cision by the 90th day after the date on which it concludes the evidentiary proceedings.

(d) For all applications under this section other than those specified in subsections (b) and (c) of this section, the following conditions apply:

(1) Written comments about an application, including comments of the Attorney General and the Secretary of Transportation, may be filed with the Board within 30 days after notice of the application is published under subsection (a) of this section.

(2) The Board must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 841.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11345 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 11326. Employee protective arrangements in transactions involving rail carriers

(a) Except as otherwise provided in this section, when approval is sought for a transaction under sections 11324 and 11325 of this title, the Board shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 5(2)(f) of the Interstate Commerce Act before February 5, 1976, and the terms established under section 24706(c)[1] of this title. Notwithstanding this part, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Board (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

(b) When approval is sought under sections 11324 and 11325 for a transaction involving one Class II and one or more Class III rail carriers, there shall be an arrangement as required under subsection (a) of this section, except that such arrangement shall be limited to one year of severance pay, which shall not exceed the amount of earnings from the railroad employment of that employee during the 12-month period immediately preceding the date on which the application for approval of such transaction is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of that employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction. The parties may agree to terms other than as provided in this subsection.

(c) When approval is sought under sections 11324 and 11325 for a transaction involving only Class III rail carriers, this section shall not apply.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 842.)

REFERENCES IN TEXT

Section 5(2)(f) of the Interstate Commerce Act, referred to in subsec. (a), was classified to section 5(2)(f) of former Title 49, Transportation, prior to repeal and reenactment as section 11347 of this title by Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439. Section 11347 of this title was subsequently omitted in the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Section 24706(c) of this title, referred to in subsec. (a), was repealed by Pub. L. 105–134, title I, § 142(a), Dec. 2, 1997, 111 Stat. 2576.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11347 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 11327. Supplemental orders

When cause exists, the Board may make appropriate orders supplemental to an order made in a proceeding under sections 11322 through 11326 of this title.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11351 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 11328. Restrictions on officers and directors

(a) A person may hold the position of officer or director of more than one rail carrier only when authorized by the Board. The Board may authorize a person to hold the position of officer or director of more than one of those carriers when public or private interests will not be adversely affected.

(b) This section shall not apply to an individual holding the position of officer or director only of Class III rail carriers.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11322 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Prior sections 11341 to 11351 and 11361 to 11367 were omitted in the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Section 11341, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 97–261, § 21(a), Sept. 20, 1982, 96 Stat. 1122, related to exclusive authority of Interstate Commerce Commission under former sections 11341 to 11351 of this title. See sections 11321, 14302, and 14303 of this title.

Section 11342, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 96–296, § 20, July 1, 1980, 94 Stat. 811; Pub. L. 96–454, § 5(c), Oct. 15, 1980, 94 Stat. 2014, related to limitation on pooling and division of transportation or earnings. See sections 11322 and 14302 of this title.

Section 11343, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 96–296, § 18(b), July 1, 1980, 94 Stat. 811; Pub. L. 97–261, § 21(b), Sept. 20, 1982, 96 Stat. 1122, related to consolidation, merger, and acquisition of control. See sections 11323 and 14303 of this title.

[1] See References in Text note below.

Section 11344, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1436; Pub. L. 96–448, title II, § 228(a)–(c), Oct. 14, 1980, 94 Stat. 1931; Pub. L. 97–261, § 21(f), (g), Sept. 20, 1982, 96 Stat. 1123; Pub. L. 98–216, § 2(4), Feb. 14, 1984, 98 Stat. 5, related to general procedures and conditions of approval of consolidations, mergers, and acquisitions of control. See sections 11324 and 14303 of this title.

Section 11345, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1436; Pub. L. 96–448, title II, § 228(d), Oct. 14, 1980, 94 Stat. 1932, related to rail carrier procedures in consolidations, mergers, and acquisitions of control. See section 11325 of this title.

Section 11345a, added Pub. L. 96–296, § 27(a), July 1, 1980, 94 Stat. 819; amended Pub. L. 97–261, § 21(c), (d), Sept. 20, 1982, 96 Stat. 1123, related to motor carrier procedures in consolidations, mergers, and acquisitions of control. See section 14303 of this title.

Section 11346, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1437; Pub. L. 97–449, § 5(g)(7), Jan. 12, 1983, 96 Stat. 2443, related to expedited rail carrier procedures in consolidations, mergers, and acquisitions of control.

Section 11347, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439; Pub. L. 98–216, § 2(16), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, § 5(m)(31), July 5, 1994, 108 Stat. 1378, related to employee protective arrangements in transactions involving rail carriers. See section 11326 of this title.

Section 11348, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439; Pub. L. 96–454, § 8(b)(1), Oct. 15, 1980, 94 Stat. 2021; Pub. L. 97–261, § 19(b), Sept. 20, 1982, 96 Stat. 1121; Pub. L. 97–449, § 5(g)(8), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–554, title II, § 227(a)(3), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 103–272, § 5(m)(32), July 5, 1994, 108 Stat. 1378; Pub. L. 103–429, § 6(17), Oct. 31, 1994, 108 Stat. 4379, related to Interstate Commerce Commission authority over noncarriers that acquire control of carriers. See section 14303 of this title.

Section 11349, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439, related to temporary operating approval for transactions involving motor and water carriers. See section 14303 of this title.

Section 11350, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1440, related to responsibility of Secretary of Transportation in certain transactions.

Section 11351, added Pub. L. 96–258, § 1(13)(A), June 3, 1980, 94 Stat. 427, related to orders by Interstate Commerce Commission supplemental to orders made in proceedings under former sections 11342 to 11345 and 11347 of this title. See sections 11327 and 14303 of this title.

Section 11361, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1441; Pub. L. 97–449, § 5(g)(9), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–216, § 2(17), Feb. 14, 1984, 98 Stat. 5, related to exclusive authority of Interstate Commerce Commission over financial structure of carriers.

Section 11362, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1441, related to criteria for approval and authority to make changes in carrier financial structure.

Section 11363, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1442, related to assent of holders of securities and certain other instruments to changes in carrier financial structure.

Section 11364, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to procedure for obtaining assents of security holders to changes in financial structure.

Section 11365, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to effect of change in financial structure of carrier on other persons.

Section 11366, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to reports by carriers making change in financial structure.

Section 11367, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1444; Pub. L. 98–216, § 2(18), (19), Feb. 14, 1984, 98 Stat. 5, related to application of certain other laws to proposed changes in financial structure of carriers.

CHAPTER 115—FEDERAL-STATE RELATIONS

Sec.
11501. Tax discrimination against rail transportation property.
11502. Withholding State and local income tax by rail carriers.

§ 11501. Tax discrimination against rail transportation property

(a) In this section—

(1) the term ''assessment'' means valuation for a property tax levied by a taxing district;

(2) the term ''assessment jurisdiction'' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

(3) the term ''rail transportation property'' means property, as defined by the Board, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Board under this part; and

(4) the term ''commercial and industrial property'' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—