

113th Congress Postal Reform Act Discussion Draft Section by Section

Section 1. Short Title; Table of Contents; References.

Gives the short title of the bill as the “Postal Reform Act of 2013” and lists the table of contents.

Section 2. Definitions.

Defines a number of terms, including “Postal Service” and “postal retail facility,” that are used throughout the legislative text.

TITLE I—Postal Service Modernization

Section 101. Nationwide Mail Delivery Schedule.

Authorizes the Postal Service to establish a nationwide schedule of 5 days of mail delivery per week and puts in place a requirement that there cannot be more than 2 consecutive days on which mail is not delivered, including as a result of public holidays.

Requires competitive products to be delivered at a minimum of 6 days per week through the end of calendar year 2018.

Extends current mailbox-monopoly Sunday exemptions for newspapers to other days in which the Postal Service does not deliver letter mail.

Section 102. Delivery Point Modernization.

Subsection (a) amends chapter 36 of title 39 to insert a new section, section 3692.

Subsection (a) of section 3692 defines a number of terms relevant to delivery point modernization, including “delivery point,” “primary mode of mail delivery,” “door delivery,” and others.

Subsection (b) of section 3692 establishes that the policy of the Postal Service will be to use the most cost-effective primary mode of mail delivery possible.

Subsection (c) of section 3692 sets the schedule for the phaseout of “to the door,” as opposed to curbside or centralized, delivery. Paragraph (1) removes door delivery from the list of default delivery options for new addresses added after the date of enactment. Paragraph (2) requires the Postal Service to implement conversion of business addresses to centralized delivery to the maximum extent feasible. Paragraph (3) requires the Postal Service to within 1 year identify residential addresses that are candidates for conversion, to seek out postal customers who are willing to voluntarily convert, and to solicit local input on conversion. Paragraph (4) requires the Postal Service to take into account weather conditions, physical barriers, and the historicity of barriers when converting addresses from door delivery. Paragraph (5) establishes a waiver for physical hardship to enable individuals with hardships to continue to receive door delivery.

Subsection (d) of section 3692 establishes a modernization requirement to convert 30-million addresses within 10 years, starting with addresses that have volunteered for conversion. The subsection authorizes the Postal Service to utilize the Postal Service Delivery-Point Modernization Fund, created in section 504, for working capital to fund the cost of conversion and mandates the creation of a voucher program to offset the costs of conversion to postal customers. The subsection also requires annual reports on the progress of the conversions.

Subsection (e) of section 3692 exempts Postal Service action under this section from review under subchapters IV and V of chapter 36 of title 39, United States Code.

Section 103. Efficient and Flexible Universal Postal Service.

Removes a prohibition on closing post offices solely for operating at a deficit.

Requires the Postal Service to provide effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.

Reduces the deadline for PRC review of post office closures from 120 days to 60 days.

Excludes any post office from PRC appeals process if a contract postal unit (CPU) is opened within 2 miles of the applicable post office. Any exclusion must take place on a one-for-one basis. The CPU must be opened within 15 days of the post office's closure and must stay open for a minimum of 2 years. If the CPU is closed before the end of a 2-year period, an appeal may be made to the PRC for the reopening of the post office.

Expedites PRC advisory opinions concerning Postal Service plans to close or consolidate post offices on a level affecting service on a nationwide basis and on matters that are substantially identical to matters on which the PRC has issued an opinion within the preceding 5 years.

Section 104. Applicability of Procedures Relating to Closures and Consolidations.

Defines "post office" in subsection 404(d) of title 39 as any Postal Service operated retail facility as defined in this bill, which includes post offices, branches, and stations. This change is effective 60 days after enactment.

Section 105. Enhanced Reporting on Postal Service Efficiency.

Requires the Postal Service to use a PRC-recommended formula to determine changes in Postal Service productivity and the resulting effect on overall costs.

Section 106. Area and District Office Structure.

Requires, within 120 days of enactment of this Act, the Postal Service, in consultation with the Postal Service Inspector General, to develop and begin implementation of a plan to close or

consolidate 30 percent of Postal Service Area and District offices extant as of September 30, 2012 and further requires that the plan be fully implemented by October 1, 2015.

TITLE II—Postal Service Governance
Subtitle A—Temporary Governance Authority

Section 201. Purposes.

States the purposes of the title. The purposes include eliminating Postal Service budget deficits, protecting the universal service mandate during a period of fiscal emergency, determining the fiscal status and operational efficiency of the Postal Service, helping the Postal Service to implement necessary rightsizing and to meet all fiscal obligations, providing a temporary increase in borrowing authority to fund restructuring, and ensuring the long-term vitality of the Postal Service.

Clarifies that nothing in this title may be construed as relieving any existing obligations of the Postal Service or limiting the authority of Congress to exercise ultimate legislative authority over the Postal Service.

Section 202. Establishment of the Postal Service Financial Responsibility and Management Assistance Authority.

Subsection (a) establishes the “Postal Service Financial Responsibility and Management Assistance Authority (Authority).

Subsection (b) outlines Postal Service operations during a “control period.” Specifically, it defines a control period as beginning from the time at which the Authority has at least four members appointed and ending when the Postal Service has met a series of financial targets. Once a control period begins, the current Postal Service Governors are removed from office, and all roles and responsibilities of the Governors are assumed by the Authority. Also, during a control period, Level-Two Postal Career Executive Service employees serve at the pleasure of the Authority and have strict compensation limits. The subsection further outlines the steps necessary to terminate a control period, including a requirement that the Postal Service be profitable for 2 consecutive years and that it be in position to properly fund its retirement obligations for postal employees and retirees.

Section 203. Membership and Qualification Requirements.

Subsection (a) establishes the membership of the Authority, which shall consist of five individuals, who shall be appointed by the president and shall report to the Secretary of the Treasury. Of those five individuals, one each shall be appointed taking into consideration individuals recommended by the Speaker of the House, the Minority Leader of the House, the Majority Leader of the Senate, the Minority Leader of the Senate, and the Comptroller General of the United States. Additionally, no more than three members of the Authority may be of the same party, and the President has the power to designate the Chair of the Authority. A sense of Congress asks that the President appoint members as soon as practicable, but not later than 30

days after the enactment of the Act. The initial terms of office of members of the Authority is 3 years, with the second term for each seat then staggered such that in subsequent years no more than two seats become vacant. Members of the Authority are made eligible to receive a salary equivalent to level III of the Executive Schedule.

Subsection (b) details specific qualification requirements for members of the Authority, focusing on leadership roles in large organizations, and disqualifies individuals who have been affiliated with the Postal Service, the Postal Regulatory Commission, or a postal employee organization within the last 5 years.

Section 204. Organization and Staff.

Subsection (a) requires the Authority to adopt operational by-laws as soon as practicable.

Subsection (b) requires the hiring of an Executive Director for the Authority that is appointed by the Chair and paid at a rate not more than Level IV of the Executive Schedule. The subsection also authorizes the hiring of such additional staff as it deems necessary, allows that staff be hired outside of the normal requirements for competitive service, and enables the Authority to receive detailees from other federal agencies.

Section 205. Funding.

Subsection (a) authorizes the Authority to appropriate up to \$10 million from the Postal Service Fund, on an annual basis, to fund the expenses of the Authority, including the cost of facilities and employee compensation.

Subsection (b) grants the Authority, upon its creation, a partial-year appropriation from the Postal Service Fund prorated from \$10 million by the remaining time in the fiscal year.

Subsection (c) requires the Postal Service to include funding for the Authority in its budget submission to Congress.

Section 206. Responsibilities and Powers.

Grants all duties and responsibilities of the Governors and Board of Governors to the Authority.

Requires the Authority to determine the overall strategies of the Postal Service.

Grants the Authority the responsibility of hiring, monitoring, compensating, and, when necessary, replacing senior management at the Postal Service.

Requires the Authority to approve major policies, including those related to the Postal Service's financial condition and to the provision of universal service.

Requires the Authority to approve corporate budgets, financial and capital plans, operations goals, and human resource strategies.

Requires the Authority to formulate and communicate organizational policy and positions on legislative matters to Congress and the public.

Requires the Authority to additionally carry out any other responsibility not otherwise mentioned in this section that was the responsibility of the Board of Governors at any time in the last 5 years.

Section 207. Development of Financial Plan and Budget for the Solvency of the Postal Service.

Subsection (a) requires the Postmaster General to submit a Financial Plan and Budget for the any fiscal year during a control period for the long-term solvency of the Postal Service to the Authority.

Subsection (b) requires the Financial Plan and Budget to meet the requirements in subsection (c) to promote the financial stability of the Postal Service, and it must include the Postal Service's Integrated Financial Plan, a description of lump-sum expenditures, capital expenditures, estimates of overall debt, and cash flow and liquidity forecasts. It is also required to include a statement describing significant assumptions as well as any other provisions the Authority deems necessary.

Subsection (c) details the requirements for financial stability, including the requirement that the Postal Service present a balanced budget for fiscal year 2016 and that the Postal Service needs to make substantial progress in each year in implementing reforms that will improve the net financial condition of the Postal Service in order to promote long-term solvency.

Subsection (d) defines long-term solvency as the ability of the Postal Service to pay all its accrued debts and expenses and meet the obligations of title 39 for the foreseeable future.

Section 208. Process for Submission and Approval of Financial Plan and Budget.

Requires the Authority to either approve the Postmaster's Financial Plan and Budget or to disapprove of it, specify the reasons for disapproval to the President and Congress, and compose its own Financial Plan and Budget.

Authorizes the Postmaster General to submit revisions to the plan and grants the Authority final approval over those revisions.

Establishes that it be the policy of the Authority to take any action necessary and permitted by law to ensure that the financial plan and budget is fully implemented and that its goals are achieved.

Requires the Authority to take any additional actions it deems necessary and permitted by law to ensure the long-term solvency of the Postal Service, including, but not limited to, accelerating the conversion of door delivery points to more cost effective methods, transitioning to a 2-3 day

standard for First-Class Mail delivery, consolidating additional mail processing facilities, and any other action consistent with this Act and U.S. Code.

Section 209. Dissolution of the Authority; Reconstitution of the Board of Governors.

Dissolves the Authority following the termination of the control period.

Reconstitutes the Board of Governors as a five member panel, each confirmed by the Senate, no more than three of which can be members of the same party. The terms of the Governors shall be set at 7 years, and at the completion of the control period the members of the Authority shall become the initial members of the reconstituted Board, with a requirement put in place that no Governor may serve more than 14 years.

Subtitle B—Other Matters

Section 211. Appointment of Inspector General of the Postal Service by President.

Changes the selection of the Inspector General of the Postal Service from an appointment by the Postal Service Board of Governors to a Presidential appointment.

Section 212. Membership of the Board of Governors.

Subsection (a) removes the Postmaster General as a member of the Board of Governors.

Subsection (b) removes the Deputy Postmaster General as a member of the Board of Governors.

TITLE III—Postal Service Workforce

Section 301. Applicability of Reduction-in-Force Procedures

Prospectively prohibits Postal Service collective bargaining agreements from containing provisions that restrict the use of title 5 reduction-in-force procedures.

Requires any collective bargaining agreement ratified prior to date of enactment to be renegotiated within 9 months of the date of enactment if the agreement includes any restrictions on the Postal Service's ability to use title 5 reduction-in-force procedures.

Authorizes the Postal Service and a union to agree to additional forms of reduction-in-force procedures other than those specified in title 5. Such non-title 5 procedures are explicitly banned from inclusion in any collective bargaining agreement without the consent of the applicable union.

Section 302. Postal Service FEHBP and FEGLI Funding Requirements.

Requires, not later than January 1, 2020, the Postal Service must achieve health and life insurance premium contribution level parity with the rest of the federal government.

Section 303. Repeal of Provision Relating to Overall Value of Fringe Benefits.

Repeals a provision requiring the overall value of fringe benefits to be equal to that of fringe benefits available in 1971.

Section 304. Modifications Relating to Determination of Pay Comparability.

Clarifies existing postal pay comparability standards to refer to total compensation and the entire private sector.

Section 305. Last-Best-Final-Offer Negotiations.

Reforms the collective bargaining process to contain a mediation-arbitration process with a defined timeline modeled after recommendations of the 2003 President's Commission on the Postal Service. Under the new process, an arbitration board consists of three neutral individuals. Further, any arbitration award is required to take into account both compensation comparability with the private sector and the financial condition of the Postal Service. Finally, once the arbitration stage has been reached, any agreement reached by the Postal Service and a union independent of the arbitration panel must also satisfy these same requirements related to compensation and the financial condition of the Postal Service. If such an agreement fails to do so, the arbitration panel is required to amend the agreement in a manner that does satisfy the requirements.

Section 306. Postal Service Workers' Compensation Reform.

Following written notification by the Authority established under section 202, the Postmaster General is to establish a workers' compensation program for Postal Service employees. The program, developed in consultation with employee representatives, must transition postal employees receiving workers' compensation to retirement benefits when the employees reach retirement age, and may not provide augmented compensation for dependents. The Postal Service must provide the Congressional committees of jurisdiction with a detailed description of the program, and publish such information in the Federal Register no later than 9 months following the Authority's aforementioned written notification.

TITLE IV—Postal Service Revenue

Section 401. Adequacy, Efficiency, and Fairness of Postal Rates.

Requires each market-dominant product must cover its costs, while maintaining the statutory price cap based on the Consumer Price Index.

Requires that rates for any market-dominant class of mail covering less than 90 percent of costs must, after a 2-year delay, increase annually at a rate of 2 percent above the rate of inflation.

Requires the PRC to conduct a study during the 2-year delay period to determine the impact of Postal Service excess capacity on attributable costs of loss-making classes of mail, and to factor this impact into their costs for the purposes of the rate adjustments required by this section. Market-dominant classes include First-Class Mail, Standard Mail (mainly advertising), Periodicals (mainly magazines and newspapers), and Package Services (mainly single-piece Parcel Post, Media Mail, library mail, and bound printed matter). Rates for any market-dominant class that does not cover 100 percent of its costs must be established so as to maximize incentives to reduce costs and increase efficiency.

Section 402. Repeal of Rate Preferences for Qualified Political Committees.

Renders national and state political committees ineligible for rate preferences that are received by nonprofit organizations.

Section 403. Use of Negotiated Service Agreements.

Subsection (a) requires the PRC to conduct streamlined after-the-fact review of new negotiated service agreements for competitive products if they are functionally equivalent to existing agreements that have collectively covered costs and improved the Postal Service's net financial position.

Subsection (b) grants the Postal Service Board of Governors the flexibility to delegate to the Postmaster General the submission to the PRC of negotiated service agreements that meet the requirements of subsection (a).

Subsection (c) requires that each group of functionally equivalent negotiated service agreements, including those covering market-dominant and competitive products, cover its costs and improve the Postal service's net financial position. The subsection further specifies that market dominant negotiated service agreements must improve the net financial condition of the Postal service and not cause an unfair competitive advantage to the Postal Service or users eligible for the agreements or an unreasonable disruption to the volumes or revenues of other postal users.

Section 404. Nonpostal Services.

Creates a new Chapter, 37—Nonpostal Services, in title 39:

§ 3701. Purpose—The purpose of this section is to enable the Postal Service to increase its net revenues through specific nonpostal products and services expressly authorized by law. Postal Service revenues and expenses for these specific nonpostal products and services are required to be funded through the Postal Service Fund.

§ 3702. Definitions—This section defines key terms. One key term, “nonpostal services,” is defined as specific nonpostal services that are expressly authorized by this legislation and that are not postal products or services.

§ 3703. *Postal Service Advertising Program*—The Postal Service is authorized under this section to establish and manage a program that allows entities to advertise at its facilities and on its vehicles, provided that the advertising is consistent with the integrity of the Postal Service, covers at least 200 percent of its costs, and is subject to the PRC’s annual compliance review. The Postal Service must publicly disclose expenditures and revenues for this program in its Annual Reports.

§ 3704. *Postal Service Program for State Governments*—This section authorizes the Postal Service to establish a program to provide services for State agencies, subject to safeguards to ensure that these services provide enhanced value to the public, do not interfere with or detract from the value of postal services, and provide a reasonable contribution to Postal Service overhead costs by covering at least 150 percent of costs. To provide transparency and an opportunity for stakeholder input, the Postal Service is required to publish its business plan for State services it plans to offer, followed by a public comment period and a published Postal Service response. At least two-thirds of the presidentially-appointed Postal Service Governors must approve of USPS providing specific State services by a publicly recorded vote.

§ 3705. *Postal Service Program for Other Government Agencies*—The Postal Service is authorized to continue providing property and services for other federal agencies and the Government Printing Office, provided it receives reimbursement covering 100 percent of its costs. This cost-coverage requirement is intended to ensure that ratepayers do not subsidize services provided for other federal agencies.

§ 3706. *Transparency and Accountability for Nonpostal Services*—The Postal Service must annually report financial results, rates, and the quality of its nonpostal services within ninety days after the end of each fiscal year, with proprietary data protected from disclosure. The PRC must annually review compliance that nonpostal services meet cost-coverage and other requirements; order remedial action to remedy any noncompliance; and can initiate proceedings to improve data quality and completeness. The Postal Service IG must regularly audit applicable data collection systems and procedures. These provisions are modeled after existing provisions for market-dominant products. Clarifies that all nonpostal services continued pursuant to 404(e) of title 39 are considered expressly authorized by chapter 37 of title 39 and are subject to the same transparency and accountability requirements as other nonpostal services.

Section 405. Alaska Bypass Mail Modernization.

Subsection (a) eliminates an existing statutory preference for mainline air carriers that were operating in Alaska on January 1, 2001, for the purposes of awarding bypass mail.

Subsection (b) requires Alaska bypass mail to cover a minimum of 30 percent of its attributable costs for fiscal year 2014, a requirement that increases by 5 percent per year until it reaches 50 percent cost coverage in fiscal year 2018.

Section 406. Appropriations Modernization.

Eliminates a provision in law allowing the Postal Service to ask for a public service taxpayer subsidy and eliminates two other provisions that constitute the last remaining direct taxpayer expenditures in support of the Postal Service.

TITLE V—Postal Service Finance

Section 501. Treatment of Postal Service Post-Employment Benefit Funding Projected Surpluses

Amends section 8423 of title 5 to require that any net projected actuarial surpluses between the Postal Service accounts for the Civil Service Retirement System and the Federal Employee Retirement System be transferred to the Postal Service Retiree Health Benefits Fund on an annual basis.

Section 502. Retiree Health Benefit Liability Payment Schedule.

Amends title 5 to eliminate the two statutory retiree health care prefunding payments the Postal Service has previously defaulted on, as well as the specified future payments for fiscal years 2013-2016.

Advances the beginning of the actuarial-based payment period so that the first payment under the actuarial system is due on September 30, 2014 instead of September 30, 2017.

Section 503. Supplementary Borrowing Authority During a Control Period.

Amends chapter 20 of title 39 to insert a new section, section 2012.

Subsection (a) of section 2012 authorizes the Postal Service, upon the commencement of a control period, to assume an additional \$5 billion in debt subject to the same terms and conditions as the debt authorized by section 2005 of title 39, except as provided under subsection (b).

Subsection (b) of section 2012 sunsets the authorization to borrow funds under this section on September 30, 2022.

Subsection (c) of section 2012 requires that any funds borrowed as a result of this section be deposited in the Postal Service Fund.

Subsection (d) of section 2012 requires the Postal Service to pledge a sufficient amount of real property in relation to the amount of supplemental borrowing authority it has utilized to satisfy the requirement of subsection (f).

Subsection (e) of section 2012 requires the Postal Service to pay down 20 percent of its outstanding supplemental debt each fiscal year.

Subsection (f) of section 2012 defines the terms “Authority” and “control period”.

Section 504. Postal Service Delivery-Point Modernization Fund.

Amends chapter 20 of title 39 to insert a new section, section 2013.

Subsection (a) of section 2013 establishes within the Treasury the “Postal Service Delivery-Point Modernization Fund” as a revolving fund.

Subsection (b) of section 2013 authorizes the Postal Service to borrow up to \$1 billion to carry out the purposes of section 3692, which is created by section 102 of this Act, requires any funds borrowed under this section to be deposited in the Postal Service Delivery-Point Modernization Fund, and applies the constraints found in subsections 2005(b), (c), and (d) of title 39 to the borrowed funds.

Subsection (c) of section 2013 sunsets the authorization to borrow funds on September 30, 2023.

Subsection (d) of section 2013 places the fund “off-budget” relative to the official budget of the United States Government and renders it exempt from any general budget limitation imposed by statute on expenditures and net lending.

Subsection (e) sunsets the Postal Service Delivery-Point Modernization Fund on September 30, 2023 with any funds going to first pay any debt accrued under this section and then any remaining funds being deposited in the Postal Service Fund.

TITLE VI—Postal Contracting Reform

Section 601. Contracting Provisions.

This section adds a new chapter, 7—Contracting Provisions, to title 39:

§ 701. Definitions—Defines terms used in the chapter. “Postal contract” is defined as any contract for the procurement of goods or service, including any agreement or memorandum of understanding entered into by the Postal Service or the PRC. As applied to the PRC, postal contracts are defined as those in excess of the Simplified Acquisition Threshold, currently \$150,000.

§ 702. Advocate for competition—The Postal Service and PRC must establish competition advocates responsible for promoting the contracting out of functions that the private sector can perform equally well or better and at lower cost. The competition advocates are to promote competition to the maximum extent practicable consistent with obtaining best value, and to review procurement activities. Each competition advocate must report annually on initiatives to promote outsourcing and competition, and on any existing barriers. Currently, there are no statutory requirements for any officers of these organizations to seek any level of competition.

§ 703. Delegation of contracting authority—The Postal Service and PRC must issue policies on contracting officer delegations of authority. Any delegation of authority for postal contracts outside the functional contracting unit must be made readily available and accessible on its

website. No-excuses policies clearly establish responsibility and accountability for postal contracts. A contracting officer is required to maintain an awareness of and engagement in the activities being performed on all postal contracts of which that officer has cognizance, including contracts involving delegations of authority. The senior procurement executive is given ultimate responsibility and accountability for the award and administration of postal contracts.

§ 704. Posting of noncompetitive purchase requests for noncompetitive contracts—The Postal Service must publicly post the noncompetitive purchase request for any noncompetitive award for postal contracts of at least \$250,000, with this amount adjusted annually based on inflation. These postings are subject to proprietary information exceptions and competitive disadvantage waivers. The PRC must post noncompetitive purchase requests of at least \$20,000.

§ 705. Review of ethical issues—Ethics officials at the Postal Service and PRC are required to review any ethical issues relating to a proposed contract before it is awarded and advise the contracting officer on their appropriate resolution.

§ 706. Ethical restrictions on participation in certain contracting activity—The Postal Service and PRC are required to establish regulations that limit contracting officers from entering into a postal contract with any party with whom the contracting officer has a personal or business relationship, as defined in the Standards of Ethical Conduct for Employees of the Executive Branch. The heads of these entities may grant waivers for contracts in their respective organizations, but such waivers must be posted on their respective websites. They also may void any contract and recover amounts expended under the contract in any cases where there is a final conviction of bribery or conflict of interest.

Section 602. Technical Amendment to Definition.

Corrects a technical amendment made in the 2006 amendments to the Contract Disputes Act that inadvertently deleted the Postal Service and PRC from the definition of executive agencies covered by this act. This correction will resolve any ambiguity and clarify that that Act applies to the Postal Service and the PRC, as it has since its enactment in 1978.

Section 603. Contract Limitation.

Establishes a requirement that new Postal Service contracts with large businesses within 6 months of a reduction-in-force include a provision granting a hiring preference to former career Postal Service employees who were separated from service as a result of a reduction-in-force and are not eligible for immediate retirement. The requirement for the provision to be included in new contracts expires 2 years after the date of enactment.

TITLE VII—Other Provisions

Section 701. Postal Facility Designations.

[TBD]