

Public Law 102-306
102d Congress

Joint Resolution

June 26, 1992
[H.J. Res. 517]

To provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.

Whereas the unresolved labor disputes between certain railroads and certain of their employees represented by certain labor organizations threaten essential transportation services of the United States;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas the President, pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), by Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, created Presidential Emergency Boards No. 220, 221, and 222 to investigate the disputes referenced therein and report findings;

Whereas the recommendations of Presidential Emergency Boards No. 220, 221, and 222 issued on May 28, 1992, have not resulted in a settlement of all the disputes referenced therein;

Whereas all the procedures provided under the Railway Labor Act, and further procedures agreed to by the parties, have been exhausted and have not resulted in settlement of all the disputes; Whereas it is desirable to resolve such disputes in a manner which encourages solutions reached through collective bargaining;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services;

Whereas Congress finds that emergency measures are essential to security and continuity of transportation services by such railroads; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONS DURING RESOLUTION OF DISPUTES.

The following conditions shall apply to all carriers and all employees affected by the disputes referred to in Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, that remain unresolved between certain railroads and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) All carriers and all employees affected by such unresolved disputes shall take all necessary steps to restore or preserve the conditions that existed before 12:01 a.m. on June 24, 1992, applicable to all such carriers and employees, except as otherwise provided in this joint resolution.

(2) The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period with respect to each unresolved dispute referred

to in Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, so that no change shall be made by any carrier or employee affected by such unresolved dispute, before a decision is rendered under section 3(d) or the parties have reached agreement, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on June 24, 1992.

SEC. 2. APPOINTMENT OF ARBITRATORS.

(a) IN GENERAL.—(1) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier parties to the unresolved disputes described in Executive Order No. 12794 (acting jointly) and the labor organization party to such unresolved disputes shall each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individuals selected under the preceding sentence shall jointly select an individual from such roster to serve as arbitrator for such unresolved disputes.

(2) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier party to the unresolved dispute described in Executive Order No. 12795 and the labor organization party to such unresolved dispute shall each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individuals selected under the preceding sentence shall jointly select an individual from such roster to serve as arbitrator for such unresolved dispute.

(3) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier party to the unresolved disputes described in Executive Order No. 12796 and each of the labor organization parties to such unresolved disputes shall select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individual selected by each of the labor organizations under the preceding sentence shall, jointly with the individual selected by the carrier under the preceding sentence, select an individual from such roster to serve as arbitrator for the unresolved disputes involving such labor organization and the carrier.

(4) For purposes of this subsection and section 1, a dispute as to which tentative agreement has been reached but not ratified shall be considered an unresolved dispute.

(b) QUALIFICATIONS.—No individual shall be selected under subsection (a) who is pecuniarily or otherwise interested in any organization of employees or any railroad, or who has served as a member of Presidential Emergency Board No. 219, 220, 221, or 222. Nothing in this joint resolution shall preclude an individual from serving as arbitrator for more than one dispute described in subsection (a).

(c) COMPENSATION AND EXPENSES.—The compensation of individuals selected under subsection (a) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway

Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

SEC. 3. CONDUCT OF NEGOTIATIONS.

(a) **INITIAL PERIOD.**—During the 20-day period beginning on the date of enactment of this joint resolution, the parties to the unresolved disputes described in section 2(a) shall conduct negotiations for the purpose of reaching agreement with respect to such disputes. Arbitrators selected under section 2 shall be available for consultation with the parties to the unresolved disputes for which they have been selected.

(b) **SUBMISSION OF FINAL OFFERS.**—If, within the period described in subsection (a), the parties to any dispute described in section 2(a) do not reach agreement, both the labor organization and the carrier (or carriers) shall, within five days after the end of such period, submit to the arbitrator and to the other party (or parties) a proposed written contract embodying its last best offer for agreement concerning rates of pay, rules, and working conditions. Such proposed written contract shall address only—

(1) issues that the relevant Presidential Emergency Board dealt with by a recommendation in its report issued on May 28, 1992; or

(2) other issues that the parties agree may be addressed by the written contract.

(c) **FINAL NEGOTIATIONS.**—Upon submission to the arbitrator of the proposed written contracts described in subsection (b) and for a period of seven days thereafter, the parties shall, with the assistance of the arbitrator, attempt to reach agreement.

(d) **ARBITRATOR'S DECISION.**—If the parties fail to reach agreement within the period described in subsection (c), the arbitrator, within three days thereafter, shall render a decision selecting one of the proposed written contracts submitted under subsection (b), without modification and shall immediately submit such decision and selected contract to the President. The selected contract shall be binding on the parties and have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.) unless, within three days following receipt of the decision and selected contract, the President disapproves such decision and contract. If the President disapproves such decision and contract, the parties shall have those rights under the Railway Labor Act (45 U.S.C. 151 et seq.) they had at 12:01 a.m. on June 24, 1992.

(e) **SPECIAL RULES.**—(1) With respect to any tentative agreement reached but not ratified prior to the date of enactment of this joint resolution, if the ratification of such tentative agreement fails, the parties to such tentative agreement shall be considered parties to an unresolved dispute for purposes of this section, and the time periods described in this section shall apply to such dispute beginning on the date of such failure.

(2) With respect to any tentative agreement reached after the date of enactment of this joint resolution, if the ratification of such tentative agreement fails, both the labor organization and the carrier (or carriers) party to such tentative agreement shall, within five days after the date of such failure, submit to the arbitrator and to the other party (or parties) a proposed written contract

under subsection (b), and shall be subject to subsections (c) and (d).

(3) Upon the agreement of the parties to an unresolved dispute, final offers may be submitted under subsection (b) at any time after the date of enactment of this joint resolution.

(f) **TERMINATION.**—The responsibilities of an arbitrator appointed under section 2 shall terminate upon a decision under subsection (d).

SEC. 4. PRECLUSION OF JUDICIAL REVIEW.

There shall be no judicial review of any decision of an arbitrator under this joint resolution.

SEC. 5. MUTUAL AGREEMENT PRESERVED.

Nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by the joint resolution.

Approved June 26, 1992.

LEGISLATIVE HISTORY—H.J. Res. 517:

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