

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-264 effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as a note under section 106 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

FUNDING FOR ESSENTIAL AIR SERVICE PROGRAM

Pub. L. 112-55, div. C, title I, Nov. 18, 2011, 125 Stat. 644, provided in part: "That no funds made available under section 41742 of title 49, United States Code, and no funds made available in this Act [div. C of Pub. L. 112-55, see Tables for classification] or any other Act in any fiscal year, shall be available to carry out the essential air service program under sections 41731 through 41742 of such title 49 in communities in the 48 contiguous States unless the community received subsidized essential air service or received a 90-day notice of intent to terminate service and the Secretary required the air carrier to continue to provide service to the community at any time between September 30, 2010, and September 30, 2011, inclusive".

FINDINGS

Pub. L. 104-264, title II, § 278(b), Oct. 9, 1996, 110 Stat. 3249, provided that: "Congress finds that—

"(1) air service in rural areas is essential to a national and international transportation network;

"(2) the rural air service infrastructure supports the safe operation of all air travel;

"(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

"(4) rural air service has suffered since deregulation;

"(5) the essential air service program under the Department of Transportation—

"(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

"(B) is necessary for the economic growth and development of rural communities;

"(C) is a critical component of the national and international transportation system of the United States; and

"(D) has endured serious funding cuts in recent years; and

"(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program."

§ 41743. Airports not receiving sufficient service

(a) **SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.**—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) **APPLICATION REQUIRED.**—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) an assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) an analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) **CRITERIA FOR PARTICIPATION.**—In selecting communities, or consortia of communities, for

participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) **SIZE.**—On the date of submission of the relevant application under subsection (b), the airport serving the community or consortium—

(A) is not larger than a small hub airport, as determined using the Department of Transportation's most recently published classification; and

(B) has—

(i) insufficient air carrier service; or

(ii) unreasonably high air fares.

(2) **CHARACTERISTICS.**—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) **STATE LIMIT.**—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) **OVERALL LIMIT.**—

(A) **IN GENERAL.**—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

(B) **SAME PROJECTS.**—Except as provided in subparagraph (C), no community, consortia of communities, or combination thereof may participate in the program in support of the same project more than once in a 10-year period, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project at any time.

(C) **EXCEPTION.**—The Secretary may waive the limitation under subparagraph (B) related to projects that are the same if the Secretary determines that the community or consortium spent little or no money on its previous project or encountered industry or environmental challenges, due to circumstances that were reasonably beyond the control of the community or consortium.

(5) **PRIORITIES.**—The Secretary shall give priority to communities or consortia of communities where—

(A) air fares are higher than the average air fares for all communities;

(B) the community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(C) the community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(D) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited;

(E) the assistance will be used to help restore scheduled passenger air service that has been terminated;

(F) the assistance will be used in a timely fashion; and

(G) multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.

(d) TYPES OF ASSISTANCE.—The Secretary may use amounts made available under this section—

(1) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(2) to provide assistance to an underserved airport to obtain service to and from the underserved airport; and

(3) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) AUTHORITY TO MAKE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may make agreements to provide assistance under this section. The Secretary may amend the scope of a grant agreement at the request of the community or consortium and any participating air carrier, and may limit the scope of a grant agreement to only the elements using grant assistance or to only the elements achieved, if the Secretary determines that the amendment is reasonably consistent with the original purpose of the project.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$10,000,000 for each of fiscal years 2018 through 2023, and \$4,371,585 for the period beginning on October 1, 2023, and ending on March 8, 2024, to carry out this section. Such sums shall remain available until expended.

(f) ADDITIONAL ACTION.—Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.

(g) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary shall designate an employee of the Department of Transportation—

(1) to function as a facilitator between small communities and air carriers;

(2) to carry out this section;

(3) to ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) to work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

(5) to provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(h) AIR SERVICE DEVELOPMENT ZONE.—The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies.

(Added Pub. L. 106–181, title II, §203(a), Apr. 5, 2000, 114 Stat. 92; amended Pub. L. 108–11, title II, §2708, Apr. 16, 2003, 117 Stat. 601; Pub. L. 108–176, title II, §225(b)(3), title IV, §412, Dec. 12, 2003, 117 Stat. 2529, 2551; Pub. L. 110–330, §5(b), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–69, §5(b), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–249, §5(b), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 112–30, title II, §205(b), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(b), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title IV, §429, Feb. 14, 2012, 126 Stat. 100; Pub. L. 114–190, title I, §1102(e), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §104(b), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §104(b), Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title IV, §455, Oct. 5, 2018, 132 Stat. 3349; Pub. L. 118–15, div. B, title II, §2206(b), Sept. 30, 2023, 137 Stat. 85; Pub. L. 118–34, title I, §106(b), Dec. 26, 2023, 137 Stat. 1115.)

Editorial Notes

AMENDMENTS

2023—Subsec. (e)(2). Pub. L. 118–34 substituted “\$4,371,585 for the period beginning on October 1, 2023, and ending on March 8, 2024,” for “\$2,513,661 for the period beginning on October 1, 2023, and ending on December 31, 2023.”

Pub. L. 118–15 inserted “, and \$2,513,661 for the period beginning on October 1, 2023, and ending on December 31, 2023,” after “fiscal years 2018 through 2023”.

2018—Subsec. (c)(1). Pub. L. 115–254, §455(a)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

“(A) had insufficient air carrier service; or

“(B) had unreasonably high air fares.”

Subsec. (c)(4). Pub. L. 115–254, §455(a)(2), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program. No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.”

Subsec. (c)(5)(E) to (G). Pub. L. 115–254, §455(a)(3), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (e)(1). Pub. L. 115–254, §455(b), inserted at end “The Secretary may amend the scope of a grant agreement at the request of the community or consortium and any participating air carrier, and may limit the scope of a grant agreement to only the elements using grant assistance or to only the elements achieved, if the Secretary determines that the amendment is reasonably consistent with the original purpose of the project.”

Subsec. (e)(2). Pub. L. 115–254, §455(c), amended par. (2) generally. Prior to amendment, text read as follows: “There is authorized to be appropriated to the Secretary \$6,000,000 for each of fiscal years 2012 through

2017 and \$10,000,000 for fiscal year 2018 to carry out this section. Such sums shall remain available until expended.”

Pub. L. 115-141 substituted “2012 through 2017 and \$10,000,000 for fiscal year 2018” for “2012 through 2017 and \$4,986,301 for the period beginning on October 1, 2017, and ending on March 31, 2018.”

2017—Subsec. (e)(2). Pub. L. 115-63 inserted “and \$4,986,301 for the period beginning on October 1, 2017, and ending on March 31, 2018,” after “fiscal years 2012 through 2017”.

2016—Subsec. (e)(2). Pub. L. 114-190 substituted “2017” for “2015”.

2012—Subsec. (c)(5)(F). Pub. L. 112-95, § 429(a), added subpar. (F).

Subsec. (e)(2). Pub. L. 112-95, § 429(b), amended par. (2) generally. Prior to amendment, par. (2) provided for authorization of appropriations for fiscal years 2001 through 2011 and for the portion of fiscal year 2012 ending before Feb. 18, 2012.

Pub. L. 112-91 substituted “and \$2,295,082 for the portion of fiscal year 2012 ending before February 18, 2012,” for “and \$2,016,393 for the portion of fiscal year 2012 ending before February 1, 2012.”

2011—Subsec. (e)(2). Pub. L. 112-30 substituted “\$35,000,000 for each of fiscal years 2004 through 2011, and \$2,016,393 for the portion of fiscal year 2012 ending before February 1, 2012.” for “and \$35,000,000 for each of fiscal years 2004 through 2011”.

2010—Subsec. (e)(2). Pub. L. 111-249 substituted “2011” for “2010”.

2009—Subsec. (e)(2). Pub. L. 111-69 substituted “2010” for “2009”.

2008—Subsec. (e)(2). Pub. L. 110-330 substituted “2009” for “2008”.

2003—Subsec. (a). Pub. L. 108-176, § 412(1), (2), struck out “PILOT” before “PROGRAM” in heading and “pilot” before “program” in text.

Subsec. (c)(1). Pub. L. 108-176, § 225(b)(3)(A), struck out “(as that term is defined in section 41731(a)(5))” after “small hub airport” in introductory provisions.

Subsec. (c)(3). Pub. L. 108-176, § 412(3)(A), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “No more than four communities or consortia of communities, or a combination thereof, may be located in the same State.”

Subsec. (c)(4). Pub. L. 108-176, § 412(3)(B), inserted at end “No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.”

Pub. L. 108-11 inserted before period at end “in each year for which funds are appropriated for the program”.

Subsec. (c)(5)(E). Pub. L. 108-176, § 412(3)(C), added subpar. (E).

Subsec. (e)(2). Pub. L. 108-176, § 412(4), substituted “fiscal year 2001,” for “fiscal year 2001 and” and inserted “, and \$35,000,000 for each of fiscal years 2004 through 2008” after “2003”.

Subsec. (f). Pub. L. 108-176, §§ 225(b)(3)(B), 412(5), struck out “pilot” after “Under the” and “(as defined in section 41731(a)(3))” after “large hub airports”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111-249, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110-330, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as other-

wise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41744. Preservation of basic essential air service at single carrier dominated hub airports

(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, the Secretary may require an air carrier that has more than 60 percent of the total annual enplanements at the essential airport facility to take action to enable another air carrier to provide reliable essential air service to that community. Actions required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service or facility necessary for the performance of satisfactory essential air service to that community.

(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term “essential airport facility” means a large hub airport in the contiguous 48 States at which one air carrier has more than 60 percent of the total annual enplanements at that airport.

(Added Pub. L. 106-181, title II, § 204(a), Apr. 5, 2000, 114 Stat. 93; amended Pub. L. 108-176, title II, § 225(b)(4), Dec. 12, 2003, 117 Stat. 2529.)

Editorial Notes

AMENDMENTS

2003—Subsec. (b). Pub. L. 108-176 struck out “(as defined in section 41731)” after “large hub airport”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41745. Community and regional choice programs

(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may provide assistance directly to a unit of local government having jurisdiction