

section referred to as “nonagreement personnel”) should forego wage increases and benefits in an amount proportionately equivalent to the amount foregone by agreement employees pursuant to paragraph (4) of this section, adjusted annually to reflect inflation.

(B) After May 1, 1981, the number of non-agreement personnel should be reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 797a of this title).

### (2) Suppliers

To facilitate the orderly movement of goods in interstate commerce, materials and services should continue to be available to Conrail, under normal business practices, including the provision of credit and normal financing arrangements.

### (3) Shippers

Conrail should utilize the revenue opportunities available to it under the Staggers Rail Act of 1980 and subtitle IV of title 49.

### (4) Agreement employees

(A) Conrail should enter into collective bargaining agreements with its employees which would reduce Conrail's costs in an amount equal to \$200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

(B) Agreements under this subparagraph may provide for reductions in wage increases and for changes in fringe benefits common to agreement employees, including vacations and holidays.

(C) The cost reductions required under this subparagraph in the first year of the agreement may be deferred, but the aggregate cost reductions should be no less than an average of \$200,000,000 per year for each of the first three one-year periods beginning April 1, 1981.

(D) The amount of cost reductions provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (i) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (ii) until such national agreement is reached, the cost which the United States Railway Association estimates would result from the application of such a national agreement.

(Pub. L. 97-35, title XI, §1134, Aug. 13, 1981, 95 Stat. 645.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle E (§§1131-1169) of title XI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 643, known as the Northeast Rail Service Act of 1981. For complete classification of this subtitle to the Code, see Short Title note set out under section 1101 of this title and Tables.

The Staggers Rail Act of 1980, referred to in par. (3), is Pub. L. 96-448, Oct. 14, 1980, 94 Stat. 1895. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 10101 of Title 49, Transportation, and Tables.

#### Statutory Notes and Related Subsidiaries

##### ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

### § 1104. Definitions

As used in this subtitle, unless the context otherwise requires, the term:

(1) “Amtrak” means the National Railroad Passenger Corporation created under chapter 243 of title 49.

(2) “Commission” means the Interstate Commerce Commission.

(3) “Commuter authority” means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter service.

(4) “Commuter service” means short-haul rail passenger service operated in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.

(5) “Conrail” means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.).

(6) “Rail carrier” means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49.

(7) “Secretary” means the Secretary of Transportation.

(8) “Special court” means the judicial panel established under section 209(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(b)(1)) or, with respect to any proceedings that arise or continue after the panel is abolished pursuant to section 209(b)(2) of such Act [45 U.S.C. 719(b)(2)], the United States District Court for the District of Columbia.

(Pub. L. 97-35, title XI, §1135(a), Aug. 13, 1981, 95 Stat. 645; Pub. L. 104-317, title VI, §605(c)(3), Oct. 19, 1996, 110 Stat. 3859.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle E (§§1131-1169) of title XI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 643, known as the Northeast Rail Service Act of 1981. For complete classification of this subtitle to the Code, see Short Title note set out under section 1101 of this title and Tables.

The Regional Rail Reorganization Act of 1973, referred to in par. (5), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985. Title III of the Regional Rail Reorganization Act of 1973 is classified generally to subchapter III (§741

et seq.) of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

#### CODIFICATION

In par. (1), “chapter 243 of title 49” substituted for “title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.)” on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

#### AMENDMENTS

1996—Par. (8). Pub. L. 104-317 amended par. generally. Prior to amendment, par. read as follows: “‘Special court’ means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719).”

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-317 effective 90 days after Oct. 19, 1996, and except as otherwise provided, applicable proceedings that arise or continue after such effective date, see section 605(e) of Pub. L. 104-317, set out as a note under section 719 of this title.

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

### § 1105. Judicial review

#### (a) Special court; exclusive jurisdiction for civil actions

Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of any provision of or amendment made by this subtitle or part 2 of the Conrail Privatization Act [45 U.S.C. 1311 et seq.], or administrative action taken thereunder to the extent such action is subject to judicial review;

(2) challenging the constitutionality of any provision of or amendment made by this subtitle or part 2 of the Conrail Privatization Act [45 U.S.C. 1311 et seq.];

(3) to obtain, inspect, copy, or review any document in the possession or control of the Secretary, Conrail, the United States Railway Association, or Amtrak that would be discoverable in litigation under any provision of or amendment made by this subtitle or part 2 of the Conrail Privatization Act [45 U.S.C. 1311 et seq.]; or

(4) seeking judgment upon any claim against the United States founded upon the Constitution and resulting from the operation of any provision of or amendment made by this subtitle or part 2 of the Conrail Privatization Act [45 U.S.C. 1311 et seq.].

#### (b) Appeal

An order or judgment of the United States District Court for the District of Columbia in

any action referred to in this section shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28.

#### (c) Scope of review of administrative actions

Administrative action under the provisions of or amendments made by this subtitle or part 2 of the Conrail Privatization Act [45 U.S.C. 1311 et seq.] which is subject to review shall be upheld unless such action is found to be unlawful under standards established for review of informal agency action under paragraphs (2)(A), (B), (C), and (D) of section 706 of title 5. The requirements of this subtitle or part 2 of the Conrail Privatization Act [45 U.S.C. 1311 et seq.], as the case may be, shall constitute the exclusive procedures required by law for such administrative action.

(Pub. L. 97-35, title XI, §1152, Aug. 13, 1981, 95 Stat. 676; Pub. L. 99-509, title IV, §4033(c)(1)(A), Oct. 21, 1986, 100 Stat. 1908; Pub. L. 100-352, §6(f), June 27, 1988, 102 Stat. 664; Pub. L. 104-317, title VI, §605(b)(3), (c)(4), Oct. 19, 1996, 110 Stat. 3859.)

### Editorial Notes

#### REFERENCES IN TEXT

This subtitle, referred to in subsecs. (a) and (c), is subtitle E (§§1131-1169) of title XI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 643, known as the Northeast Rail Service Act of 1981. For complete classification of this subtitle to the Code, see Short Title note set out under section 1101 of this title and Tables.

The Conrail Privatization Act, referred to in subsecs. (a) and (c), is subtitle A (§§4001-4052) of title IV of Pub. L. 99-509, Oct. 21, 1986, 100 Stat. 1892. Part 2 of that Act is classified principally to subchapter II (§1311 et seq.) of chapter 22 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-317, §605(b)(3), added heading and text of subsec. (b) and struck out former subsec. (b) which read as follows: “A judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such order or judgment.”

Subsec. (d). Pub. L. 104-317, §605(c)(4), struck out subsec. (d) which read as follows: “If the volume of civil actions under subsection (a) of this section so requires, the United States Railway Association shall apply to the judicial panel on multi-district litigation authorized by section 1407 of title 28 for the assignment of additional judges to the special court. Within 30 days after the date of such application, the panel shall assign to the special court such additional judges as may be necessary to exercise the jurisdiction described in subsection (a) of this section.”

1988—Subsec. (b). Pub. L. 100-352 struck out “, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of any provision of this subtitle shall be reviewable by direct appeal to the Supreme Court of the United States” at end of first sentence and substituted “such petition shall be filed in the Supreme Court” for “petition or appeal shall be filed” in second sentence.

1986—Subsecs. (a), (b). Pub. L. 99-509, §4033(c)(1)(A)(i), inserted “or part 2 of the Conrail Privatization Act” after “subtitle” wherever appearing.

Subsec. (c). Pub. L. 99-509, §4033(c)(1)(A), inserted “or part 2 of the Conrail Privatization Act” after “subtitle” in first sentence and “or part 2 of the Conrail