

**(d) Public hearing by National Mediation Board upon failure of emergency board to effectuate settlement of dispute**

Within 60 days after the creation of an emergency board under this section, if there has been no settlement between the parties, the National Mediation Board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony setting forth the reasons it has not accepted the recommendations of the emergency board for settlement of the dispute.

**(e) Establishment of second emergency board**

If no settlement in the dispute is reached at the end of the 120-day period beginning on the date of the creation of the emergency board, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish another emergency board, in which case the President shall establish such emergency board.

**(f) Submission of final offers to second emergency board by parties**

Within 30 days after creation of a board under subsection (e), the parties to the dispute shall submit to the board final offers for settlement of the dispute.

**(g) Report of second emergency board**

Within 30 days after the submission of final offers under subsection (f), the emergency board shall submit a report to the President setting forth its selection of the most reasonable offer.

**(h) Maintenance of status quo during dispute period**

From the time a request to establish a board is made under subsection (e) until 60 days after such board makes its report under subsection (g), no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

**(i) Work stoppages by employees subsequent to carrier offer selected; eligibility of employees for benefits**

If the emergency board selects the final offer submitted by the carrier and, after the expiration of the 60-day period described in subsection (h), the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.].

**(j) Work stoppages by employees subsequent to employees offer selected; eligibility of employer for benefits**

If the emergency board selects the final offer submitted by the employees and, after the expiration of the 60-day period described in subsection (h), the carrier refuses to accept the final offer submitted by the employees and the employees of such carrier engage in any work stoppage arising out of the dispute, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.

(May 20, 1926, ch. 347, §9A, as added Pub. L. 97-35, title XI, §1157, Aug. 13, 1981, 95 Stat. 681.)

**Editorial Notes**

REFERENCES IN TEXT

Section 590(h) of this title, referred to in subsec. (a), was repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.

The Railroad Unemployment Insurance Act, referred to in subsec. (i), is act June 25, 1938, ch. 680, 52 Stat. 1094, which is classified principally to chapter 11 (§351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as a note under section 1101 of this title.

**§ 160. Emergency board**

If a dispute between a carrier and its employees be not adjusted under the foregoing provisions of this chapter and should, in the judgment of the Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, the Mediation Board shall notify the President, who may thereupon, in his discretion, create a board to investigate and report respecting such dispute. Such board shall be composed of such number of persons as to the President may seem desirable: *Provided, however,* That no member appointed shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of the members of any such board shall be fixed by the President. Such board shall be created separately in each instance and it shall investigate promptly the facts as to the dispute and make a report thereon to the President within thirty days from the date of its creation.

There is authorized to be appropriated such sums as may be necessary for the expenses of such board, including the compensation and the necessary traveling expenses and expenses actually incurred for subsistence, of the members of the board. All expenditures of the board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

After the creation of such board and for thirty days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose.

(May 20, 1926, ch. 347, §10, 44 Stat. 586; June 21, 1934, ch. 691, §7, 48 Stat. 1197.)

**Editorial Notes**

AMENDMENTS

1934—Act June 21, 1934, substituted “Mediation Board” for “Board of Mediation” wherever appearing.

**§ 160a. Rules and regulations**

**(a) In general**

The Mediation Board shall have the authority from time to time to make, amend, and rescind, in the manner prescribed by section 553 of title 5, and after opportunity for a public hearing, such rules and regulations as may be necessary to carry out the provisions of this chapter.

**(b) Application**

The requirements of subsection (a) shall not apply to any rule or proposed rule to which the third sentence of section 553(b) of title 5 applies.

(May 20, 1926, ch. 347, §10A, as added Pub. L. 112-95, title X, §1001, Feb. 14, 2012, 126 Stat. 146.)

**§ 161. Effect of partial invalidity of chapter**

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(May 20, 1926, ch. 347, §11, 44 Stat. 587.)

**Statutory Notes and Related Subsidiaries****SEPARABILITY; REPEAL OF INCONSISTENT PROVISIONS**

Act June 21, 1934, ch. 691, §8, 48 Stat. 1197, provided that: "If any section, subsection, sentence, clause, or phrase of this Act [amending sections 151 to 158, 160, and 162 of this title] is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed."

**§ 162. Authorization of appropriations**

There is authorized to be appropriated such sums as may be necessary for expenditure by the Mediation Board in carrying out the provisions of this chapter.

(May 20, 1926, ch. 347, §12, 44 Stat. 587; June 21, 1934, ch. 691, §7, 48 Stat. 1197.)

**Editorial Notes****AMENDMENTS**

1934—Act June 21, 1934, substituted "Mediation Board" for "Board of Mediation".

**§ 163. Repeal of prior legislation; exception**

Chapters 6 and 7 of this title, providing for mediation, conciliation, and arbitration, and all Acts and parts of Acts in conflict with the provisions of this chapter are repealed, except that the members, secretary, officers, employees, and agents of the Railroad Labor Board, in office on May 20, 1926, shall receive their salaries for a period of 30 days from such date, in the same manner as though this chapter had not been passed.

(May 20, 1926, ch. 347, §14, 44 Stat. 587.)

**Editorial Notes****REFERENCES IN TEXT**

Chapters 6 and 7 of this title, referred to in text, were in the original references to the act of July 15, 1913, and title III of the Transportation Act, 1920, respectively.

**§ 164. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111**

Section, act Feb. 11, 1927, ch. 104, §1, 44 Stat. 1072, related to advertisements for proposals for purchases or services rendered for Board of Mediation, including arbitration boards.

**§ 165. Evaluation and audit of Mediation Board****(a) Evaluation and audit of Mediation Board****(1) In general**

In order to promote economy, efficiency, and effectiveness in the administration of the programs, operations, and activities of the Mediation Board, the Comptroller General of the United States shall evaluate and audit the programs and expenditures of the Mediation Board. Such an evaluation and audit shall be conducted not less frequently than every 2 years, but may be conducted as determined necessary by the Comptroller General or the appropriate congressional committees.

**(2) Responsibility of Comptroller General**

In carrying out the evaluation and audit required under paragraph (1), the Comptroller General shall evaluate and audit the programs, operations, and activities of the Mediation Board, including, at a minimum—

(A) information management and security, including privacy protection of personally identifiable information;

(B) resource management;

(C) workforce development;

(D) procurement and contracting planning, practices, and policies;

(E) the extent to which the Mediation Board follows leading practices in selected management areas; and

(F) the processes the Mediation Board follows to address challenges in—

(i) initial investigations of applications requesting that an organization or individual be certified as the representative of any craft or class of employees;

(ii) determining and certifying representatives of employees; and

(iii) ensuring that the process occurs without interference, influence, or coercion.

**(b) Immediate review of certification procedures**

Not later than 180 days after February 14, 2012, the Comptroller General shall review the processes applied by the Mediation Board to certify or decertify representation of employees by a labor organization and make recommendations to the Board and appropriate congressional committees regarding actions that may be taken by the Board or Congress to ensure that the processes are fair and reasonable for all parties. Such review shall be conducted separately from any evaluation and audit under subsection (a) and shall include, at a minimum—

(1) an evaluation of the existing processes and changes to such processes that have occurred since the establishment of the Mediation Board and whether those changes are consistent with congressional intent; and

(2) a description of the extent to which such processes are consistent with similar processes applied to other Federal or State agencies with jurisdiction over labor relations, and an evaluation of any justifications for any discrepancies between the processes of the Mediation Board and such similar Federal or State processes.

**(c) Appropriate congressional committee defined**

In this section, the term "appropriate congressional committees" means the Committee on