reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

''(e) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Board may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.''

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Section 101 of Pub. L. 104–88 provided that: ''The Interstate Commerce Commission is abolished.''

ORGANIZATION OF FUNCTIONS OF SURFACE TRANSPORTATION BOARD

Section 202 of title II of Pub. L. 104–88 provided that: ''The Chairman of the Surface Transportation Board (in this Act [see Tables for classification] referred to as the 'Board') may allocate or reallocate any function of the Board, consistent with this title [see Tables for classification] and subchapter I of chapter 7 [49 U.S.C. 701 et seq.], as amended by section 201 of this title, among the members or employees of the Board, and may establish, consolidate, alter, or discontinue in the Board any organizational entities that were entities of the Interstate Commerce Commission, as the Chairman considers necessary or appropriate.''

TRANSFER OF ASSETS AND PERSONNEL

Section 203 of Pub. L. 104–88 provided that:

''(a) TO BOARD.—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Board [Surface Transportation Board] by this Act shall be transferred to the Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Board. Such unexpended balances, allocations, and other funds, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996, may be used to pay for the closedown of the Commission and severance costs for Commission personnel, regardless of whether those costs are incurred at the Commission or at the Board.

''(b) TO SECRETARY.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

''(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).''

REFERENCES TO INTERSTATE COMMERCE COMMISSION DEEMED TO BE REFERENCES TO SURFACE TRANSPORTATION BOARD

Section 205 of Pub. L. 104–88 provided that: ''Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Board [Surface Transportation Board], a member or employee of the Board, or the Secretary, as appropriate.''

§ 702. Functions

Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Board shall perform all functions that, immediately before January 1, 1996, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

(Added Pub. L. 104–88, title II, § 201(a), Dec. 29, 1995, 109 Stat. 933; amended Pub. L. 104–287, § 5(6), Oct. 11, 1996, 110 Stat. 3389.)

REFERENCES IN TEXT

The ICC Termination Act of 1995, referred to in text, is Pub. L. 104–88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of such Act''.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 703. Administrative provisions

(a) EXECUTIVE REORGANIZATION.—Chapter 9 of title 5, United States Code, shall apply to the Board in the same manner as it does to an independent regulatory agency, and the Board shall be an establishment of the United States Government.

(b) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Board shall be deemed to be an agency.

(c) INDEPENDENCE.—In the performance of their functions, the members, employees, and other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

(d) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Chairman of the Board may appear for, and represent the Board in, any civil action brought in connection with any function carried out by the Board pursuant to this chapter or subtitle IV or as otherwise authorized by law.

(e) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Board and include a statement by the Board—

(1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

(2) an assessment of the budgetary needs of the Board.

(g) DIRECT TRANSMITTAL TO CONGRESS.—The Board shall transmit to Congress copies of budget estimates, requests, and information (includ-

ing personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Board with Congress, or a committee or Member of Congress, about the information.

(Added Pub. L. 104–88, title II, § 201(a), Dec. 29, 1995, 109 Stat. 934.)

§ 704. Annual report

The Board shall annually transmit to the Congress a report on its activities.

(Added Pub. L. 104–88, title II, § 201(a), Dec. 29, 1995, 109 Stat. 934.)

§ 705. Authorization of appropriations

There are authorized to be appropriated for the activities of the Board—

(1) $8,421,000 for fiscal year 1996;

(2) $12,000,000 for fiscal year 1997; and

(3) $12,000,000 for fiscal year 1998.

(Added Pub. L. 104–88, title II, § 201(a), Dec. 29, 1995, 109 Stat. 934.)

§ 706. Reporting official action

(a) REPORTS ON PROCEEDINGS.—The Board shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Board and, if damages are awarded, the findings of fact supporting the award. The Board may have its reports published for public use. A published report of the Board is competent evidence of its contents.

(b) SPECIAL RULES FOR MATTERS RELATED TO RAIL CARRIERS.—(1) When action of the Board in a matter related to a rail carrier is taken by the Board, an individual member of the Board, or another individual or group of individuals designated to take official action for the Board, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statement, or regulation) shall indicate—

(A) the official designation of the individual or group taking the action;

(B) the name of each individual taking, or participating in taking, the action; and

(C) the vote or position of each participating individual.

(2) If an individual member of a group taking an official action referred to in paragraph (1) does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

(Added Pub. L. 104–88, title II, § 201(a), Dec. 29, 1995, 109 Stat. 934.)

SUBCHAPTER II—ADMINISTRATIVE

§ 721. Powers

(a) IN GENERAL.—The Board shall carry out this chapter and subtitle IV. Enumeration of a power of the Board in this chapter or subtitle IV does not exclude another power the Board may have in carrying out this chapter or subtitle IV. The Board may prescribe regulations in carrying out this chapter and subtitle IV.

(b) INQUIRIES, REPORTS, AND ORDERS.—The Board may—

(1) inquire into and report on the management of the business of carriers providing transportation and services subject to subtitle IV;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of that carrier;

(3) obtain from those carriers and persons information the Board decides is necessary to carry out subtitle IV; and

(4) when necessary to prevent irreparable harm, issue an appropriate order without regard to subchapter II of chapter 5 of title 5.

(c) SUBPOENA WITNESSES.—(1) The Board may subpoena witnesses and records related to a proceeding of the Board from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Board, or a party to a proceeding before the Board, may petition a court of the United States to enforce that subpoena.

(2) The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

(d) DEPOSITIONS.—(1) In a proceeding, the Board may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Board may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) If a witness fails to be deposed or to produce records under paragraph (1), the Board may subpoena the witness to take a deposition, produce the records, or both.

(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.