

four hundred sixty-eight and two-tenths feet; five degrees fifty-eight minutes, five hundred seventy-one and three-tenths feet to the point of beginning.

SEC. 2. This Act shall take effect upon its approval.

Approved, August 29, 1935.

Effective date.

[CHAPTER 811.]

AN ACT

To authorize the transfer of a certain military reservation to the Department of the Interior.

August 29, 1935.
[H. R. 8444.]
[Public, No. 398.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to transfer to the Department of the Interior the mansion site and such portions of the grounds of Belvoir, part of the estate of Lord Fairfax, located within the Belvoir Military Reservation, Virginia, as may be necessary for the restoration and operation of the historic home and grounds for the benefit and inspiration of the people: *Provided,* That upon cessation of such use the premises so transferred shall revert to the jurisdiction of the War Department: *Provided, however,* That nothing in this Act shall be construed as authorizing the transfer of any part of the said reservation which, in the judgment of the Secretary of War, is needed for the proper development, control, or use of the reservation for military purposes: *Provided further,* That upon cessation of such use the premises so transferred shall revert to the jurisdiction of the War Department: *And provided further,* That the transfer authorized by this Act shall not require discontinuance of the operation of the Fort Belvoir Fish Cultural Station, however, its removal and establishment elsewhere on the Belvoir Military Reservation, Virginia, as may be agreed upon by the Secretary of Commerce and the Secretary of War, is hereby authorized.

Belvoir Military Reservation, Va.
Transfer of part of Lord Fairfax estate authorized.

Proviso.

Reverter provision.

Restriction.

Reverter provision.

Fish cultural station.

Approved, August 29, 1935.

[CHAPTER 812.]

AN ACT

To establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes.

August 29, 1935.
[H. R. 8651.]
[Public, No. 399.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroad Retirement Act of 1935.
Vol. 48, p. 1283.

DEFINITIONS

SECTION 1. For the purposes of this Act—

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad, subject to the Interstate Commerce Act, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such "carrier": *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but

Definitions.

"Carrier."

Proviso.
Street, interurban, or suburban electric railway.

shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

"Employee."

(b) The term "employee" means any person (1) who shall be at the enactment hereof or shall have been at any time after the enactment hereof in the service of a carrier, or who shall be at the enactment hereof or shall have been at any time after the enactment hereof in the employment relation to a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative" who before or after the enactment hereof has performed service for a carrier, who at the enactment hereof or at any time after the enactment is or shall be duly designated and authorized to represent employees in accordance with the Railway Labor Act, and who, during, or immediately following employment by a carrier, is, shall be, or shall have been engaged in such representative service in behalf of such employees.

Persons deemed in service of carrier.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing authority to supervise and direct the manner of rendition of his service, for which service he receives compensation.

Persons in employment relation.

(d) A person is in the employment relation to a carrier when furloughed or on leave of absence, and subject to call for service and ready and willing to serve, all in accordance with the established rules and practices usually in effect on railroads.

"Service period."

(e) The term "service period" means the total service of a person for one or more carriers whether or not continuously performed either before or after the effective date, and includes as one month every calendar month during which such person has rendered service to a carrier for compensation and includes as one year every twelve such months. An ultimate fraction of six months or more shall be computed as one year.

"Annuity."

(f) The term "annuity" means a fixed sum payable at the beginning of each month during retirement, ceasing at death except as otherwise provided in section 5 hereof or at resumption of service for which an employee receives compensation.

"Compensation."

(g) The term "compensation" means any form of money remuneration for service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, pensions, or other form of relief.

"Retirement."

(h) The term "retirement" means the status of cessation of compensated service with the right to receive an annuity.

"Age."

(i) The term "age" means age at the latest attained birthday.

"Board."

(j) The term "Board" means the Railroad Retirement Board.

"Effective date."

(k) The term "effective date" means the 1st day of March 1936.

"Enactment."

(l) The term "enactment" means the date on which this Act shall become a law.

Retirement.

RETIREMENT

Annuity of employee continued in service after attaining age of sixty-five.

SEC. 2. Upon the attainment of sixty-five years of age and continuance in service by the employee (but not before the effective date of this Act), the annuity of such employee shall be reduced one-fifteenth for every year of such continued service beyond the age of sixty-five years; except that such reduction shall not apply during any period, beginning at the age of sixty-five and not extending beyond the age of seventy, while the employee is continued in employment under an agreement in writing between the carrier and

Exception.

employee filed with the Board, which agreement may provide for extension of employment for one year and thereafter in like manner for successive periods of one year each. Such reduction of annuity shall not apply to an employee who occupies an official position in the service of a carrier or to employees' representatives.

Employees in official positions.

ANNUITIES

Annuities.

SEC. 3. The following-described employees, after retirement whether or not then in the service of a carrier, shall be paid annuities:

Classes of persons to whom paid.
Post, p. 1178.

(a) A person (without regard to the period of service and whether rendered before or after the enactment hereof), who either at the enactment hereof or thereafter shall be sixty-five years of age or over.

When attaining sixty-five years.

(b) A person who either at the enactment hereof or who thereafter shall be fifty years of age or over and who shall have completed a service period of thirty years. An annuity paid under this subdivision shall be reduced by one-fifteenth of such annuity for each year such employee may be less than sixty-five years of age at the time of the first annuity payment.

When attaining fifty years and completing thirty years' service.
Reduction.

(c) A person who either before or after the enactment shall have completed a service period of thirty years and who shall be after the enactment hereof retired by the carrier on account of mental or physical disability. An annuity paid under this subdivision shall not be subject to the deduction specified in subdivision (b) of this section.

When having completed thirty years' service and retired because of mental or physical disability.
No reduction.

The annuities hereinbefore mentioned shall be paid out of any money in the Treasury which may be appropriated for that purpose. An annuity shall begin as of a date to be specified in a written application to be signed by the employee entitled thereto, and approved by the Board, which date shall not be more than sixty days before the filing of the application, nor before the date on which the first annuity shall have become due and payable. An annuity shall not be due and payable until ninety days after the effective date hereof. The annuity shall be payable on the 1st day of the month during the lifetime of the annuitant. Such annuity shall be based upon the service period of the employee and shall be the sum of the amounts determined by multiplying the total number of years of service not exceeding thirty years by the following percentages of the monthly compensation: 2 per centum of the first \$50; 1½ per centum of the next \$100; and 1 per centum of the compensation in excess of \$150. The "monthly compensation" shall be the average of the monthly compensation paid to the employee by the carrier, except that where applicable for service before the effective date the monthly compensation shall be the average of the monthly compensation for all pay-roll periods for which the employee shall have received compensation from any carrier out of eight consecutive calendar years of such services ended December 31, 1931. No part of any monthly compensation in excess of \$300 shall be recognized in determining any annuity. Any employee who shall be entitled to an annuity with a commuted value determined by the Board of less than \$300 shall be paid such value in a lump sum.

Payment.

Date annuity to begin.

Monthly payments.

Computation of amounts.

"Monthly compensation" construed.

Restriction.

Lump sum payments.

Annuities to representatives.

Determination of.

ANNUITIES TO REPRESENTATIVES

SEC. 4. The annuity of a representative shall be determined according to such rules and regulations as the Board shall deem just and reasonable and, as near as may be, shall be the same annuity as if the representative were still in the employ of his last former carrier.

Payments upon death.

PAYMENTS UPON DEATH

Amount to widow or next of kin.

SEC. 5. If a person receiving or entitled to receive an annuity shall die, the Board, for one year after the first day of the month in which the death may have occurred, shall pay, as herein provided, an annuity equal to one-half of the annuity which such person so dying may have received or may have been entitled to receive, to the widow or widower of the deceased, or if there be no widow or widower, to the dependent next of kin of the deceased. Any employee may elect, on making application for an annuity, to have the present value of the annuity apply to the payment of a reduced annuity to the employee during life and an annuity during the life of a surviving spouse. The present values and amounts of the annuity payments shall be determined on the basis of the combined annuity tables with interest at 3 per centum per annum.

Election of employee respecting payments.

Determination of present values and amounts.

Retirement Board.

RETIREMENT BOARD

Personnel.

PERSONNEL

Establishment of Board. Post, pp. 1112, 1178, 1603.

Appointment; number. Terms of office.

Vacancies.

SEC. 6. (a) There is hereby established as an independent agency in the executive branch of the Government a Railroad Retirement Board, to be composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and the terms of office of the members first taking office after the date of enactment of this Act shall expire, as designated by the President, one at the end of two years, one at the end of three years, and one at the end of four years, after the date of enactment of this Act. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of the carriers, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and carriers concerned. One member, who shall be the chairman of the Board, shall be appointed initially, for a term of two years without recommendation by either carriers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any carrier or organization of employees. Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board of whom a majority of those in office shall constitute a quorum for the transaction of business. Each of said members shall receive a salary of \$10,000 per year, together with necessary traveling expenses and subsistence expenses, or per diem allowance in lieu thereof, while away from the principal office of the Board on duties required by this Act.

Representation of employees and carriers on Board.

Chairman; term of office; qualifications.

Effect of vacancies on Board.

Compensation of members.

Duties.

DUTIES

Duties and powers of Board; enforcement of Act.

(b) The Board shall have and exercise all the duties and powers necessary to administer this Act. The Board shall take such steps as may be necessary to enforce this Act and make and certify awards and payments.

Certification of names, etc., of persons entitled to annuity.

The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under this Act, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department,

and prior to audit or settlement by the General Accounting Office, shall make payment in accordance with the certification by the Board.

The Board shall establish and promulgate rules and regulations and provide for the adjustment of all controversial matters, with power as a Board or through any member or subordinate designated thereof, to require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations in any matter involving annuities or other payments, and shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such persons and provide for their compensation and expenses, as may be necessary to the proper discharge of its functions. All rules, regulations, or decisions of the Board shall require the approval of at least two members and shall be entered upon the records of the Board which shall be a public record. The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary, and at intervals of not more than two years shall cause to be made actuarial surveys and analyses, to determine from time to time the payments to be required to provide for all annuities, other disbursements, and expenses, and to assure proper administration and the adequacy and permanency of the retirement system hereby established. The Board shall have power to require all carriers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this Act. The Board shall make an annual report to the President of the United States to be submitted to Congress. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

SPECIAL REPORT

SEC. 7. Not later than four years from the effective date, the Board, in a special report to the President of the United States to be submitted to Congress, shall make specific recommendations for such changes in the retirement system hereby created as shall assure the adequacy of said retirement system on the basis of its experience and all information and experience then available. For this purpose the Board shall from time to time make such investigations and actuarial studies as shall provide the fullest information practicable for such report and recommendations. The Board shall in a like special report to be made at the earliest practicable time, make specific recommendations with regard to the desirability and practicability of substituting the provisions for annuities and other benefits to employees under this Act for any obligation for prior service or for any existing provisions for the voluntary payment of pensions to employees subject to this Act by a carrier or any employees subject to this Act, so as to relieve such carrier from its obligations for age retirement benefits under its existing pension systems and transfer such obligations to the retirement system herein established.

It is recognized that existing individual carrier pension plans are wholly at the option of the carriers unless in any case express provision is made otherwise, and no restriction is imposed under this Act upon such plans; nor is it expected that carriers will modify existing pension plans on account of this Act beyond a reduction of current pension payments under such existing plans in amounts equal to the annuity payments currently received by the employee under this Act.

Payments.

Rules and regulations.

Approval required.

Compilation and publication of records and data.
Actuarial surveys and analyses.

Authority of Board to compel furnishing of information.

Annual report.

Witness fees.

Special report.

Recommendations; time of making.

Investigations.

Report on existing pension systems.

Effect of provisions hereof on existing plans.

INVESTIGATION COMMISSION

Investigation Commission.

Appointment; composition.

Chairman. Investigations and report.

Hearings.

Assistance of Federal agencies, etc.

Recommendations.

Powers of Commission.

Compliance with Commission's orders, etc.

Service of court orders, writs, and processes.

Administrative provisions.

Personnel; appointment, compensation. U. S. C., pp. 81, 85.

Compensation of members of Commission.

Expenses.

Appropriation authorized. Post, p. 1113.

Proviso. Total amount.

SEC. 8. (a) That a commission be appointed which shall be composed of three Members of the Senate designated by the President of the Senate; three Members of the House of Representatives designated by the Speaker of the House of Representatives; and three members who shall be designated by the President of the United States. The President shall designate one member to be chairman and another to be vice chairman of the Commission. The Commission is hereby authorized and directed to make, and report through the President to the Congress of the United States not later than January 1, 1936, the results of, a thorough investigation of all pertinent facts relating to a retirement annuity system applicable by law to carriers by railroad engaged in interstate commerce and particularly any and all questions for the investigation of which provision is made under the preceding section. The Commission is also authorized to hold hearings respecting desirable provisions of a sound retirement and annuity system. In the making of such investigation the Commission may consider the experience of other industries and of governments, as well as of the railroad industry, and may avail itself of the assistance of all agencies of the Federal Government. Until January 1, 1936, the duties and authority of the Board under the preceding section are limited to cooperation with and action under the direction of the Commission. With its report setting forth the results of its investigation, the Commission shall include such recommendations for legislation, if any, as it may deem necessary to give effect to its conclusions.

(b) The Commission, in the performance of its duties, is authorized to sit and act at such times and places either in the District of Columbia or elsewhere during the sessions, recesses, and adjourned periods of the Seventy-fourth Congress, to require by subpoena or otherwise the attendance of such witnesses and the production and impounding of such books, papers, records, files, and documents, to have access to such books, papers, records, files, and documents of any corporation or person, to administer such oaths and to take such testimony and to make such expenditures, as it may deem advisable. The several district courts of the United States and the Supreme Court of the District of Columbia shall have jurisdiction upon application by the Commission through its attorneys to compel obedience to any order or subpoena of the Commission issued pursuant to this section. The orders, writs, and processes of the Supreme Court of the District of Columbia in such matters may run and be served anywhere in the United States.

(c) The Commission shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and to employ, without regard to the provisions of the Civil Service Act such experts and clerical, stenographic, legal, and other assistance as may be necessary for the proper discharge of its duties, and without respect to the provisions of the Classification Act of 1923, as amended, fix the compensation of any person employed. The President shall fix the compensation to be paid the three members of the Commission to be appointed by the President. All expenses of the Commission for all time in which the Commission shall be actually engaged in this investigation shall be paid out of any funds in the Treasury of the United States, not otherwise appropriated, on a certificate of the chairman of the Commission, and the sum necessary for carrying out the provisions of this resolution is hereby authorized to be appropriated: *Provided*, That the total expense authorized for the purposes of the Commission shall not exceed

the sum of \$60,000 which shall include the compensation herein authorized.

COURT JURISDICTION

Court jurisdiction.

SEC. 9. The several District Courts of the United States and the Supreme Court of the District of Columbia, respectively, shall have jurisdiction to entertain an application and to grant appropriate relief in the following cases which may arise under the provisions of this Act:

Nature of cases in which application may be entertained and relief granted.

(a) An application by an employee or other person aggrieved in or to the district court of any district wherein the Board may have established an office, to compel the Board to set aside an action or decision claimed to be in violation of a legally enforceable right of the applicant, or to take action, or to make a decision necessary for the enforcement of a legal right of the applicant.

(b) The jurisdiction herein specifically conferred upon the said Federal courts shall not be held exclusive of any jurisdiction otherwise possessed by said courts to entertain actions at law or suits in equity in aid of the enforcement of rights or obligations arising under the provisions of this Act.

(c) The Railroad Retirement Board, as hereinbefore established, shall be and constitute a body corporate and be capable of suing and being sued as such.

EXEMPTION

Exemption.

SEC. 10. No annuity payment shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

Annuity payment.

PENALTIES

Penalties.

SEC. 11. Any officer or agent of a carrier, as the word "carrier" is hereinbefore defined, or any employee as such word is hereinbefore defined, or any person whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required by the Board in the administration of this Act, or who shall knowingly make any false or fraudulent statement or report in response to any report or statement required to be made for the purpose of this Act, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of receiving any award or payment under this Act, shall be punished by a fine of not less than \$100 nor more than \$10,000 or by imprisonment not exceeding one year.

Failure to make report or furnish information.

Making false statement or claim.

Punishment.

SEPARABILITY

Separability provision.

SEC. 12. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act or application of such provision to other persons or circumstances shall not be affected thereby.

APPROPRIATION AUTHORIZED

Appropriation authorized.

SEC. 13. The appropriation of such money from time to time out of the Treasury of the United States as may be necessary to carry this Act into effect, is hereby authorized.

SHORT TITLE

Short title.

SEC. 14. This Act may be cited as the "Railroad Retirement Act of 1935".

"Employment", as defined in Social Security Act.
Ante, p. 625.

SEC. 15. The term "employment", as defined in subsection (b) of section 210 of Title II of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of the Railroad Retirement Act of 1935.

Approved, August 29, 1935.

[CHAPTER 813.]

AN ACT

August 29, 1935.
 [H. R. 8652.]
 [Public, No. 400.]

To levy an excise tax upon carriers and an income tax upon their employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Definitions.

DEFINITIONS

SECTION 1. That as used in this Act—

"Carrier."

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad, subject to the Interstate Commerce Act, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such "carrier": *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

Proviso.
 Street, interurban,
 or suburban electric
 railway.

"Employee."

(b) The term "employee" means (1) each person who at or after the enactment hereof is in the service of a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative", who before or after the effective date has performed service for a carrier, who is duly designated and authorized to represent employees under and in accordance with the Railway Labor Act, and who, during, or immediately following employment by a carrier, was or is engaged in such representative service in behalf of such employees.

Persons deemed in
 service of carrier.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing authority to supervise and direct the manner of rendition of his service, for which service he receives compensation.

"Compensation."

(d) The term "compensation" means any form of money remuneration for active service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, or other form of personal relief.

"Effective date."

(e) The term "effective date" means March 1, 1936.

"Enactment."

(f) The term "enactment" means the date on which this Act may be approved by the President or be finally passed.