



SURFACE TRANSPORTATION BOARD REAUTHORIZATION ACT OF 2015, S. 808
Introduced by Chairman John Thune (R-SD) & Ranking Member Bill Nelson (D-FL)

Received in the U.S. House of Representatives
June 23, 2015

U.S. Senate
Approved by Unanimous Consent
June 18, 2015

Senate, Commerce, Science and Transportation Committee
Approved by Voice Vote (No Amendments)
March 2, 2015

Senate Report 114 - 52

Section	Description	FRCA Position
One: Title	Surface Transportation Board Reauthorization Act of 2015.	N/A
Two: U.S. Code References	Clarifies changes made to Title 49 of the U.S. Code.	N/A
Three: Independent Agency	<p>Amends administrative provisions clarifying STB's role as an independent body.</p> <p>Requires that submissions or transmissions of budgetary or legislative matters be submitted concurrently to the President/Office of Management and Budget and the U.S. Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee.</p> <p>Repeals a requirement that DOT provide administrative support to the STB (Surface</p>	<p>Support</p> <p>Support</p> <p>Support</p>



	Transportation Board).	
Four: Board Membership	Increases the size of the STB board from three to five members.	Support
Five: Nonpublic Collaboration	Allows for limited instances in which a majority of Board members can communicate without requiring a full public meeting. During such communications, no vote may be taken, the STB General Counsel must be present, and only Board members or staff may attend.	Support
	Requires STB to disclose meeting topics and participants within two business days of the meeting, unless the discussion relates to an ongoing proceeding, in which case the disclosure must be made on the date of the final Board decision.	Support
	Requires the STB to provide a summary with as much general information as possible on any sensitive matter withheld from the public based on current law.	Support
Six: Reports – STB Annual Activities	Requires the STB to: <ul style="list-style-type: none"> - Submit an annual report on its activities, including each instance where it initiates an investigation on its own initiative. - Post on its public website a quarterly report of rail rate review cases pending or completed by the STB during the previous quarter. To help with compliance monitoring of the rate case procedures in section 11 of this Act, such a report must include summary information and key dates involved in the case. - Post on its public website a quarterly report formal and informal service complaints received by the STB during the previous quarter. The database must include the type, geographic origin, and resolution of each 	Support



	complaint.	
Seven: Authorizations	Provides a five-year authorization, FY 2015 – FY 2019, at these levels: \$33m, \$35m, \$33.5m, and \$36m, respectfully.	<p>Support</p> <p>Comment: Support additional annual appropriations, as required, to help STB adequately perform expanded functions and to support two additional Board Members.</p>
Eight: Rail Carrier Agent	Allows a rail carrier’s agent to be located outside Washington, DC.	N/A
Nine: Inspector General Authority	<p>Authorizes U.S. DOT Office of Inspector General (OIG) to review financial management, property management, and business operations of the STB.</p> <p>Requires U.S. DOT OIG to keep the appropriate Congressional committees informed, issue findings and recommendations, and report on STB progress in addressing problems.</p> <p>Allows U.S. DOT OIG use of investigative powers (e.g., subpoenas).</p> <p>Authorizes U.S. DOT to use necessary sums for U.S. DOT OIG activities, and authorizes reimbursable agreements.</p>	<p>Support</p> <p>Support</p> <p>Support</p> <p>Support</p>
Ten: Conforming Technical Amendments	Makes conforming technical amendments to the Table of Contents.	N/A
Eleven: Rate Case Procedures	Requires the STB to maintain one or more streamlined processes for rate cases in which the full stand-alone cost presentation is too costly, given the value of the case. This requirement builds on existing work at the STB, and it ensures the simplified reviews are accompanied by	Support



	<p>expedited handling.</p> <p>Sets rate review timelines for full stand-alone cost rate challenges to ensure the STB efficiently decides on relief. Timelines apply to: discovery (150 days); development of evidentiary record (155 days); closing brief (60 days); and final Board decision (180 days). Provides an option for a Board-granted extension upon request or in the interest of due process.</p> <p>Requires the STB to initiate a proceeding to access other procedures, including procedures common in other litigation settings, to help expedite rate cases.</p>	<p>Support</p> <p>Support</p>
<p>Twelve: Investigative Authority</p>	<p>Allows the STB to initiate investigations on its own initiative and sets restrictions on those investigations.</p> <p>For STB-initiated investigations, the STB must: provide 30-day notice to parties under investigation; investigate issues of national or regional significance; permit parties under investigation to file a written statement on the matter subject to investigation; make available to parties under investigation and Board members any recommendations and a summary of findings; dismiss any investigation that is not concluded by the STB with administrative finality within in 1 year after the date on which it was commenced; requires the STB to separate investigating and decision-making functions of staff to the maximum extent practicable; and, within 90 days of receiving findings or recommendations, dismiss an investigation or initiate a proceeding to determine whether a violation has occurred.</p> <p>For STB-initiated investigations, if the Board determines a violation has occurred, this section allows for de novo review of the Board's order and provides authority for the United States court of appeals to affirm, modify, or set aside whole or part of the order or remand the proceeding. This section also limits any Board-ordered remedies to be prospective-only. Requires, not later than 1 year after the date of enactment of this act, the STB to issue rules for the investigations that it initiates.</p>	<p>Support</p> <p>Support</p> <p>Support</p>
<p>Thirteen: Arbitration</p>	<p>Expands existing work at the STB to encourage and provide arbitration for dispute resolution.</p>	<p>Support</p>



	<p>Requires, not later than 1 year after the enactment of this Act, the STB to promulgate regulations establishing a voluntary and binding arbitration process for rate and practice issues. Among other issues, this arbitration process would apply to rates, charges, rules, and practices, but it would not apply to labor protective conditions, issues of industry-wide applicability, certain license issues, and disputes solely between two or more carriers. Requires arbitration process only to be commenced when relevant parties opt-in. The process is available only if the rail carrier has market dominance.</p> <p>Sets forth terms that require any arbitration decision shall: be consistent with sound principles of rail regulation economics; be in writing; contain findings of fact and conclusions; bind the parties; and not have any precedential effect.</p> <p>Limits the STB from separately reviewing cases, and it requires that arbitrators give due consideration to certain rail rate regulation issues.</p> <p>Specifies timelines for the: arbitrator selection (14 days after initiation); evidentiary process (90 days); and decision (30 days after evidentiary record closes). It allows certain discretionary extensions.</p> <p>Sets a selection process for arbitrators and establishes equal sharing for the cost of the arbitrators, but not other associated arbitration costs.</p> <p>Caps relief at \$2 million for practice disputes and \$25 million for rate dispute damages.</p> <p>Limits rate prescription from arbitration to not longer than five years from the date of the decision.</p> <p>The Board can only review an arbitration decision if it does not comply with statute, the relief award cap,</p>	<p>Support</p> <p>Support</p> <p>Support</p> <p>Support</p> <p>Support</p> <p>Support</p> <p>Support</p> <p>Support</p> <p>Support</p> <p>Comments: Supports</p>
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	or sound principles of rail regulation economics.	binding arbitration in certain circumstances.
Fourteen: Government Accountability Office Study	Requires, within 90 days of the date of the enactment of this Act, for the U.S. Government Accountability Office to commence a study of rail transportation contract proposals containing multiple origin-to-destinations movements and to report results to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure.	Support
Fifteen: Reports – STB Unfinished Regulatory Proceedings	Requires the STB to provide, within 60 days of enactment of this Act, quarterly reports to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure that describes the STB's progress toward addressing the issues raised in unfinished regulatory proceedings.	Support
Sixteen: Revenue Adequacy Procedures	Clarifies standards and procedures establishing revenue levels for all carriers factor in the infrastructure and investment needed to meet the present and future demand for rail services.	Oppose Comment: Section is unnecessary. Could encourage STB to use replacement cost methodology when evaluating revenue adequacy. Report language does not clarify the statutory language or Congressional intent.
Seventeen: Applicability to Pending Cases	Clarifies that nothing in the Act affects any cases being considered by the STB at the time of enactment.	Support
Silent on Issue	Sense of the Senate Language stating that, as a part of Docket No. 722, the STB should:	Support



	<ul style="list-style-type: none">- Consider the costs and benefits of the annual determinations of revenue adequacy for Class I railroads.- Review the methodology employed to define the business cycle in its annual determination of revenue adequacy and consider undertaking, if necessary, a rulemaking to define the business cycle.	<p>Comment: STB held a hearing on Docket No. 722 in July 2015. Included in the <i>STB Reauthorization Act of 2014</i>.</p>
Silent on Issue	<p>Sense of the Senate Language stating that, as a part of Docket No 711, the STB should:</p> <ul style="list-style-type: none">- Consider if a rule making proceeding on mandatory competitive switching is needed to ensure a viable competitive national rail system.- Ensure that such rulemaking is completed in as timely a manner as possible.	<p>Support</p> <p>Comment: Included in the <i>STB Reauthorization Act of 2014</i>.</p>