sentence for which 1 percent of the funds may be used for implementation costs and administrative expenses.

(b) Eligibility

The Secretary shall enter into an agreement and provide public contributions, for a term no longer than 6 months, solely with an employer that agrees to use the funds received under an agreement exclusively for the continuation of employee wages, salaries, and benefits, to maintain the total compensation level for the eligible employee group as of April 1, 2020 for the duration of the agreement, and to facilitate the retention, rehire, or recall of employees of the employer, except that such funds may not be used for back pay of returning rehired or recalled employees.

(c) Ineligibility

The Secretary may not enter into any agreement under this section with an employer who was allowed a credit under section 2301 of the CARES Act (26 U.S.C. 3111 note) for the immediately preceding calendar quarter ending before such agreement is entered into, who received financial assistance under section 9073 of this title, or who is currently expending financial assistance under the paycheck protection program established under section 636(a)(36) of this title, as of the date the employer submits an application under the payroll support program established under subsection (a).

(d) Reductions

To address any shortfall in assistance that would otherwise be provided under this part, the Secretary shall reduce, on a pro rata basis, the financial assistance provided under this part.

(e) Agreement Deadline

No agreement may be entered into by the Secretary under the payroll support program established under subsection (a) after the last day of the 6 month period that begins on the effective date of the first agreement entered into under such program.

(Pub. L. 117–2, title VII, §7202, Mar. 11, 2021, 135 Stat. 103.)

Editorial Notes

REFERENCES IN TEXT

Section 2301 of the CARES Act, referred to in subsection (c), is section 2301 of Pub. L. 116–136, which is set out as a note under section 3111 of Title 26, Internal Revenue Code.

CODIFICATION

Section was enacted as part of the American Rescue Plan Act of 2021, and not as part of the CARES Act which in part comprises this chapter.

PART G—AIRLINES

Editorial Notes

CODIFICATION

Part G was enacted as part of the American Rescue Plan Act of 2021, and not as part of the CARES Act which in part comprises this chapter.

§ 9141. Air transportation payroll support program extension

(a) Definitions

The definitions in section 40102(a) of title 49 shall apply with respect to terms used in this section, except that—

(1) the term “catering functions” means preparation, assembly, or both, of food, beverages, provisions and related supplies for delivery, and the delivery of such items, directly to aircraft or to a location on or near airport property for subsequent delivery to aircraft;

(2) the term “contractor” means—

(A) a person that performs, under contract with a passenger air carrier conducting operations under part 121 of title 14, Code of Federal Regulations—

(i) catering functions; or

(ii) functions on the property of an airport that are directly related to the air transportation of persons, property, or mail, including the loading and unloading of property on aircraft, assistance to passengers under part 382 of title 14, Code of Federal Regulations, security, airport ticketing and check-in functions, ground-handling of aircraft, or aircraft cleaning and sanitization functions and waste removal; or

(B) a subcontractor that performs such functions;

(3) the term “employee” means an individual, other than a corporate officer, who is employed by an air carrier or a contractor;

(4) the term “eligible air carrier” means an air carrier that—

(A) received financial assistance pursuant¹ to section 9092(a)(1) of this title;

(B) provides air transportation as of March 31, 2021;

(C) has not conducted involuntary furloughs or reduced pay rates or benefits between March 31, 2021, and the date on which the air carrier makes a certification to the Secretary pursuant to subparagraph (D); and

(D) certifies to the Secretary that such air carrier will—

(i) refrain from conducting involuntary furloughs or reducing pay rates or benefits until September 30, 2021, or the date on which assistance provided under this section is exhausted, whichever is later;

(ii) refrain from purchasing an equity security of the air carrier or the parent company of the air carrier that is listed on a national securities exchange through September 30, 2022;

(iii) refrain from paying dividends, or making other capital distributions, with

respect to common stock (or equivalent interest) of such air carrier through September 30, 2022;

(iv) during the 2-year period beginning April 1, 2021, and ending April 1, 2023, refrain from paying—

(I) any officer or employee of the air carrier 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 March 11, 2021)—

(aa) 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 air carrier in calendar year 2019; or

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

(II) any officer or employee of the air carrier whose total compensation exceeded \$3,000,000 in calendar year 2019 during any 12 consecutive months of such period total compensation in excess of the sum of—

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

(bb) 50 percent of the excess over \$3,000,000 of the total compensation received by the officer or employee from the air carrier in calendar year 2019.²

(5) the term “eligible contractor” means a contractor that—

(A) received financial assistance pursuant to section 9092(a)(2) of this title;

(B) performs one or more of the functions described under paragraph (2) as of March 31, 2021;

(C) has not conducted involuntary furloughs or reduced pay rates or benefits between March 31, 2021, and the date on which the contractor makes a certification to the Secretary pursuant to subparagraph (D); and

(D) certifies to the Secretary that such contractor will—

(i) refrain from conducting involuntary furloughs or reducing pay rates or benefits until September 30, 2021, or the date on which assistance provided under this section is exhausted, whichever is later;

(ii) refrain from purchasing an equity security of the contractor or the parent company of the contractor that is listed on a national securities exchange through September 30, 2022;

(iii) refrain from paying dividends, or making other capital distributions, with respect to common stock (or equivalent interest) of the contractor through September 30, 2022;

(iv) during the 2-year period beginning April 1, 2021, and ending April 1, 2023, refrain from paying—

¹ So in original. Probably should be followed by “to”.

² So in original. The period probably should be a semicolon.