

Calendar No. 235

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
108-112

POSTMASTER EQUITY ACT OF 2003

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 678

TO AMEND CHAPTER 10 OF TITLE 39, UNITED STATES CODE, TO INCLUDE POSTMASTERS AND POSTMASTERS' ORGANIZATIONS IN THE PROCESS FOR THE DEVELOPMENT AND PLANNING OF CERTAIN POLICIES, SCHEDULES, AND PROGRAMS, AND FOR OTHER PURPOSES



JULY 25 (legislative day, JULY 21), 2003.—Ordered to be printed

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Ms. COLLINS, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

[To accompany S. 678]

The Committee on Governmental Affairs, to which was referred the bill (S. 678) to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes, having considered the same reports favorably thereon with an amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The bill would amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs. It would provide to the nation's postmasters the same rights as those afforded to postal supervisors.

II. BACKGROUND

The Postal Reorganization Act of 1970 (PRA),¹ which established the U.S. Postal Service (USPS) as an independent establishment of the executive branch, created a framework for collective bargaining by labor organizations over pay, benefits, and working conditions. In particular, the Act established a process for binding arbitration when the USPS and one or more of its unions could not agree on what constituted “comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy.”²

The PRA also provided that USPS would have “a program for consultation with recognized organizations of supervisory and other managerial personnel who are not subject to the collective-bargaining agreements . . . (and that) such organization or organizations shall be entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs related to supervisory and other managerial employees.”³ The Senate committee report did “not recommend collective bargaining for supervisory personnel, postmasters, or administrative employees in the headquarters or regional offices of the Postal Service,” but did “define ‘participation’ as meaning precisely that—to have share in planning and developing the programs.”⁴

Postmasters are the managers-in-charge of the nation’s individual post offices. There are approximately 27,000 postmasters who are accountable for postal operations and services, including retail postal operations and community relations. Some postmasters manage mail-processing facilities and letter carrier annexes within a particular post office’s jurisdiction. All are responsible for the management and supervision of personnel and postal operations under the authority of a particular post office. Generally, postal supervisors are individuals who supervise employees who process mail and who deliver mail. They may work in plants, post offices, or stations. They may also be mid-level and senior managers in functional areas of the Postal Service, including marketing, finance, human resources and maintenance. The key distinction between a postmaster and a supervisor is that front-line supervisors tend to be supervised by a postmaster at a post office and that the postmaster is the “manager-in-charge” of the post office. These two groups of managers are under the same pay and compensation system, but they discuss these issues separately with the Postal Service.

During the 1970s, while the wages of craft employees were rising under the binding arbitration provisions, the National Association of Postal Supervisors (NAPS) believed their salaries were not keeping pace and that the differential between supervisors and employees was being eroded. NAPS brought three lawsuits against the Postal Service, contending that USPS did not seriously engage with the association on wages and benefits, but simply framed a pro-

¹ Postal Reorganization Act of 1970, Pub. L. No. 91-375.

² 39 U.S.C. 1003.

³ 39 U.S.C. 1004(b).

⁴ Senate Report 91-912, pp. 6-7, as quoted in Legislative History, U.S. Congress, House Committee on Post Office and Civil Service, “Postal Supervisors’ Arbitration,” H. Rept. 96-234, 96th Cong., 1st sess., pp. 3-4.

posal and implemented it after a pro forma consultation.⁵ The United States Court of Appeals for the D.C. Circuit eventually decided in favor of USPS, holding that USPS had broad discretion in setting compensation levels for supervisory and other managerial employees. In addition, the court held that the Postal Service meets its obligation under section 1004(b) of title 39 if it gives NAPS an opportunity to analyze and criticize proposed compensation decisions, and then supplies NAPS with the reasons for rejecting any criticisms.⁶

To address this situation, Congress passed H.R. 827, which became Public Law 96-326 on August 8, 1980. The Act established a fact-finding process for resolving disputes that now constitutes 39 U.S.C. 1004(c). It requires the convening of a fact-finding panel to consider disputes over pay and benefits and to make recommendations to the Postal Service. It does not provide for arbitration of such disputes, nor are the recommendations binding on the Postmaster General. It also limited fact-finding to pay and benefit programs. In the Senate report accompanying H.R. 827, the Committee on Governmental Affairs said that it recognized that many of the supervisors' concerns had merit—particularly with respect to pay increases that lagged behind those achieved by rank and file employees through interest arbitration.⁷ Since passage of H.R. 827, negotiations between NAPS and USPS have been reasonably constructive, and a fact-finding panel has never been convened.

Before enactment of Pub. L. 96-326, postmasters and their management organizations were subject to the same consultation and participation provisions as were postal supervisors. However, with the enactment of this statute, the changes were limited to supervisors. This left postmasters with no avenue to resolve disagreements with Postal Headquarters. The postmasters organizations have found that the inability to seek third-party review of disagreements has limited their ability to have meaningful discussions with Postal Headquarters on issues relating to pay and benefits. In fact, like postal supervisors before them, the lack of fact-finding has precluded a fair pay differential between postmasters and craft employees, as required by law.⁸

There is no reason for postmasters and supervisors to be treated differently with regards to the pay and benefits discussions with the USPS. Both postmasters and supervisors are front line managers who supervise postal employees, and are currently paid under the same compensation schedule. The Committee hopes that enactment of this legislation will encourage postmasters and the USPS to have good faith discussions over pay and benefits, and enhance efforts to recruit and retain postmasters. This is important as there are areas of the country where USPS has had difficulty recruiting qualified individuals to assume the position of postmaster. The lack of qualified postmasters affects the Postal Service's ability to perform its primary mission of delivering the mail to all addresses throughout the United States.

⁵*National Association of Postal Supervisors v. United States Postal Service*, doc. no. 77-1684 (D.C.C.A.), June 14, 1979.

⁶602 F.2d 420 (D.C. Cir. 1979).

⁷U.S. Congress, Senate Committee on Governmental Affairs, report to accompany H.R. 827, S. Rept. 96-856, 96th Cong., 2nd sess., p. 4.

⁸39 U.S.C. § 1004(a).

Without the option of fact-finding, postmasters have only their consultative rights that provide for discussion on compensation and working conditions. As a result, Postal Headquarters can make unilateral decisions on these issues, with or without agreement by the nation's postmasters. S. 678 would extend to the nation's postmasters the rights and options currently enjoyed by postal supervisors in negotiating with Headquarters. Fact-finding, as noted, is a process that allows for an unbiased review of the issues in dispute and the issuance of non-binding recommendations. Without this right, postmasters lack any form of recourse when consultation fails. The bill would also define the term "postmaster" for the first time by noting that a postmaster is an individual who is the manager-in-charge of the operations of a post office, with or without the assistance of subordinate managers or supervisors.

III. LEGISLATIVE HISTORY

S. 678 was introduced by Senator Daniel Akaka and Senator Susan Collins on March 20, 2003, and was referred to the Committee on Governmental Affairs. No hearings were held on S. 678. On June 17, 2003, the Committee met in open session. Senator Akaka offered a substitute amendment to conform the bill to H.R. 2249, the House version of the bill, introduced by Representative John McHugh. The amendment was accepted and the Committee ordered favorably reported the bill S. 678, as amended, by voice vote, a quorum being present. Senators present were Collins, Lieberman, Voinovich, Coleman, Fitzgerald, Sununu, Akaka, Durbin, Carper, Lautenberg, Levin, and Pryor.

IV. REGULATORY IMPACT STATEMENT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the "regulatory impact which would be incurred in carrying out this bill." The Committee has determined that the enactment of this legislation will not have significant regulatory impact.

V. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and with section 403 of the Congressional Budget Act of 1974, 2 U.S.C. § 653, the Committee sets forth the following cost estimate with respect to S. 678 submitted to the Committee by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 24, 2003.

Hon. SUSAN M. COLLINS,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 678, the Postmasters Equity Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 678—Postmasters Equity Act of 2003

S. 678 would afford postmasters of the U.S. Postal Service the same rights as postal supervisors regarding the negotiation of pay, benefits, and other personnel issues. Based on information from the Postal Service about its current treatment of postmasters, CBO estimates that implementing the bill's provisions would lead to an insignificant change in the agency's net cost. (Cash flows of the Postal Service are classified as off-budget.) The legislation would not affect revenues.

S. 678 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VI. SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short title

This Act will be known as the "Postmasters Equity Act of 2003."

Section 2. Postmasters and postmasters' organizations

Amends Section 1004 of Title 39, United States Code, to ensure that postmasters' organizations can engage in fact-finding similar to other supervisory organizations as it relates to the planning and development of pay policies and schedules, fringe benefit programs and other programs. The bill provides that if an agreement cannot be reached on such programs, the postmasters' organization may request the Federal Mediation and Conciliation Service (FMCS) to convene a fact-finding panel. If two postmasters' organizations exist, the two shall be treated as one entity for the purposes of convening the fact-finding panel and shall be jointly and severally liable for the cost of such panel, apart from the portion to be borne by the Postal Service. The FMCS will provide a list of seven individuals recognized as experts in supervisory and managerial pay policies to serve on the fact-finding panel. One member shall be selected by the Postal Service, one by the postmasters' organizations, and the third (the chair of the panel) by the two individuals previously selected. The panel would make recommendations on pay and benefit policies. The Postal Service would then issue its decision on the matter giving full and fair consideration to the panel's recommendations.

The bill defines the term postmaster and postmasters' organization. The postmaster is defined as the manager-in-charge of the operations of the post office while a postmasters' organization is an organization consisting of no less than 20 percent of all individuals employed as postmasters.

The bill also provides that this section will have no effect on the role both postmasters' organizations play on the Thrift Advisory Council as detailed in 5 U.S.C. § 8473(b)(4).

Section 3. Effective date

The Act would take effect 60 days after the date of enactment.

VII. CHANGES IN EXISTING LAW

In compliance with clause 12 of rule XXVI of the Rules of the United States Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 39. POSTAL SERVICE

PART II. PERSONNEL

CHAPTER 10. EMPLOYMENT WITHIN THE POSTAL SERVICE

§ 1004. Supervisory and other managerial organizations

(a) * * *

(b) The Postal Service shall provide a program for consultation with recognized organizations of supervisory and other managerial personnel who are not subject to collective-bargaining agreements under chapter 12 of this title. Upon presentation of evidence satisfactory to the Postal Service that a supervisory organization represents a majority of supervisors, *that an organization (other than an organization representing supervisors) represents at least 20 percent of postmasters, after majority of supervisors*, or that a managerial organization (other than an organization representing [supervisors] *supervisors or postmasters*) represents a substantial percentage of managerial employees, such organization or organizations shall be entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees.

(c) * * *

* * * * *

(h)(1) *In order to ensure that postmasters and postmasters' organizations are afforded the same rights under this section as are afforded to supervisors and the supervisors' organization, subsections (c) through (g) shall be applied with respect to postmasters and postmasters' organizations—*

(A) *by substituting "postmasters' organization" for "supervisors' organization" each place it appears; and*

(B) *if 2 or more postmasters' organizations exist, by treating such organizations as if they constituted a single organization, in accordance with such arrangements as such organizations shall mutually agree to.*

(2) *If 2 or more postmasters' organizations exist, such organizations shall, in the case of any factfinding panel convened at the re-*

quest of such organizations (in accordance with paragraph (1)(B)), be jointly and severally liable for the cost of such panel, apart from the portion to be borne by the Postal Service (as determined under subsection (f)(4)).

[(h)] (i) For purposes of this section—

(1) “supervisors’ organization” means the organization recognized by the Postal Service under subsection (b) of this section as representing a majority of supervisors; **and**

(2) “members of the supervisors’ organization” means employees of the Postal Service who are recognized under an agreement between the Postal Service and the supervisors’ organization as represented by such organization~~[(.)]~~;

(3) “postmaster” means an individual who is the manager in charge of the operations of a post office, with or without the assistance of subordinate managers or supervisors;

(4) “postmasters’ organization” means an organization recognized by the Postal Service under subsection (b) as representing at least 20 percent of postmasters; and

(5) “members of the postmasters’ organization” shall be considered to mean employees of the Postal Service who are recognized under an agreement—

(A) between the Postal Service and the postmasters’ organization as represented by the organization; or

(B) in the circumstance described in subsection (h)(1)(B), between the Postal Service and the postmasters’ organizations (acting in concert) as represented by either or any of the postmasters’ organizations involved.