

Editorial Notes

CODIFICATION

The text of section 823 of Title 45, Railroads, which was transferred to this section and amended by Pub. L. 117-58, div. B, title I, § 21301(a)(5), (e), was based on Pub. L. 94-210, title V, § 503, as added and amended Pub. L. 105-178, title VII, § 7203(a)(1), (4), June 9, 1998, 112 Stat. 475, 477; Pub. L. 109-59, title IX, § 9003(h), (i), Aug. 10, 2005, 119 Stat. 1923; Pub. L. 114-94, div. A, title XI, § 11605(b), Dec. 4, 2015, 129 Stat. 1695; Pub. L. 115-56, div. D, § 164(b), as added Pub. L. 115-123, div. B, § 20101(2), Feb. 9, 2018, 132 Stat. 121.

AMENDMENTS

2021—Pub. L. 117-58, § 21301(a)(5), transferred text of section 823 of Title 45, Railroads, to this section.

Subsec. (a). Pub. L. 117-58, § 21301(e)(1), designated existing provisions as par. (1), inserted heading, substituted “section 22402” for “section 502”, and added par. (2).

Subsecs. (b), (c). Pub. L. 117-58, § 21301(e)(4)(A), substituted “section 22402” for “section 502”.

Subsec. (d)(3). Pub. L. 117-58, § 21301(e)(2), substituted “section 22402(f)” for “section 502(f)”.

Subsecs. (e), (f). Pub. L. 117-58, § 21301(e)(4)(B), substituted “this chapter” for “this title”.

Subsecs. (g), (h)(1). Pub. L. 117-58, § 21301(e)(4)(A), substituted “section 22402” for “section 502”.

Subsec. (i). Pub. L. 117-58, § 21301(e)(4)(A), substituted “section 22402” for “section 502” in two places in introductory provisions.

Subsec. (j). Pub. L. 117-58, § 21301(e)(4)(B), substituted “this chapter” for “this title”.

Subsec. (l)(3)(A). Pub. L. 117-58, § 21301(e)(4)(B), substituted “this chapter” for “this title”.

Subsec. (l)(3)(B). Pub. L. 117-58, § 21301(e)(4)(B), substituted “this chapter” for “this title”.

Pub. L. 117-58, § 21301(e)(3), substituted “servicing a direct loan” for “serving a direct loan”.

Subsec. (m). Pub. L. 117-58, § 21301(e)(4), substituted “section 22402” for “section 502” and “this chapter” for “this title”.

§ 22404. Employee protection

(a) **GENERAL.**—Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees who may be affected by actions taken pursuant to authorizations or approval obtained under this chapter. Such arrangements shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, not later than 120 days after February 5, 1976. In the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, not later than 150 days after February 5, 1976.

(b) **TERMS.**—The arrangements required by subsection (a) of this section shall apply to each employee who has an employment relationship with a railroad on the date on which such railroad first applies for applicable financial assistance under this chapter. Such arrangements shall include such provisions as may be necessary for the negotiation and execution of agreements as to the manner in which the protective arrangements shall be applied, including notice requirements. Such agreements shall be executed prior to implementation of work funded from financial assistance under this chapter. If such an agreement is not reached within 30 days after the date on which an application for such assistance is approved, either party to the

dispute may submit the issue for final and binding arbitration. The decision on any such arbitration shall be rendered within 30 days after such submission. Such arbitration decision shall in no way modify the protection afforded in the protective arrangements established pursuant to this section, shall be final and binding on the parties thereto, and shall become a part of the agreement. Such arrangements shall also include such provisions as may be necessary—

(1) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;

(2) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;

(3) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under this chapter, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and

(4) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this chapter.

(c) **SUBCONTRACTING.**—The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, pursuant to subsections (a) and (b) of this section, shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this chapter.

(Added and amended Pub. L. 117-58, div. B, title I, § 21301(a)(2), (6), (f), Nov. 15, 2021, 135 Stat. 683, 690.)

Editorial Notes

CODIFICATION

The text of section 836 of Title 45, Railroads, which was transferred to this section and amended by Pub. L. 117-58, div. B, title I, § 21301(a)(6), (f), was based on Pub. L. 94-210, title V, § 504, formerly § 516, Feb. 5, 1976, 90 Stat. 82; renumbered § 504, Pub. L. 105-178, title VII, § 7203(a)(5), June 9, 1998, 112 Stat. 477.

AMENDMENTS

2021—Pub. L. 117-58, § 21301(a)(6), transferred text of section 826 of Title 45, Railroads, to this section.

Subsec. (a). Pub. L. 117-58, § 21301(f)(1), in first sentence, struck out “not otherwise protected under title

V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.),” after “any employees” and substituted “under this chapter” for “under this title”; in second sentence, substituted “not later than 120 days after February 5, 1976” for “within 120 days after the date of enactment of this title”; and in third sentence, substituted “not later than 150 days after February 5, 1976” for “within 150 days after the date of enactment of this title”.

Subsec. (b). Pub. L. 117–58, § 21301(f)(2)(A), substituted “applicable financial assistance under this chapter” for “applicable financial assistance under this title” and “from financial assistance under this chapter” for “from financial assistance under this title” in introductory provisions.

Subsec. (b)(3). Pub. L. 117–58, § 21301(f)(2)(B), substituted “under this chapter” for “under this title”.

Subsec. (b)(4). Pub. L. 117–58, § 21301(f)(2)(C), substituted “to this chapter” for “to this title”.

Subsec. (c). Pub. L. 117–58, § 21301(f)(3), substituted “to this chapter” for “to this title”.

§ 22405. Substantive criteria and standards

The Secretary shall—

(1) publish in the Federal Register and post on a website of the Department of Transportation the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 22402; and

(2) ensure that adequate procedures and guidelines are in place to permit the filing of complete applications not later than 30 days after the publication referred to in paragraph (1).

(Added Pub. L. 117–58, div. B, title I, § 21301(g), Nov. 15, 2021, 135 Stat. 690.)

§ 22406. Authorization of appropriations.¹

(a) AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated for credit assistance under this chapter, which shall be provided at the discretion of the Secretary, \$50,000,000 for each of fiscal years 2022 through 2026.

(2) REFUND OF PREMIUM.—There is authorized to be appropriated to the Secretary \$70,000,000 to repay the credit risk premium in accordance with section 22402(f)(5).

(3) AVAILABILITY.—Amounts appropriated pursuant to this subsection shall remain available until expended.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Credit assistance provided under subsection (a) may not exceed \$20,000,000 for any loan or loan guarantee.

(2) ADMINISTRATIVE COSTS.—Not less than 3 percent of the amounts appropriated pursuant to subsection (a) in each fiscal year shall be made available to the Secretary for use in place of charges collected under section 22403(l)(1) for passenger railroads and freight railroads other than Class I carriers.

(3) SHORT LINE SET-ASIDE.—Not less than 50 percent of the amounts appropriated pursuant to subsection (a)(1) for each fiscal year shall be set aside for freight railroads other than Class I carriers.

(Added Pub. L. 117–58, div. B, title I, § 21301(h), Nov. 15, 2021, 135 Stat. 690.)

[CHAPTER 225—REPEALED]

[§§ 22501 to 22505. Repealed. Pub. L. 114–94, div. A, title XI, § 11301(c)(3), Dec. 4, 2015, 129 Stat. 1648]

Section 22501, Pub. L. 110–432, div. A, title II, § 207(a), Oct. 16, 2008, 122 Stat. 4873, related to financial assistance to States for certain projects.

Section 22502, Pub. L. 110–432, div. A, title II, § 207(a), Oct. 16, 2008, 122 Stat. 4874, related to distribution of grants.

Section 22503, Pub. L. 110–432, div. A, title II, § 207(a), Oct. 16, 2008, 122 Stat. 4874, related to standards for awarding grants.

Section 22504, Pub. L. 110–432, div. A, title II, § 207(a), Oct. 16, 2008, 122 Stat. 4874, related to use of grant funds.

Section 22505, Pub. L. 110–432, div. A, title II, § 207(a), Oct. 16, 2008, 122 Stat. 4874, related to authorization of appropriations.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 227—STATE RAIL PLANS

Sec.	
22701.	Definitions.
22702.	Authority.
22703.	Purposes.
22704.	Transparency; coordination; review.
22705.	Content.
22706.	Review.

§ 22701. Definitions

In this subchapter:¹

(1) PRIVATE BENEFIT.—

(A) IN GENERAL.—The term “private benefit”—

(i) means a benefit accrued to a person or private entity, other than Amtrak, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

(2) PUBLIC BENEFIT.—

(A) IN GENERAL.—The term “public benefit”—

(i) means a benefit accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

¹ So in original. The period probably should not appear.

¹ So in original. Probably should be “chapter.”.