

Public Law 102-29
102d Congress

Joint Resolution

To provide for a settlement of the railroad labor-management disputes between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees.

Apr. 18, 1991
[H.J. Res. 222]

Whereas the labor disputes between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference 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 Order No. 12714 of May 3, 1990, created Presidential Emergency Board No. 219 to investigate the disputes and report findings;

Whereas the recommendations of Presidential Emergency Board No. 219 issued on January 15, 1991, have formed the basis for tentative agreements between some, but not all, of the parties to the disputes;

Whereas the recommendations of Presidential Emergency Board No. 219 issued on January 15, 1991, have not resulted in a settlement of all the disputes;

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 the Congress finds that emergency measures are essential to national 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 the disputes referred to in Executive Order No. 12714 of May 3, 1990, between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and the employees of such railroads represented by the labor organizations which are party to such disputes:

- (1) The parties to such disputes shall take all necessary steps to restore or preserve the conditions out of which such disputes

arose as such conditions existed before 12:01 a.m. on April 17, 1991, 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 the disputes referred to in Executive Order No. 12714 of May 3, 1990, so that no change shall be made before the expiration of the period described in section 3(e) of this joint resolution by such parties, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on April 17, 1991.

(3) Except as provided in sections 3 and 4 of this joint resolution, the report and recommendations of Presidential Emergency Board No. 219 shall be binding on the parties upon the expiration of the period described in section 3(e) of this joint resolution, and shall 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.).

SEC. 2. APPOINTMENT OF SPECIAL BOARD.

President.

The President shall promptly appoint a 3-member Special Board. One member of the Special Board shall be an individual who was a member of Presidential Emergency Board No. 219. The remaining 2 members shall be appointed by the President from a list of arbitrators compiled by the National Mediation Board. No member appointed to such Special Board shall be pecuniarily or otherwise interested in any organization of employees or any railroad. The compensation of the members of the Special Board 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 the Special Board appointed under this subsection as if such Special Board were a board created under such section 10.

SEC. 3. RESOLUTION OF ISSUES IN DISAGREEMENT.

(a) **REQUESTS FOR CLARIFICATION OR INTERPRETATION OF AMBIGUITIES.**—Within 5 days after the Special Board is appointed under section 2, any party to the disputes referred to in Executive Order No. 12714 of May 3, 1990, may request the Special Board to clarify or interpret any ambiguities in the recommendations of Presidential Emergency Board No. 219.

(b) **CLARIFICATION AND INTERPRETATION REPORT.**—Within 15 days after the Special Board is appointed under section 2, the Special Board shall issue a report addressing requests made under subsection (a).

(c) **REQUESTS FOR MODIFICATION.**—Within 10 days after the Special Board issues its report under subsection (b), any party to the disputes referred to in Executive Order No. 12714 of May 3, 1990, may request the Special Board to modify any specific recommendation of Presidential Emergency Board No. 219 with respect to any issue on which the parties remain in disagreement. Issues on which Presidential Emergency Board No. 219 made no specific recommendation shall not be subject to consideration by the Special Board.

(d) **PROCEDURE AND DETERMINATION.**—The Special Board shall conduct such proceedings as it considers necessary to review requests made under subsection (c). In making a determination under this subsection, the Special Board shall accord a presumption of validity to the recommendations of Presidential Emergency Board

No. 219. The party requesting a modification of a particular Presidential Emergency Board recommendation shall bear the burden of persuasion with respect to the modification of such recommendation. In order to overcome such presumption of validity, the party requesting a modification must show that the Presidential Emergency Board recommendation is demonstrably inequitable or was based on a material error or material misunderstanding. No later than 30 days after the 10-day period described in subsection (c), the Special Board shall complete its review and issue a final determination on all requests made under subsection (c), modifying in whole or in part the recommendation of Presidential Emergency Board No. 219 as to which the request was made, or denying such request.

(e) EFFECT OF DETERMINATION.—Upon the expiration of 10 days after the issuance of the determination of the Special Board under subsection (d), such determination shall be binding on the parties and shall 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.).

(f) CLARIFICATION OF DETERMINATION.—In the event of disagreement as to the meaning of any part or all of the determination by the Special Board under subsection (d), or as to the terms of the detailed agreements or arrangements necessary to give effect thereto, any party may, by December 31, 1991, apply to the Special Board for clarification of its determination, whereupon the Special Board shall reconvene and shall promptly issue a further determination with respect to the matters raised by any application for clarification. Such further determination may, in the discretion of the Special Board, be made with or without a further hearing.

(g) PRECLUSION OF JUDICIAL REVIEW.—There shall be no judicial review of any report or determination of the Special Board under this section.

SEC. 4. MUTUAL AGREEMENTS PRESERVED.

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

Approved April 18, 1991.

LEGISLATIVE HISTORY—H.J. Res. 222:

CONGRESSIONAL RECORD, Vol. 137 (1991):

Apr. 17, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):

Apr. 18, Presidential statement.