



## **H.R. 2095 – Federal Railroad Safety Improvement Act of 2007**

### **EXECUTIVE SUMMARY**

H.R. 2095 was introduced by Representative James Oberstar (D-MN) on May 1, 2007. The bill was ordered to be reported as amended from the Committee on Transportation, by voice vote, on September 19, 2007. H.R. 2095 is expected to be considered on the floor pursuant to a structured rule on October 17, 2007.

The bill reauthorizes the federal rail safety program for four years, and it reorganizes and renames the Federal Railroad Administration as the Federal Railroad Safety Administration (FRSA). H.R. 2095 also makes several changes to hours of service requirements for railroad employees.

The Administration “strongly opposes H.R. 2095 in its current form” because it has concerns with several provisions of the bill, including that it encourages “disruptive litigation” and that it contains “unnecessary rulemaking mandates.”

The Congressional Budget Office (CBO) estimates that enacting H.R. 2095 would cost \$176 million in 2008, \$1.1 billion over 2008 to 2012, and \$80 million after 2012.

### **FLOOR SITUATION**

H.R. 2095 is being considered on the floor pursuant to a structured rule. The rule:

- Waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI.
- Provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.
- Waives all points of order against the committee amendment in the nature of a substitute except those arising under clause 10 of rule XXI. This waiver does not

affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

- Makes in order only those amendments printed in the Rules Committee report accompanying the resolution.
- Provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.
- Waives all points of order against the amendments printed in the report except for those arising under clause 9 or 10 of rule XXI.
- Provides one motion to recommit H.R. 2095 with or without instructions.

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## **BACKGROUND**

The Federal Railroad Administration (FRA) was created by Congress in 1966 to enforce rail safety regulations, administer railroad assistance programs, improve rail safety, and consolidate government support of rail transportation activities.

In May 2005, the FRA implemented a new safety action plan that targets the most frequent causes of train accidents, uses oversight and inspection resources more efficiently, and increases research that could mitigate the greatest risks.

According to the FRA, there were 2,835 train accidents during 2006, 336 less than 2005. Human factors and track defects are the most common cause of train accidents.

The FRA was funded at \$1.478 billion in FY 2007, which included \$1.294 billion for Amtrak.

*\*Note: The FRA was last reauthorized in 1994, an authorization that expired in 1998, but Congress has continued to fund the FRA each year.*

The Administration proposed FRA reauthorization legislation, the Federal Railroad Safety Accountability and Improvement Act (H.R. 1516) which was introduced by

Representative James Oberstar (D-MN) on March 15, 2007. However, no action has been taken on H.R. 1516.

## **SUMMARY**

H.R. 2095 reorganizes the FRA as the Federal Railroad Safety Administration (FRSA) within the Department of Transportation.

This legislation makes several changes to hours of service requirements for railroad employees. It phases down “limbo time” over three years. Limbo time is the period when locomotive crews have finished their shift dictated by hours of service laws, but have not arrived at the location where they can be released from duty.

*\*Note: On the East Coast, limbo time is limited because of the relatively short distance of runs. In the West, the runs are longer and the wait can be several hours.*

Under this legislation, signal and train employees would be given additional hours of rest and mandatory days off. In addition, this legislation clarifies the rules for Signalmen so routine repairs are not classified as emergencies.

H.R. 2095 requires railroads to file fatigue plans with the Federal Railroad Administration (FRA), which has new regulatory authority over fatigue management.

H.R. 2095 bans the use of camp cars, converted rail cars used to house track repair workers overnight, and requires these workers to stay in motels.

This legislation increases civil penalties for gross negligence from \$20,000 to \$100,000 and creates new penalties for impeding safety investigations.

H.R. 2095 also mandates the installation of Positive Train Control (PTC), a system that automatically controls train speed and movement, by December 31, 2014.

*\*Note: According to the SAP, the Administration is against setting a deadline for installation of PTC and believes that the technology should be deployed as it becomes market-ready. In addition, CBO estimates that the private sector cost to comply with the safety mandates in the bill would exceed the annual threshold set by the Unfunded Mandates Reform Act.*

H.R. 2095 provides for FRA certification of train conductors and carmen (workers who fix railcars).

*\*Note: Union members in certified crafts receive more compensation than those who are not certified.*

This legislation provides up to \$250,000 per crossing for emergency improvements after a collision with a school bus or collision involving three or more serious bodily injuries or fatalities.

The Passenger Rail Family Disaster Assistance Act is also included in H.R. 2095. This provision places the National Transportation Safety Board in charge of passenger train accidents. This provision passed the House as a stand alone bill during the 108<sup>th</sup> Congress – the Senate has never acted on this provision.

H.R. 2095 contains the following provisions which were both included in the Implementing Recommendations of the 9/11 Commission Act of 2007 (H.R. 1), which was signed into law (P.L. 110-53) on August 3, 2007:

- The enactment of H.R. 1 ensures that plaintiffs injured by a rail accident can file lawsuits for violation of federal rail safety law.
- H.R. 1 includes whistleblower protections for railroad employees.

*\*Note: The amendment offered by Rep. Oberstar removes these two provisions from H.R. 2095.*

## **AMENDMENTS**

*(Below are the summaries of the amendments that were made in order by the Rules Committee and may be offered on the floor of the House of Representatives)*

- 1) Rep. Oberstar (D-MN): The amendment requires the Federal Railroad Safety Administration to issue regulations requiring owners of track carried on one or more railroad bridges to adopt safety practices to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's transportation system that would result from a catastrophic bridge failure. The amendment also strikes Sections 301, 610, and 616 of the reported bill because these sections were enacted in Public Law 110-53, the "Implementing Recommendations of the 9/11 Commission Act of 2007". The amendment would also require the Secretary to consider additional criteria regarding communities when reviewing applications for a waiver or exemption from sounding locomotive horns at highway-rail grade crossings.
- 2) Rep. Napolitano (D-CA): The amendment prohibits mechanical and brake inspections performed in Mexico of rail cars entering the United States from satisfying U.S. rail safety laws unless inspection standards, enforcement standards, and worker training are certified to meet those of the United States. It prohibits hazardous material inspections performed in from satisfying applicable rail safety laws and regulations.
- 3) Reps. Pallone (D-NJ)/Murphy, Patrick (D-PA): The amendment allows state and local authorities to regulate solid waste management facilities. This amendment

would state that the Surface Transportation Board does not have exclusive authority to preempt state and local regulation of solid waste management facilities, as defined in the amendment.

- 4) Rep. Rohrabacher (R-CA): This amendment authorizes funds to the Secretary to design and develop a pilot electric cargo conveyor system for the transportation of containers from ports to depots outside of urban areas.

### **COST**

The Congressional Budget Office (CBO) estimates that enacting H.R. 2095 would cost \$176 million in 2008, \$1.1 billion over 2008 to 2012, and \$80 million after 2012. CBO also states that “enacting H.R. 2095 could increase direct spending, but CBO estimates that any increases in direct spending would be insignificant.”

In addition, CBO estimates that the government would collect additional penalties of \$6 million a year for each of the next ten years.

[CBO Estimate: H.R. 2095](#)

### **ADDITIONAL VIEWS**

The Administration “strongly opposes H.R. 2095 in its current form” because it has concerns with several provisions of the bill, including that it encourages “disruptive litigation” and that it contains “unnecessary rulemaking mandates.” ([Statement of Administration Policy: H.R. 2095](#), 10/10/2007)

### **STAFF CONTACT**

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