

S. 1789 – The 21st Century Postal Service Act of 2012

Section-by-Section Analysis – Substitute Amendment

Section 1 – Short Title

This section establishes the title of the legislation as the “21st Century Postal Service Act of 2012.”

Section 2 – Table of Contents

This section sets forth the table of contents for the four titles in the Act.

Title I – Postal Workforce Matters

Section 101 – Treatment of Surplus Contributions to Federal Employees Retirement System

The United States Postal Service (USPS) makes annual payments into a federal retirement account (the Civil Service Retirement and Disability Fund) to cover the projected costs of the retirement benefits for those of its employees who are eligible for retirement benefits through the Federal Employees Retirement System (FERS). The Office of Personnel Management (OPM) has determined that the Postal Service has substantially overpaid for its employees under FERS – a surplus currently estimated at about \$11 billion.

This section requires a calculation of the Postal Service’s FERS balance each year and directs any overpayment to be transferred to the Postal Service, upon request of the Postmaster General. A portion of any overpayments for fiscal years 2011 through 2014 are to be used for incentives for voluntary separation under section 102 (*e.g.*, buyouts).

Any funds from the FERS surplus not used for voluntary separation incentives may be used by the Postal Service for certain other items such as repaying debt to the U.S. Treasury and making required payments for workers’ compensation payments, retiree health care, and pension obligations.

Section 102 – Incentives for Voluntary Separation

This section allows the Postal Service to offer voluntary separation incentives to employees who leave the Postal Service by October 1, 2015, as a means of reducing the size of its workforce. The Postal Service may offer (1) cash buyouts of up to \$25,000 (the amount permitted for other federal workers); or (2) additional service credit of up to 1 year of credited service for individuals in the Civil Service Retirement System (CSRS) and up to 2 years for individuals in FERS. Thus, an individual who needed 30 years of service to retire and had 29 years of service could be offered an additional year so as to be eligible for full retirement, as a means of encouraging that individual to retire early. This section caps the average present value of the additional service credit offered to postal employees at \$25,000. An individual cannot receive both a cash buyout and additional service credit.

This section directs the Postal Service to offer incentives for voluntary separation to enough employees that it would be reasonably expected that the voluntary incentive program would lead to an 18 percent reduction in the total number of career employees of the Postal Service.

Section 103 – Restructuring of Payments for Retiree Health Benefits

This section would restructure the Postal Service's pre-funding requirements for retiree health benefits. The bill would immediately replace the existing annual payments, which are fixed in statute through the end of fiscal year 2016, with a 40-year amortized payment schedule for the Postal Service to fund retirees' health benefits (previously, the amortized payments would not have begun until fiscal year 2017). It would also reduce the pre-funding requirement for retiree health benefits to 80 percent of the projected liability from 100 percent currently. In addition, when determining the Postal Service's required annual payments for the Postal Service Retiree Health Benefits Fund for future retirees, OPM is directed to use the same discount rate that it uses to calculate the federal government's pension obligations for FERS and CSRS.

Section 104 – Postal Service Health Benefits Program

This section would authorize the Postal Service to enter into negotiations with all of its recognized unions for the purpose of developing a potential new Postal Service health care plan outside the Federal Employees Health Benefits Plan (FEHB). The new Postal Service Health Benefits Program would only be implemented if all of the unions and the Postal Service agree. This section also requires USPS to consult with organizations representing supervisory and other managerial employees of the Postal Service in the course of its negotiations over the health care plan, and provides that any postal employee not represented by a recognized employee union may participate in any new Postal Service health plan agreed on by the Postal Service and the unions at the option solely of that employee.

Section 105 – Medicare Coordination Efforts for Postal Service Employees and Retirees

This section requires OPM to develop optional FEHB plans for eligible postal workers and annuitants who have voluntarily enrolled in Medicare Parts A and B. These optional FEHB plans would be in addition to existing FEHB plans and would not affect the eligibility of Medicare-enrolled postal employees and annuitants for other FEHB plans. The new plan options would be required to offer equivalent coverage to benefits such employees and annuitants receive through existing plans, but would be required to pass on to the Postal Service and enrollees (in the form of reduced premiums) the savings that the plans get through coordination with Medicare. Any Postal Service employee or annuitant, or family member of a Postal Service employee or annuitant, who is enrolled in Medicare part A and Medicare part B may enroll in the enrollment options established under this section. This section also provides that the Postmaster General, in consultation with the Director of OPM and the Administrator of the Centers for Medicare & Medicaid Services, shall develop an educational program to encourage the voluntary use of Medicare parts A and B and educate Postal Service employees and annuitants on how Medicare benefits interact with and can supplement benefits under FEHB.

Section 106 – Arbitration; Labor Disputes

This section would require that arbitrators deciding a contract dispute between the Postal Service and one of its recognized unions take into consideration such relevant factors as the financial condition of the Postal Service. This section also includes a savings clause that provides that nothing in the section may not be construed to limit the relevant factors that the arbitration board may take into consideration in rendering a decision.

Title II – Postal Services and Operations

Section 201 – Maintenance of Delivery Service Standards.

The Postal Service announced in the fall of 2011 that it intended to eliminate its current overnight delivery standard, which provides for delivery of first class mail within 1-3 days anywhere in the continental United States, and replace it with a 2-3 days delivery standard. This section requires the Postal Service to maintain a modified overnight delivery standard for first class mail and periodicals for a period of 3 years. Specifically, this section requires that the Postal Service provide overnight delivery for mail that is both mailed and delivered in an area served by the same processing plant. This section also requires the Postal Service to maintain a maximum delivery time of 3 delivery days for first class mail within the continental United States.

Section 202 – Preserving Mail Processing Capacity

This section requires certain steps before the closure or consolidation of a mail processing facility, including: (1) a complete and published study that includes the feasibility of downsizing rather than closing the facility; (2) a 45-day public comment period after publishing the study; (3) a 30-day period for the Postal Service to consider any concerns raised during the public comment period, as well as to consider the effect of the closing on the community, the effect on travel times for affected customers, the effect on delivery times, and geographical and other characteristics of the area that may result in the closing or consolidation having a unique effect; (4) the publication on the Postal Service's website of a closing or consolidation justification statement that includes responses to public comments, a discussion of the effect of closure on the affected community, including any disproportionate impact on a state, region or locality, change in travel times and distances for affected customers and delivery times for mail, and geographical factors; and (5) a waiting period of at least 15 days after the publication on the USPS web site of the closure justification before USPS may close the processing facility.

In addition, the section prohibits, for 3 years, closure or consolidation of a facility if the closing or consolidation prevents the Postal Service from maintaining the overnight service standards required under section 201. The section also affirms the right to review by the Postal Regulatory Commission (PRC) where there is an allegation that a closure or consolidation was not in conformance with these or other service standards.

Section 203 – Establishment of Retail Service Standards

This section requires the Postal Service, not later than 6 months after enactment of the bill, to establish retail service standards that would guarantee its customers regular and effective

access to retail postal services nationwide (including purchasing postage and mailing packages). The standards are required to be consistent with the Postal Service's statutory mandate to provide universal service and are to take into account such factors as geography (including the reasonable maximum time a postal customer should expect to travel to access a postal retail location); the importance of facilitating communications for communities with limited or no access to Internet, broadband or cellular telephone service; population, including population density, demographic factors (such as age, disability status and poverty) and other factors that may affect the ability of customers to travel to a postal retail location; the feasibility of offering retail access to postal service through other means in addition to post offices; the requirement that the Postal Service serve remote areas and communities with transportation challenges, including weather, that may impede access to retail postal services; and the ability of postal customers in areas where a post office was closed in the preceding year to access retail postal services.

Section 204 – Expanded Retail Access

This section requires the Postal Service within 1 year of enactment, and in consultation with the PRC, to submit to Congress an updated plan to expand and market retail access to postal services (an earlier plan was required under section 302(d) of the Postal Accountability and Enhancement Act of 2006). The plan must include the consideration of retail options such as vending machines, the Internet, kiosks and other retail facilities and the impact of any decisions relating to implementation of the plan on rural areas and small towns. The plan must also ensure that rural areas and small towns continue to receive regular and effective access to retail postal services and that the Postal Service solicits community input.

Section 205 – Preserving Community Post Offices

This section requires the Postal Service prior to making a determination to close or consolidate a post office to consider alternatives to closure, such as reducing the number of hours that a post office operates, and alternative ways of providing retail services, such as through contract services or rural carriers. It further requires that customers served by the post office be given the opportunity to participate in a survey about their preferences among such options. This section also requires that the Postal Service provide advance notice of its intention to close or consolidate a post office, to give customers an opportunity to present their views. Before making its decision, USPS must consider such factors as the effect of the closing on the community; the effect on employees; whether it would be consistent with statutory policy that requires the Postal Service to provide effective and regular postal services to rural areas, communities, and small towns; the extent to which the community lacks access to Internet, broadband and cellular phone service; and the economic savings to the Postal Service from the closure. The Postal Service's findings with respect to these considerations are required to be in writing as part of the closure determination and are to be made available to those served by the post office. The post office cannot be closed until 60 days after the Postal Service makes its written determination.

This section affirms that a decision to close or consolidate a post office is subject to review by the PRC, which may stay the closure of the post office during the appeal and which can set aside the closure of the post office if it finds the closure was unsupported by substantial evidence in the record, did not comport with required procedures, was not in conformance with the retail service standards required to be established under section 203, or is otherwise arbitrary, capricious, an abuse of discretion, or not in accordance with law. In addition, this section

prohibits the closure of post offices until the Postal Service establishes the retail service standards required under section 203.

This section also requires the Postal Service to offer the opportunity to lease historic post office buildings to federal, state, and local governments for public use, in cases where the post office is closed and the Postal Service has not been able to sell the building, and the public entity agrees to restore the building and assume responsibility for its maintenance.

Section 206 – Area and District Office Structure

In an effort to reduce costs and create efficiencies, this section requires the Postal Service to craft plans to optimize its office structure nationwide. Specifically, it mandates that the Postal Service develop a comprehensive strategic plan relating to area and district office structure, to be updated every 5 years. It further mandates a 10-year plan, with timetables, for the consolidation of area and district offices within the continental United States wherever the Postal Service determines that such consolidation would be cost effective and would not substantially and adversely affect operations. This section also requires the Postal Service, consistent with the required plans, to consolidate district offices located within 50 miles of each other, to consolidate those area and district offices that have less than the mean mail volume and number of work hours for all area and district offices, and to relocate area offices to headquarters. If the Postal Service does not maintain a district office in a particular state, the Postal Service must designate at least 1 employee of the district office to be a state liaison and represent the needs of postal customers in that state.

Section 207 – Conversion of Door Delivery Points

This section authorizes the Postal Service to convert door delivery points to curbside, sidewalk, or centralized delivery points, and defines these terms. This section also provides certain exceptions to the use of this authority, including physical hardship of a customer, weather conditions in a geographical area (such as where snow removal efforts could obstruct access to mailboxes), circumstances in urban areas (such as obstructive street parking) that preclude efficient use of curbside delivery points, or “other exceptional circumstances.” This section further requires the Postal Service to establish procedures to solicit, consider, and respond to input from individuals affected by the conversion of door delivery points, and to report to Congress and the USPS Inspector General on its progress in carrying out this section.

Section 208 – Limitations on Changes to Mail Delivery Schedule

The Postal Service is seeking legislative authority to go to 5-day delivery in areas that currently have delivery 6 days a week. This section would prohibit the Postal Service from implementing any plan to eliminate Saturday delivery for at least 2 years. In addition, a switch to 5-day delivery could only move forward if the following conditions are met: the Postal Service (1) identifies customers who may be affected disproportionately by 5-day delivery and develops measures to ameliorate the negative impact; (2) makes use of its other authorities under current law and the new authorities and mandates included in this bill to increase revenue and reduce costs; and (3) determines – after implementing these other options – that a 5-day schedule is still necessary to achieve long-term solvency. The Postal Service then must submit a report on the other steps it has taken to Congress, the PRC, and Government Accountability Office (GAO).

GAO is to review the Postal Service's financial situation, projections, and the adequacy of the savings initiatives already implemented in order to determine whether the implementation of 5-day delivery is necessary for the Postal Service to achieve long-term solvency. The Postal Service would not be able to implement a 5-day schedule unless the Comptroller General has made a determination that doing so is necessary, which is then confirmed by the PRC.

This section further specifies that if 5-day delivery is ultimately implemented, there can be no more than 2 consecutive days without mail (*e.g.*, on holiday weekends). The section also clarifies that the bill does not authorize further reductions in the delivery schedule for areas that may already have less than 6-day delivery, nor any changes to the schedules for post offices, post office boxes, mail acceptance, or competitive products such as Express Mail.

Section 209 – Time Limits for Consideration of Service Changes

This section provides that, where the Postal Service seeks to make a nationwide change in the nature of postal services and seeks an advisory opinion from the PRC on the proposed change, that the PRC is to issue the requested advisory opinion within 90 days unless the PRC and the Postal Service have agreed on an alternate schedule. This section also requires the Postal Service to submit a response to such an advisory opinion to the President and Congress, and sets out parameters for when the Postal Service may take action regarding a proposal submitted to the PRC.

Section 210 – Public Procedures for Significant Changes to Mailing Specifications

This section requires the Postal Service to provide at least 30 days notice of, and the opportunity to comment on, any proposed changes to mailing specifications (rules governing the size and other aspects of mailed items) that could pose a significant burden to customers and is not reviewed by the PRC. The section further requires the Postal Service to publish the final change, its response to any comments submitted and its analysis of the financial impact of the proposed change on the Postal Service and its customers.

Section 211 – Nonpostal Products and Services

This section provides that the Postal Service may provide nonpostal products and services, provided that the PRC determines that the provision of such product or service meets the following criteria: (1) it utilizes the Postal Service's processing, transportation, delivery, or retail network or technology; (2) it is consistent with the public interest and a demonstrated demand for the Postal Service to provide the services; (3) it would not create unfair competition with the private sector; (4) it will be undertaken in accordance with federal laws applicable to the provision of such product or service; and (5) It has the potential to improve the net financial position of the Postal Service, based on a market analysis that has been conducted by the Postal Service and submitted to Congress and the PRC.

This section further provides that the PRC must designate any new product or service that meets the above criteria under an existing mailing product classification: market-dominant, competitive, or experimental. This classification of the product would allow it to be regulated in the same manner as existing postal products and services.

This section also makes the determination to permit the provision of nonpostal products or services subject to the complaint and appeals process at the PRC. Finally, for 5 years after the Act is enacted, the Postal Service would be required to submit a copy to Congress of any market analysis it provides to the PRC in support of its claim that the product or service will improve the net financial position of the Postal Service.

Section 212 – Chief Innovation Officer; Innovation strategy

This section establishes the position of Chief Innovation Officer at the Postal Service, to be appointed by the Postmaster General. The Chief Innovation Officer is responsible for leading the development and implementation of innovative postal products and services and authorized nonpostal products and services, to improve the Postal Service’s financial position. In addition, this section requires that the Postmaster General, acting through the Chief Innovation Officer, submit a report to Congress that contains a comprehensive strategy for improving the financial position of the Postal Service through innovation, including the offering of new products and services. The Postmaster General, through the Chief Innovation Officer, is also required to submit annual reports on the implementation of this innovation strategy.

Section 213 – Strategic Advisory Commission on Postal Service Solvency and Innovation

This section establishes the Strategic Advisory Commission on Postal Service Solvency and Innovation, which is responsible for providing strategic guidance to the President, Congress, and the Postal Service Board of Governors on enhancing the long-term solvency of the Postal Service and to foster innovative thinking to address the challenges facing the Postal Service. The Commission is to be composed of 7 members: 3 appointed by the President; and 1 member each appointed by the majority leader of the Senate; the minority leader of the Senate; the Speaker of the House of Representatives; and the minority leader of the House of Representatives. The members appointed are to be prominent citizens with significant experience in fields such as business and public administration, familiarity with new and emerging technologies, and experience with revitalizing organizations that have experienced significant financial difficulties. The Advisory Commission is to examine the current structure, condition, management and governance of the Postal Service; alternative business models the Postal Service could adopt; additional products and services that the Postal Service could offer; and innovations offered in other countries. Within 18 months, the Advisory Commission is to develop and submit to Congress, the President, the Board of Governors and the Postmaster General, a strategic blueprint for the long-term solvency of the Postal Service, including both identification of opportunities for reducing costs and a strategy for future growth.

Title III – Federal Employees’ Compensation Act (FECA)

Section 301 – Short Title and References

This section says that title III of the bill may be cited as the “Workers’ Compensation Reform Act of 2012.” The section also provides that, whenever a provision in title III of the bill refers to a statutory section being amended, the provision is in reference to title 5 of the United States Code unless noted otherwise.

Section 302 – Federal Workers’ Compensation Reforms for Retirement Age Employees

This section generally reduces FECA benefits for totally disabled enrollees to 50 percent of the pre-disability wage upon the enrollee reaching full retirement age, as defined in the Social Security Act. For partially disabled enrollees, the benefits are generally reduced to 50 percent of the pre-disability wage, multiplied by the percentage of wage-earning capacity lost due to the injury.

For individuals whose workplace injury occurs before the date of enactment, section 302 contains provisions to delay application of the reduced benefit level and to provide full exemption for those most severely injured and those already over retirement age. Specifically –

- (1) those who are permanently, totally disabled and unable to return to work are exempt from this section (“grandfathered”), and their benefit rate is not reduced to 50 percent. This category of grandfathered individuals is defined under the legislation as those who satisfy any one of the following criteria: (a) lost the use of 2 appendages (*e.g.*, arms/legs); (b) receiving custodial home nursing care or full nursing home care for at least 1 year prior to enactment; or (c) receiving “total disability” wage-loss compensation for at least 3 years prior to enactment or will have done so within the first 3 years after enactment;
- (2) those who are already at the age of retirement on the date of enactment are also exempt from this section; and
- (3) those who do not qualify as permanently, totally disabled (“grandfathered”) and are not already over the retirement age, the benefit level will be reduced to 50 percent upon reaching retirement age or 3 years after the date of enactment, whichever is later.

Section 303 – Augmented Compensation for Dependents

This section eliminates the additional (“augmented”) compensation in current law for beneficiaries who have dependents.

Also, for individuals whose workplace injury occurs before the date of enactment, section 303 contains provisions to delay application of the reduced benefit level and to provide full exemption for those most severely injured. Specifically –

- (1) those who are permanently, totally disabled and unable to return to work are exempt from this section (“grandfathered”), and they will continue to receive the additional level of compensation if they have dependants. This definition of grandfathered individuals is the same as the definition of those grandfathered under section 302; and
- (2) those who are not permanently, totally disabled (“grandfathered”) will become ineligible to receive augmented compensation 3 years after the bill is enacted.

Section 304 – Schedule Compensation Payments

This section allows individuals receiving workers’ compensation benefits for total or partial disability to simultaneously receive schedule compensation payments if their disability benefits are reduced under sections 302 or 303 of this bill. Schedule compensation payments are specific payments authorized under existing law for certain injuries, such as loss of use of a limb.

Under current law, an injured individual is not eligible to receive a schedule compensation payment for an injury simultaneously with benefits for total or partial disability.

Section 305 – Vocational Rehabilitation

This section includes several provisions to strengthen existing programs that help injured workers get back to work:

- (1) It extends existing vocational rehabilitation opportunities, which are now available under FECA for workers who are totally disabled, to be available to those who are partially disabled as well;
- (2) It authorizes the Department of Labor (DOL) to pay a federal employer the salary of a beneficiary for up to 3 years as an incentive to hire workers off of the FECA program rolls. Current law permits these payments only to non-federal employers; and
- (3) It makes compliance with the Return to Work plan developed between the program and the beneficiary a condition of receiving continued benefits (except this condition would not apply to beneficiaries who are over the age of retirement).

Section 306 – Reporting Requirements

This section mandates that beneficiaries report any outside income they receive to DOL. An employee who fails to comply will lose the right to receive compensation.

Section 307 – Disability Management Review; Independent Medical Examinations

This section requires an independent medical assessment of disability and potential for return to work for beneficiaries after 6 months in the program and on a regularly scheduled basis thereafter, but no less frequently than every 3 years. This does not change existing law allowing a FECA beneficiary to choose to see his or her own doctor for treatment and initial assessment. In addition, employing agencies may request that DOL obtain an independent medical examination at any time, and DOL must grant the agency's request if DOL has not already conducted such an examination.

Section 308 – Waiting Period

Because minor workplace injuries often heal quickly, FECA provides a 3-day waiting period before compensation begins. For postal employees, FECA's 3-day waiting period comes immediately after the injury, but for non-postal workers the waiting period does not come until after the end of the 45-day continuation-of-pay period.

Section 308 begins the 3-day waiting period immediately after a work-related injury for all injured employees. As under current law, injured employees may subsequently receive FECA compensation for those 3 days if the period of disability exceeds 14 days.

Section 309 – Election of Benefits

If an individual is simultaneously eligible for compensation benefits both under FECA and under a retirement system for federal employees (such as FERS or CSRS), the individual

must elect which benefits to receive, and the election will be irrevocable. This section prevents an injured worker from retroactively claiming workers' compensation benefits after having declined such benefits in favor of federal retirement benefits. This provision is intended to prevent a claimant from electing federal retirement benefits as a means of avoiding required participation in vocational rehabilitation or acceptance of an offered suitable job and then later retroactively electing the potentially more generous workers' compensation benefits.

Section 310 – Sanctions for Non-Cooperation with Nurses

This section suspends benefits when an injured worker fails to cooperate with a field nurse. A "field nurse" is defined as a registered nurse who assists DOL in the medical management of disability claims and assists claimants in coordinating medical care, and DOL is authorized to use field nurses to coordinate medical services and vocational rehabilitation services.

Section 311 – Subrogation of Continuation of Pay

This section allows the federal government to recover "continuation of pay" (e.g., salary that's continued to be paid to the beneficiary during the 45-day period between the injury and the initiation of FECA disability benefits) from third parties that are liable for the beneficiary's work-related injury.

Section 312 – Integrity and Compliance

This section includes several provisions to strengthen integrity and compliance efforts within the FECA program. No later than 270 days after enactment, the Secretary of Labor must establish an Integrity and Compliance Program to prevent, identify, and recover improper payments (including those obtained by fraud) for the FECA program. The section also directs the Secretary to cooperate with other agencies, including the Postal Service, and the agency inspectors general, to prevent, identify, and recover improper payments.

The section also requires the Secretary of Health and Human Services to make the National Directory of New Hires available to the Secretary of Labor, the Postmaster General, the DOL Inspector General, the USPS Inspector General, and GAO, so that they can cross-match that data with claimant data under the FECA program. The Comptroller General is granted access to the National Directory of New Hires under this provision for any audit, evaluation, or investigation, including any audit, evaluation, or investigation relating to program integrity.

Section 313 – Amount of Compensation

This section increases the amount an injured worker receives for a severe disfigurement of the face, head or neck from \$3,500 to a maximum of \$50,000. This section also increases the amount allowed to reimburse funeral expenses incurred due to a death from a work-related injury from \$800 to a maximum of \$6,000. The limits in the current law have not been significantly changed since 1949.

Section 314 - Technical and Conforming Amendments

This section contains technical and conforming amendments to the FECA statute in Title V of the United States Code.

Section 315 – Regulations

This section requires the DOL to issue regulations to carry out this title of the legislation.

Section 316 – Effective Date

This section provides that the provisions of Title III are to take effect 60 days after enactment, except as otherwise provided.

Title IV – Other Matters

Section 401 – Solvency Plan

This section requires the Postal Service to submit to Congress a plan detailing how it will achieve long-term solvency. Long-term solvency is defined as the ability of the Postal Service to pay debts and meet expenses, including the ability to perform maintenance and repairs, make investments, and maintain financial reserves. The plan is due within 90 days of enactment and must take into consideration the Postal Service's current legal authorities, the authorities given to it under this bill, cost savings that will be achieved through negotiations with employees of the Postal Service, projected changes in mail volume, projected changes in the number of employees needed to carry out the responsibilities of the Postal Service, and the long-term capital needs of the Postal Service. The plan must also be updated each quarter until the last quarter of fiscal year 2015.

Section 402 – Postal Rates

This section requires the PRC, not earlier than 3 years after enactment, to begin a study regarding: (1) the extent to which any market-dominant classes, products, or types of mail services do not cover the costs attributed to them; and (2) the impact of any excess mail processing, transportation, or delivery capacity of the Postal Service on the costs attributable to any class of mail that does not cover 100 percent of its costs. The PRC must also hold a public hearing before completing the study. At the conclusion of this study, for certain classes determined by the PRC to recover less than 90 percent of costs, the Postmaster General may increase rates for such classes by no more than 2 percent a year above the current allowable rate increase until such time as the class is covering 90 percent of its costs.

Section 403 – Co-location with Federal Agencies

This section codifies the Federal Real Property Council that is housed at the Office of Management and Budget (OMB), and assigns it responsibility for identifying federal agency field offices that could be co-located with Postal Service properties. It provides for a review process and permits federal agencies to lease space for their field offices from the Postal Service, based on recommendations by the Postmaster General and the applicable agency head.

Section 404 – Cooperation with State and Local Governments; Intra-Service Agreements.

This section allows the Postal Service to work with state and local governments to provide services in post offices on their behalf (such as fishing licenses or tax forms) as it currently does for services provided on behalf of federal agencies (such as passports).

Section 405 – Shipping of Wine, Beer, and Distilled Spirits

This section would allow the Postal Service to ship wine, beer, and distilled spirits (as private carriers such as FedEx and UPS already do). It requires the Postal Service to act in accordance with the laws of the states from and to which it is shipping and to ship only to a person who is at least 21 years old and presents a valid, government-issued form of identification at the time of delivery.

Section 406 – Annual Report on U.S. Mailing Industry

This section requires the PRC to publish an annual report on the financial health of the U.S. mailing industry, and requires the Postal Service and any other appropriate federal agency to assist in the report's preparation.

Section 407 – Use of Negotiated Service Agreements

This section authorizes the Postal Service to enter into Negotiated Service Agreements (NSAs) with individual mailers to retain existing mail volume, clearing up an ambiguity in the law. The section also requires the Postal Service to coordinate with the PRC to increase the use of NSAs.

Section 408 – Contracts Disputes

This section corrects a mistake in the Postal Accountability and Enhancement Act of 2006, which inadvertently deleted the Postal Service and the PRC from the list of agencies covered by the Contract Disputes Act of 1978. The Contract Disputes Act governs how contractor claims against federal agencies are to be handled.

Section 409 – Contracting Provisions

This section institutes contracting reforms and new ethics provisions for the Postal Service and the PRC. These include: (1) establishing the position of Advocate for Competition, who will encourage the use of commercial items, challenge barriers to competition, and review procurement; (2) clarifying that the Postmaster General and the PRC Chairman are ultimately responsible for any delegation of authority with respect to contracting, and requires public posting of such delegations; (3) requiring the Postal Service and PRC to publicly post justifications for noncompetitive contracts, with the PRC required to post all such contracts, and the Postal Service required to post all contracts valued at more than \$250,000; (4) requiring that if a contracting officer identifies an ethical issue surrounding a proposed contract, that contract must be submitted to the agency's designated ethics official before it is awarded; and (5) clarifying ethics rules by requiring employees who have a decision-making role in the award of noncompetitive contracts to disclose any relationship that could potentially lead to questions about their impartiality, requiring a review by the ethics counsel of any disclosures to determine

if disqualification of the employee from participation is warranted, and requiring contractors to disclose conflicts of interest. This section also allows the Postmaster General and the PRC Chairman to void a contract and recover funds when a violation is proven. This section also prohibits the Postal Service from entering into any contracts that restrict Congress from exercising its oversight authority.