

115TH CONGRESS
1ST SESSION

H. R. 4534

To amend the interstate Compact governing the Washington Metropolitan Area Transit Authority, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 4, 2017

Mrs. COMSTOCK introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the interstate Compact governing the Washington Metropolitan Area Transit Authority, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Metro Efficiency,
5 Transparency, Reliability, Oversight, Accountability and
6 Reform Act” or the “METRO Accountability and Reform
7 Act”.

8 **SEC. 2. DEFINITIONS.**

9 For the purposes of this Act:

1 (1) ACADEMY.—The term “Academy” means
2 the National Academy of Public Administration.

3 (2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the House Committees on Transpor-
7 tation and Infrastructure, Oversight and Gov-
8 ernment Reform, the Judiciary, and Appropria-
9 tions; and

10 (B) the Senate Committees on Commerce,
11 Science, and Transportation; Banking, Hous-
12 ing, and Urban Development; the Judiciary;
13 and Appropriations.

14 (3) AUTHORITY.—The term “Authority” means
15 the Washington Metropolitan Area Transit Author-
16 ity established under article III of the compact
17 (Public Law 89–774; 80 Stat. 1324).

18 (4) BOARD.—The term “Board” means the
19 Board of Directors of the Washington Metropolitan
20 Area Transit Authority.

21 (5) COMMISSION.—The term “Commission”
22 means the Metro Reform Commission.

23 (6) COMPACT.—The term “Compact” means
24 the Washington Metropolitan Area Transit Author-
25 ity Compact.

1 (7) DIRECTOR.—The term “Director” means a
2 member of the Board of Directors of the Wash-
3 ington Metropolitan Area Transit Authority.

4 (8) SECRETARY.—The term “Secretary” means
5 the Secretary of Transportation.

6 (9) SIGNATORY.—The term “Signatory” means
7 the State of Maryland, the Commonwealth of Vir-
8 ginia, or the District of Columbia.

9 (10) STATE.—The term “State” includes the
10 District of Columbia.

11 (11) WMATA.—The term “WMATA” means
12 the Washington Metropolitan Area Transit Author-
13 ity.

14 (12) WASHINGTON METROPOLITAN AREA TRAN-
15 SIT ZONE.—The term “Washington Metropolitan
16 Area Transit Zone” means the zone created by and
17 described in section 3 of the Compact, as well as any
18 additional area that may be added pursuant to sec-
19 tion 83(a) of such Compact.

20 **SEC. 3. FINDINGS.**

21 Congress finds the following:

22 (1) The Washington Metropolitan Area Transit
23 Authority is the public transit system of the Wash-
24 ington metropolitan area and is essential for the
25 continued and effective performance of the functions

1 of the Federal Government, and for the orderly
2 movement of people during major events and times
3 of regional or national emergency.

4 (2) WMATA, through Metrorail and Metrobus,
5 serve a population of 4 million within a 1,500
6 square-mile area.

7 (3) Thirty-five Metrorail stations serve Federal
8 facilities and 40 percent of Metrorail's peak period
9 commuters are Federal employees.

10 (4) The governments of Virginia, Maryland,
11 and the District of Columbia, as well as the Federal
12 Government, have invested substantially in WMATA,
13 which operates and maintains approximately
14 \$40,000,000,000 in physical assets.

15 (5) In addition to regional commuters and local
16 residents, WMATA serves millions of individuals
17 from around the world visiting Washington for busi-
18 ness or tourism.

19 (6) It is a vital interest of the Federal Govern-
20 ment to support WMATA and work constructively
21 with Virginia, Maryland, and the District of Colum-
22 bia to ensure the long-term viability of "America's
23 Subway".

1 **TITLE I—METRO REFORM**
2 **BOARD**

3 **SEC. 101. REAUTHORIZATION OF PRIIA.**

4 Section 601(f) of the Passenger Rail Investment and
5 Improvement Act of 2008 (Public Law 110–432; 126
6 Stat. 4968) is amended to read as follows:

7 “(f) AMOUNT.—There are authorized to be appro-
8 priated to the Secretary of Transportation for grants
9 under this section \$150,000,000 for each fiscal year end-
10 ing in fiscal year 2029.”.

11 **SEC. 102. METRO REFORM BOARD.**

12 (a) IN GENERAL.—At a time determined by the Sec-
13 retary pursuant to subsection (b), the Secretary, in con-
14 sultation with the Signatories, and subject the criteria in
15 section 103, shall issue language to amend the Compact
16 to establish a Metro Reform Board and transmit such lan-
17 guage to the Signatories, the funding jurisdictions, and
18 the appropriate congressional committees. The Secretary
19 shall not release any funds authorized under section 101
20 until the Secretary certifies that the Signatories have en-
21 acted such language.

22 (b) DETERMINATION OF PROGRESS, TIMELINE FOR
23 ISSUANCE.—

24 (1) IN GENERAL.—On the date of enactment of
25 this Act, the Secretary shall monitor the progress

1 being made by each of the Signatories with respect
2 to making changes to improve all facets of the Au-
3 thority. Subject to the terms described in this sub-
4 section, the Secretary shall have discretionary au-
5 thority in terms of the date upon which the Sec-
6 retary issues the language described in subsection
7 (a).

8 (2) RANGE OF DATES.—The Secretary shall
9 issue language not sooner than February 14, 2018,
10 but not later than July 1, 2018.

11 (3) CERTIFICATION.—Upon issuance of the lan-
12 guage described in subsection (a), the Secretary
13 shall transmit a written explanation to the Signato-
14 ries and the appropriate congressional committees
15 explaining the reasoning and justification employed
16 to move forward at such time.

17 **SEC. 103. PROVISIONS TO BE INCLUDED BY SECRETARY.**

18 (a) IN GENERAL.—In carrying out section 102, the
19 Secretary shall include specific criteria prescribed in this
20 section, and shall ensure that the language meets the stat-
21 ed objectives in this section.

22 (b) PURPOSE.—The Metro Reform Board shall work
23 expeditiously to improve all facets of the Authority, includ-
24 ing—

- 1 (1) the short-, medium-, and long-term financial
- 2 outlook;
- 3 (2) general operations;
- 4 (3) management and governing structure;
- 5 (4) maintaining a state of good repair;
- 6 (5) the pension and retirement benefits pro-
- 7 grams;
- 8 (6) labor relations; and
- 9 (7) culture of safety.

10 (c) DURATION OF METRO REFORM BOARD.—The
11 Metro Reform Board shall remain in place for not less
12 than 3 years after the date it is established pursuant to
13 this title.

14 (d) BOARD OF DIRECTORS.—The Metro Reform
15 Board shall be composed of 5 Directors, of whom—

16 (1) 1 shall be appointed by the Northern Vir-
17 ginia Transportation Commission, in consultation
18 with the Governor of Virginia;

19 (2) 1 shall be appointed by the Governor of
20 Maryland, in consultation with the Washington Sub-
21 urban Transit Commission;

22 (3) 1 shall be appointed by the Mayor of the
23 District of Columbia, in consultation with the City
24 Council of the District of Columbia;

1 (4) 1 shall be selected by the 3 other Directors
2 of the Reform Board from a list of candidates se-
3 lected by the Secretary of Transportation; and

4 (5) 1 shall be appointed by the Secretary of
5 Transportation, and that Director shall serve as
6 Chairperson.

7 (e) QUALIFICATIONS.—The Directors of the Metro
8 Reform Board, to the greatest extent practicable, shall
9 possess demonstrable experience in engineering; finance;
10 public sector financial management or oversight; mass
11 transit management; planning in transit, mass transit,
12 transportation, or land use; public safety; homeland secu-
13 rity; human resources; labor relations management; or as
14 a chief executive officer, chief financial officer, or be a
15 board member of a large capacity, publicly traded organi-
16 zation. Appointees may not currently hold elected political
17 office.

18 (f) FIDUCIARY OBLIGATION.—The Directors of the
19 Metro Reform Board shall have a fiduciary obligation to
20 the Washington Metropolitan Area Transit Authority.

21 (g) TERMS.—Each Director of the Reform Board
22 shall be appointed for a term of 5 years or less if the
23 Metro Reform Board is terminated sooner by the Signato-
24 ries.

1 (h) POWERS.—Notwithstanding any Federal law,
2 rule, or regulation, and except as provided in this section,
3 the Metro Reform Board shall be afforded all powers, re-
4 sponsibilities, and obligations of the Board, in addition to
5 the powers, responsibilities, and obligations set forth in
6 this section, if the powers conferred in this Act supersede
7 any constraints placed on the Board prior to amending
8 the Compact.

9 (1) CONTRACTS.—The Metro Reform Board
10 shall review all existing and pending contracts and
11 may amend such contracts, renegotiate them, ap-
12 prove them, or void them.

13 (2) LIABILITIES.—The Metro Reform Board
14 shall have the authority to renegotiate existing liabil-
15 ities.

16 (i) RESTRICTIONS.—

17 (1) RULES; NO VETOES.—The Metro Reform
18 Board shall adopt its own rules and procedures for
19 meetings and conducting business, except that the
20 Board may not adopt a rule, method, or procedure
21 by which a minority of Directors may vote to pre-
22 vent action by the Board.

23 (2) SEPARATION OF ACCOUNTS.—The Metro
24 Reform Board shall keep separate its capital budget
25 funds and its expense budget funds. The Board shall

1 not transfer funds between accounts, or use funds in
2 one account to make payments for items which
3 should be paid by the other account.

4 (3) LIMITS ON ANNUAL SPENDING IN-
5 CREASES.—The Metro Reform Board shall adopt
6 limits on annual spending increases relating to—

7 (A) capital expenses;

8 (B) nonpersonnel-related expenses within
9 the operations account; and

10 (C) personnel-related expenses with the op-
11 erations account which, beginning the next fis-
12 cal year after the date of enactment of this Act,
13 shall not exceed 0 percent annual growth for 5
14 fiscal years.

15 (j) LABOR.—

16 (1) IN GENERAL.—Any contract entered into by
17 the Authority and employees shall be entered into
18 with the labor organization representing the employ-
19 ees and designated for the purpose of collective bar-
20 gaining pursuant to section 9 of the National Labor
21 Relations Act (29 U.S.C. 159).

22 (2) EXCEPTIONS.—The Authority shall not
23 enter into such a contract if the terms of the collec-
24 tive bargaining agreement—

1 (A) provide protections for work stoppage
2 by the employees covered by such contract;

3 (B) provide the opportunity for overtime
4 work that results in pay to any employee in ex-
5 cess of 120 percent of the annual salary or pay
6 of that employee;

7 (C) prevent the Authority from using con-
8 tracted labor or services;

9 (D) restrict in any way the Authority from
10 laying off, transferring, or demoting an em-
11 ployee;

12 (E) provide that employee work schedules
13 are subject to binding interest arbitration if the
14 labor organization and the Authority are unable
15 to agree to a work schedule;

16 (F) restrict in any way the number of
17 part-time employees of the Authority; or

18 (G) provide for rates of overtime that ex-
19 ceed time and one-half for any reason.

20 (k) DUTIES.—

21 (1) CONSULTATION.—The Metro Reform Board
22 shall fully cooperate with the National Academy of
23 Public Administration, whose services shall be con-
24 tracted pursuant to this Act, to provide assistance to
25 the Authority, the Commonwealth of Virginia, the

1 District of Columbia, the State of Maryland, and the
2 Secretary for the purposes of implementing this Act,
3 and for other purposes.

4 (2) MANAGED COMPETITION.—The Metro Re-
5 form Board shall undertake a full-cost accounting
6 and analysis to determine the potential benefits as-
7 sociated with contracting services and functions cur-
8 rently provided by employees of the Authority, and
9 shall adopt a plan to incorporate managed competi-
10 tion into the workforce.

11 (3) EMPLOYEE PROTECTIONS.—Employees of
12 the Authority shall be afforded the rights and pro-
13 tections prescribed in title III.

14 (4) RETIREMENT PLANS.—With respect to pen-
15 sion and retirement benefits plans for employees of
16 the Authority—

17 (A) the Authority shall honor all pension
18 obligations for employees retired from the Au-
19 thority and currently receiving a pension and
20 such pension may be modified from time to
21 time consistent with applicable law;

22 (B) the Authority shall, for employees who,
23 on the date of enactment of this Act, have accu-
24 mulated a total of 5 years of employment with
25 the Authority, devise a system which limits

1 those enrolled in the Authority's pension plan to
2 having not more than 100 percent of base an-
3 nual salary as the amount counted toward the
4 highest salary level for purposes of calculating
5 pension benefits;

6 (C) the Authority may, with respect to
7 those employees who were hired before the date
8 of enactment of this Act but who had yet to ac-
9 cumulate a total of 5 years of employment with
10 the Authority, determine a benefits plan which
11 may include a combination of a defined benefit
12 and a defined contribution; and

13 (D) the Authority shall, for all employees
14 not enrolled in the Authority's pension system
15 on the date of enactment of this Act, provide
16 defined contribution retirement plans.

17 (l) CLARIFICATION.—The provisions in this section
18 are prescribed as minimum criteria. Nothing in this sec-
19 tion shall be construed to limit—

20 (1) the Secretary of Transportation from fur-
21 ther prescribing rules, regulations, guidelines, or leg-
22 islative text; or

23 (2) the Signatories from enacting other provi-
24 sions to amend the Compact if such provisions are

1 consistent with this Act and the Secretary approves
2 any such provisions prior to enactment.

3 **SEC. 104. APPROVAL.**

4 Congress shall approve of the language issued by the
5 Secretary and enacted by the Signatories pursuant to sec-
6 tion 102.

7 **TITLE II—NEW WASHINGTON**
8 **METROPOLITAN AREA TRAN-**
9 **SIT AUTHORITY COMPACT**

10 **SEC. 201. ADDITIONAL RESOURCES FOR CAPITAL**
11 **PROJECTS FOR WASHINGTON METROPOLI-**
12 **TAN AREA TRANSIT AUTHORITY.**

13 (a) AUTHORIZATION.—Subject to the provisions of
14 this section, and notwithstanding the provisions of the
15 Passenger Rail Investment and Improvement Act of 2008
16 (Public Law 110–432; 126 Stat. 4968), the Secretary of
17 Transportation may make grants to the Authority, in ad-
18 dition to the contributions authorized under sections 3, 14,
19 and 17 of the National Capital Transportation Act of
20 1969 (sec. 9–1101.01 et seq., D.C. Official Code), for the
21 purpose of financing in part the capital and preventive
22 maintenance projects included in the Capital Improvement
23 Program approved by the Board of Directors of the Au-
24 thority.

1 (b) USE OF FUNDS.—The Federal grants made pur-
2 suant to the authorization under this section shall be sub-
3 ject to the following limitations and conditions:

4 (1) The work for which such Federal grants are
5 authorized shall be subject to the provisions of the
6 Compact, including any future amendments to such
7 Compact.

8 (2) Each such Federal grant shall be for 50
9 percent of the net project cost of the project in-
10 volved, and shall be provided in cash from sources
11 other than Federal funds or revenues from the oper-
12 ation of public mass transportation systems. Con-
13 sistent with the terms of the amendment to the
14 Compact, or any future amendments to such Com-
15 pact, any funds so provided shall be solely from un-
16 distributed cash surpluses, replacement or deprecia-
17 tion funds or reserves available in cash, or new cap-
18 ital.

19 (c) APPLICABILITY OF REQUIREMENTS FOR MASS
20 TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS
21 UNDER FEDERAL TRANSPORTATION LAW.—Except as
22 specifically provided in this Act, the use of any amounts
23 appropriated pursuant to the authorization under this sec-
24 tion shall be subject to the requirements applicable to cap-
25 ital projects for which funds are provided under chapter

1 53 of title 49, United States Code, except to the extent
2 that the Secretary determines that the requirements are
3 inconsistent with this Act, its purposes, or any subsequent
4 rules or guidance issued pursuant to this Act.

5 (d) AMOUNT.—There is authorized to be appro-
6 priated to the Secretary of Transportation for grants
7 under this section \$75,000,000 for each fiscal year
8 through fiscal year 2029.

9 (e) AVAILABILITY.—

10 (1) IN GENERAL.—Amounts appropriated pur-
11 suant to the authorization under this section shall
12 remain available until expended. In the event that
13 the Secretary exercises discretion provided in section
14 202 to withhold certain funds in any fiscal year, any
15 remaining funds from that fiscal year shall be avail-
16 able in subsequent fiscal years, subject to limitations
17 described in this subsection.

18 (2) ADDITIONAL LIMITATIONS.—With regard to
19 any remaining funds described in this subsection—

20 (A) such funds shall not be expended be-
21 yond fiscal year 2033;

22 (B) not more than \$200,000,000 shall be
23 expended in any single fiscal year;

1 (C) in the event that the Secretary chooses
2 to expend such funds in fiscal years 2030,
3 2031, 2032 or 2033—

4 (i) the total amount for any such fis-
5 cal year shall not exceed \$150,000,000;
6 and

7 (ii) the Secretary shall, to the greatest
8 extent practicable, make such funds avail-
9 able in a decreasing amount beginning in
10 fiscal year 2030.

11 (3) AUTHORITY FOR WMATA TO RETAIN
12 FUNDS.—In the event that the Authority does not
13 spend the entire amount of funds granted by the
14 Secretary or the Signatories pursuant to this sec-
15 tion, the Authority may retain up to 20 percent of
16 the remaining funds and may spend such funds in
17 a subsequent fiscal year.

18 **SEC. 202. NEW WMATA COMPACT.**

19 (a) PURPOSE.—The purpose of this section is to es-
20 tablish a means by which the Signatories, with guidance
21 from the Secretary, may collaborate to adopt a succeeding
22 interstate Compact that meets the criteria and other
23 benchmarks set forth in this Act.

1 (b) IN GENERAL.—Not less than 90 days after the
2 Metro Reform Board is established pursuant to title I, the
3 Secretary shall establish—

4 (1) parameters and guidelines to which the Sig-
5 natories shall adhere as they collaborate to adopt a
6 succeeding interstate Compact that meets the cri-
7 teria and other benchmarks described in this Act;

8 (2) language that meets the criteria described
9 in this section and which shall be incorporated into
10 a succeeding interstate Compact; and

11 (3) a system of goals and metrics by which the
12 Secretary shall be able to determine the extent to
13 which—

14 (A) the Authority, governed by the Metro
15 Reform Board, is making substantial progress
16 with regard to reaching the goals described in
17 section 103;

18 (B) the Signatories are making progress
19 toward complying with this section to amend
20 the interstate Compact; and

21 (C) the Authority, governed by the suc-
22 ceeding Metro Board, is making substantial
23 progress with regard to reaching the goals and
24 metrics described in this section.

1 (c) REPORT.—Once the parameters, guidelines, lan-
2 guage, and system described in subsection (a) are estab-
3 lished, the Secretary shall transmit such parameters,
4 guidelines, language, and system to the Signatories, the
5 appropriate congressional committees, and the Authority.

6 (d) LIMITATIONS.—

7 (1) CERTIFICATION.—In addition to the limita-
8 tions in section 201, the Secretary shall not release
9 any funds authorized under such section unless the
10 Secretary certifies that—

11 (A) by using the Compact amendment
12 process, the Signatories have replaced the
13 Board in operation and installed a Metro Re-
14 form Board, pursuant to this Act; and

15 (B) all members of the Metro Reform
16 Commission have been appointed.

17 (2) COMMENSURATE RELEASE OF FUNDS.—In
18 addition to the limitations in paragraph (1) and sec-
19 tion 201, the Secretary shall release funds author-
20 ized under section 201 in a manner commensurate
21 with the extent to which—

22 (A) the Signatories are in compliance with
23 subsections (b)(1) and (b)(3)(B); and

24 (B) the Authority—

1 (i) governed by the Metro Reform
2 Board, is making substantial progress with
3 regard to reaching the goals described in
4 section 103 and the metrics described sub-
5 section (b)(3)(A); or

6 (ii) governed by the succeeding Metro
7 Board, is making substantial progress with
8 regarding to reaching the goals described
9 in this section.

10 (3) NO TRANSFERS.—Any remaining grant
11 funds for any fiscal year shall not be transferred to
12 other accounts within the Department of Transpor-
13 tation.

14 (4) FUTURE SECRETARIES.—In the event that
15 a successor Secretary of Transportation enters office
16 after establishment of the system referenced in sub-
17 section (a), the successor may continue using such
18 system, or may establish a new system, except that
19 the successor shall not implement a new system
20 without submission to, and written approval by, each
21 of the appropriate congressional committees.

22 (e) REPORT.—The certification referenced in sub-
23 section (c)(1) shall be transmitted as soon as practicable
24 to the appropriate congressional committees, the Signato-
25 ries, and the Authority. The disbursement of funds shall

1 not take place until the Appropriations Committees of the
2 House of Representatives and the Senate receive the re-
3 port.

4 (f) ASSISTANCE WITH GOALS AND METRICS.—In ac-
5 cordance with section 402, the Secretary shall enter into
6 a contract with the National Academy of Public Adminis-
7 tration to provide assistance to the Secretary, the Author-
8 ity, and the Signatories for the purposes of implementing
9 this Act, aiding with the transition from Metro Reform
10 Board to the succeeding the Metro Board, and for other
11 purposes.

12 (g) PARAMETERS AND GUIDELINES.—With respect
13 to paragraphs (1) and (2) of subsection (a), the Secretary
14 shall ensure that the new interstate Compact will improve
15 the outlook of—

- 16 (1) general finances;
- 17 (2) general operations;
- 18 (3) management;
- 19 (4) maintenance;
- 20 (5) pensions;
- 21 (6) labor relations; and
- 22 (7) day-to-day safety operations.

1 **SEC. 203. PROVISIONS TO BE INCLUDED BY SECRETARY.**

2 (a) IN GENERAL.—With respect to section 202, the
3 Secretary shall ensure that the succeeding interstate Com-
4 pact improves all aspects of the Authority, including—

5 (1) the short-, medium-, and long-term financial
6 outlook;

7 (2) general operations;

8 (3) management and governing structure;

9 (4) maintaining a state of good repair;

10 (5) the pension and retirement benefits pro-
11 grams;

12 (6) labor relations; and

13 (7) culture of safety.

14 (b) SUCCEEDING WMATA BOARD OF DIRECTORS.—

15 (1) MAKEUP.—The WMATA Board shall con-
16 sist of 9 Directors, of whom—

17 (A) 2 shall be appointed by the Mayor of
18 the District of Columbia;

19 (B) 2 shall be appointed by the Governor
20 of Maryland;

21 (C) 1 shall be appointed by the Northern
22 Virginia Transportation Commission;

23 (D) 1 shall be appointed by the Governor
24 of Virginia;

25 (E) 2 shall be appointed by the Secretary
26 of Transportation; and

1 (F) 1 shall be jointly appointed by the
2 Governors and the Mayor, in consultation with
3 the Northern Virginia Transportation Commis-
4 sion, the Washington Suburban Transit Com-
5 mission, and the City Council of the District of
6 Columbia, respectively, and that Director shall
7 serve as Chair of the Board. In the event that
8 the Governors and the Mayor fail to jointly ap-
9 prove the Chair of the Board within 30 days
10 after Congress grants consent to a succeeding
11 interstate Compact, the Secretary of Transpor-
12 tation shall appoint a third individual who shall
13 serve as Chair.

14 (2) REMOVAL.—Directors shall only be removed
15 from service to the Board for cause.

16 (3) QUALIFICATIONS.—The Board of Directors,
17 to the greatest extent practicable, shall possess de-
18 monstrable experience in engineering, finance; public
19 sector financial management or oversight; mass
20 transit management; planning in transit, mass tran-
21 sit, transportation, or land use; public safety; home-
22 land security; human resources; labor relations man-
23 agement; or as a chief executive officer, chief finan-
24 cial officer, or be a board member of a large capac-

1 ity, publicly traded organization. Appointed Direc-
2 tors may not currently hold elected political office.

3 (4) RULES; NO JURISDICTIONAL VETO.—Except
4 as otherwise provided in this title, the Board shall
5 adopt its own rules and procedures for meetings and
6 conducting business, except that the Board shall not
7 adopt a rule, method, or procedure by which a mi-
8 nority of Directors may vote to prevent action by the
9 Board.

10 (5) COMPENSATION.—Directors of the Board
11 shall be compensated by the Authority for their serv-
12 ice. The rates of compensation and reimbursement
13 shall be established at uniform rates across appoint-
14 ing authorities.

15 (6) SEPARATION OF ACCOUNTS.—The Board
16 shall keep separate its capital budget funds and its
17 expense budget funds. The Board shall not transfer
18 funds between accounts or use funds in one account
19 to make payments for items which should be paid by
20 the other account.

21 (c) LIMITS ON ANNUAL SPENDING INCREASES.—The
22 Signatories shall include in any amendment to the Com-
23 pact limits on annual spending increases relating to—

24 (1) capital expenses;

1 (2) nonpersonnel-related expenses within the
2 operations account; and

3 (3) personnel-related expenses within the oper-
4 ations account.

5 (d) WAIVER.—In the event that the Authority identi-
6 fies a critical need which requires the Authority to exceed
7 the limits on the annual spending growth rates established
8 pursuant to subsection (c), the Authority may seek a waiv-
9 er by submitting an appeal, in writing, to the legislative
10 bodies of the Signatories and the executive of the jurisdic-
11 tion of each Signatory justifying the need to exceed the
12 limits and the legislative bodies may vote to approve such
13 appeal. A waiver shall only be granted upon approval by
14 each of the legislative bodies of the Signatories and the
15 executives thereof. The terms of such a waiver shall not
16 exceed 2 years.

17 (e) LIMIT ON ANNUAL CONTRIBUTIONS FROM FUND-
18 ING JURISDICTIONS FOR OPERATIONS.—The Signatories
19 shall include in any amendment to the Compact a limit
20 of 3 percent relating to the annual growth in the rate of
21 spending by the funding jurisdictions to subsidize oper-
22 ational needs of the Authority.

23 (f) LABOR PROVISIONS.—

24 (1) ARBITRATION.—In case of any dispute over
25 labor rights involving the Authority and such em-

1 ployees where collective bargaining does not result in
2 agreement, the Authority shall submit such dispute
3 to the National Mediation Board.

4 (2) MANAGED COMPETITION.—The Board shall
5 undertake a full-cost accounting and analysis to de-
6 termine the potential benefits associated with con-
7 tracting services and functions currently provided by
8 employees of the Authority and shall incorporate a
9 system of managed competition for labor and service
10 contracts.

11 (3) EMPLOYEE PROTECTIONS.—Employees of
12 the Authority shall be afforded the rights and pro-
13 tections prescribed in title III of this Act.

14 (g) RETIREMENT PLANS.—With respect to pension
15 and retirement benefits plans for employees of the Author-
16 ity—

17 (1) the Authority shall honor all pension obliga-
18 tions for employees retired from the Authority and
19 currently receiving a pension;

20 (2) the Authority shall, for employees who, on
21 the date of enactment of this Act, have accumulated
22 a total of 5 years of employment with the Authority,
23 devise a system which limits those enrolled in the
24 Authority's pension plan to having not more than
25 100 percent of base annual salary as the amount

1 counted toward the highest salary level for purposes
2 of calculating pension benefits;

3 (3) the Authority may, with respect to those
4 employees who were hired before the date of enact-
5 ment of this Act but who had yet to accumulate a
6 total of 5 years of employment with the Authority,
7 determine a benefits plan which may include a com-
8 bination of a defined benefit and a defined contribu-
9 tion; and

10 (4) the Authority shall, for all employees not
11 enrolled in the Authority's pension system on the
12 date of enactment of this Act, provide defined con-
13 tribution retirement plans.

14 (h) GENERAL EFFICIENCY AND FINANCIAL TRANS-
15 PARENCY.—The Authority shall procure and utilize a com-
16 mercially available product with which the Treasurer and
17 other appropriate officers and staff shall manage the
18 budget, finances, and other aspects of the Authority. The
19 product chosen shall enable the Authority to provide open
20 data, analytics, financial transparency, and reporting
21 tools, among other things, and shall enable the public to
22 review the finances of the Authority in real-time.

23 (i) TRANSPARENT CONTRACT APPROVAL.—The
24 Board shall provide for online publication of notice of pro-
25 curements and other actions designed to secure competi-

tion where competitive procedures are used, and shall employ innovative contracting practices when warranted or justified. The Board shall adopt policies and procedures to comply with this subsection.

(j) CLARIFICATION.—The provisions in this section are prescribed as minimum criteria which must be included in any amendment to the Compact. Nothing in this section shall be construed to limit—

(1) the Secretary from further prescribing rules, regulations, guidelines, or legislative text which shall be included in any amendment to the Compact; or

(2) the Signatories from including other provisions to amend the Compact; if such provisions are consistent with this Act; and the Secretary approves of any such provisions prior to enactment.

TITLE III—EMPLOYEE PROTECTIONS

SEC. 301. WMATA EMPLOYEE WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—The Authority, a contractor or a subcontractor of the Authority, or an officer or employee of the Authority, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee with respect to the terms and conditions of em-

1 ployment if such discrimination is due, in whole or in part,
2 to the employee's lawful, good faith act done, or perceived
3 by the employer to have been done or about to be done—

4 (1) to provide information, directly cause infor-
5 mation to be provided, or otherwise directly assist in
6 any investigation regarding any conduct which the
7 employee reasonably believes constitutes a violation
8 of any Federal law or regulation or provision adopt-
9 ed by an authority created by an interstate Compact
10 relating to public transportation safety or security,
11 or fraud, waste, or abuse of Federal grants or other
12 public funds intended to be used for public transpor-
13 tation safety or security, if the information or assist-
14 ance is provided to or an investigation stemming
15 from the provided information is conducted by—

16 (A) a Federal, State, or local regulatory or
17 law enforcement agency, or a regulatory or law
18 enforcement agency created by an interstate
19 Compact (including an office of the Inspector
20 General under the Inspector General Act of
21 1978 (5 U.S.C. App.; Public Law 95–452));

22 (B) any Member of Congress, any com-
23 mittee of Congress, or the Government Ac-
24 countability Office; or

1 (C) a person with supervisory authority
2 over the employee or such other person who has
3 the authority to investigate, discover, or termi-
4 nate the misconduct;

5 (2) to refuse to violate or assist in the violation
6 of any Federal law, rule, or regulation relating to
7 public transportation safety or security;

8 (3) to file a complaint or directly cause to be
9 brought a proceeding related to the enforcement of
10 this section or to testify in that proceeding;

11 (4) to notify, or attempt to notify, the Author-
12 ity, the inspector general, or the Secretary of Trans-
13 portation of a work-related personal injury or work-
14 related illness of an employee;

15 (5) to accurately report hours on duty pursuant
16 to chapter 211 of title 49, United States Code;

17 (6) to cooperate with a safety or security inves-
18 tigation by the Secretary of Transportation, the Sec-
19 retary of Homeland Security, or the National Trans-
20 portation Safety Board; or

21 (7) to furnish information to the Secretary of
22 Transportation, the Secretary of Homeland Security,
23 the National Transportation Safety Board, or any
24 Federal, State, or local regulatory or law enforce-
25 ment agency, or a regulatory or law enforcement

1 agency created by an interstate Compact, as to the
2 facts relating to any accident or incident resulting in
3 injury or death to an individual or damage to prop-
4 erty occurring in connection with public transpor-
5 tation.

6 (b) PROMPT MEDICAL ATTENTION.—

7 (1) PROHIBITION.—The Authority or person
8 covered under this section may not deny, delay, or
9 interfere with the medical or first aid treatment of
10 an employee who is injured during the course of em-
11 ployment. If transportation to a hospital is requested
12 by an employee who is injured during the course of
13 employment, the Authority shall promptly arrange to
14 have the injured employee transported to the nearest
15 hospital where the employee can receive safe and ap-
16 propriate medical care.

17 (2) DISCIPLINE.—The Authority or person cov-
18 ered under this section may not discipline, or threat-
19 en discipline to, an employee for requesting medical
20 or first aid treatment, or for following orders or a
21 treatment plan of a treating physician, except that
22 the Authority's refusal to permit an employee to re-
23 turn to work following medical treatment shall not
24 be considered a violation of this section if the refusal
25 is pursuant to Federal Railroad Administration med-

1 ical standards for fitness of duty or, if there are no
2 pertinent Federal Railroad Administration stand-
3 ards, the Authority’s medical standards for fitness
4 for duty. For purposes of this paragraph, the term
5 “discipline” means to bring charges against a person
6 in a disciplinary proceeding, suspend, terminate,
7 place on probation, or make note of reprimand on an
8 employee’s record.

9 (c) HAZARDOUS SAFETY OR SECURITY CONDI-
10 TIONS.—

11 (1) The authority, or a contractor or a subcon-
12 tractor of such authority, or an officer or employee
13 of such authority, shall not discharge, demote, sus-
14 pend, reprimand, or in any other way discriminate
15 against an employee for—

16 (A) reporting, in good faith, a hazardous
17 safety or security condition;

18 (B) refusing to work when confronted by a
19 hazardous safety or security condition related to
20 the performance of the employee’s duties, if the
21 conditions described in paragraph (2) exist; or

22 (C) refusing to authorize the use of any
23 safety- or security-related equipment, track, or
24 structures, if the employee is responsible for the
25 inspection or repair of the equipment, track, or

1 structures, when the employee believes that the
2 equipment, track, or structures are in a haz-
3 ardous safety or security condition, if the condi-
4 tions described in paragraph (2) of this sub-
5 section exist.

6 (2) A refusal by an employee is protected under
7 paragraph (1)(B) and (C) if—

8 (A) the refusal is made in good faith and
9 no reasonable alternative to the refusal is avail-
10 able to the employee;

11 (B) a reasonable individual in the cir-
12 cumstances then confronting the employee
13 would conclude that—

14 (i) the hazardous condition presents
15 an imminent danger of death or serious in-
16 jury; and

17 (ii) the urgency of the situation does
18 not allow sufficient time to eliminate the
19 danger without such refusal; and

20 (C) the employee, where possible, has noti-
21 fied the authority of the existence of the haz-
22 ardous condition and the intention not to per-
23 form further work, or not to authorize the use
24 of the hazardous equipment, track, or struc-
25 tures, unless the condition is corrected imme-

1 diately or the equipment, track, or structures
2 are repaired properly or replaced.

3 (3) In this subsection, only subsection (c)(1)(A)
4 shall apply to security personnel, including transit
5 police, employed or utilized by the authority to pro-
6 tect riders, equipment, assets, or facilities.

7 (d) ENFORCEMENT ACTION.—

8 (1) FILING AND NOTIFICATION.—A person who
9 believes that he or she has been discharged or other-
10 wise discriminated against by any person in violation
11 of subsection (a), (b), or (c) may, not later than 180
12 days after the date on which such violation occurs,
13 file (or have any person file on his or her behalf) a
14 complaint with the Secretary of Labor alleging such
15 discharge or discrimination. Upon receipt of a com-
16 plaint filed under this paragraph, the Secretary of
17 Labor shall notify, in writing, the person named in
18 the complaint and the person's employer of the filing
19 of the complaint, of the allegations contained in the
20 complaint, of the substance of evidence supporting
21 the complaint, and of the opportunities that will be
22 afforded to such person under paragraph (2).

23 (2) INVESTIGATION; PRELIMINARY ORDER.—

24 (A) IN GENERAL.—Not later than 60 days
25 after the date of receipt of a complaint filed

1 under paragraph (1) and after affording the
2 person named in the complaint an opportunity
3 to submit to the Secretary of Labor a written
4 response to the complaint and an opportunity to
5 meet with a representative of the Secretary of
6 Labor to present statements from witnesses, the
7 Secretary of Labor shall conduct an investiga-
8 tion and determine whether there is reasonable
9 cause to believe that the complaint has merit
10 and notify, in writing, the complainant and the
11 person alleged to have committed a violation of
12 subsection (a), (b), or (c) of the Secretary of
13 Labor's findings. If the Secretary of Labor con-
14 cludes that there is a reasonable cause to be-
15 lieve that a violation of subsection (a), (b), or
16 (c) has occurred, the Secretary of Labor shall
17 accompany the Secretary of Labor's findings
18 with a preliminary order providing the relief
19 prescribed by paragraph (3)(B). Not later than
20 30 days after the date of notification of find-
21 ings under this paragraph, either the person al-
22 leged to have committed the violation or the
23 complainant may file objections to the findings
24 or preliminary order, or both, and request a
25 hearing on the record. The filing of such objec-

1 tions shall not operate to stay any reinstate-
2 ment remedy contained in the preliminary
3 order. Such hearings shall be conducted expedi-
4 tiously. If a hearing is not requested in such
5 30-day period, the preliminary order shall be
6 deemed a final order that is not subject to judi-
7 cial review.

8 (B) REQUIREMENTS.—

9 (i) REQUIRED SHOWING BY COM-
10 PLAINANT.—The Secretary of Labor shall
11 dismiss a complaint filed under this sub-
12 section and shall not conduct an investiga-
13 tion otherwise required under subpara-
14 graph (A) unless the complainant makes a
15 prima facie showing that any behavior de-
16 scribed in subsection (a), (b), or (c) was a
17 contributing factor in the unfavorable per-
18 sonnel action alleged in the complaint.

19 (ii) SHOWING BY EMPLOYER.—Not-
20 withstanding a finding by the Secretary of
21 Labor that the complainant has made the
22 showing required under clause (i), no in-
23 vestigation otherwise required under sub-
24 paragraph (A) shall be conducted if the
25 employer demonstrates, by clear and con-

1 vincing evidence, that the employer would
2 have taken the same unfavorable personnel
3 action in the absence of that behavior.

4 (iii) CRITERIA FOR DETERMINATION
5 BY SECRETARY OF LABOR.—The Secretary
6 of Labor may determine that a violation of
7 subsection (a), (b), or (c) has occurred
8 only if the complainant demonstrates that
9 any behavior described in subsection (a),
10 (b), or (c) was a contributing factor in the
11 unfavorable personnel action alleged in the
12 complaint.

13 (iv) PROHIBITION.—Relief may not be
14 ordered under subparagraph (A) if the em-
15 ployer demonstrates by clear and con-
16 vincing evidence that the employer would
17 have taken the same unfavorable personnel
18 action in the absence of that behavior.

19 (3) FINAL ORDER.—

20 (A) DEADLINE FOR ISSUANCE; SETTLE-
21 MENT AGREEMENTS.—Not later than 120 days
22 after the date of conclusion of a hearing under
23 paragraph (2), the Secretary of Labor shall
24 issue a final order providing the relief pre-
25 scribed by this paragraph or denying the com-

1 plaint. At any time before issuance of a final
2 order, a proceeding under this subsection may
3 be terminated on the basis of a settlement
4 agreement entered into by the Secretary of
5 Labor, the complainant, and the person alleged
6 to have committed the violation.

7 (B) REMEDY.—If, in response to a com-
8 plaint filed under paragraph (1), the Secretary
9 of Labor determines that a violation of sub-
10 section (a), (b), or (c) has occurred, the Sec-
11 retary of Labor shall order the person who com-
12 mitted such violation to—

13 (i) take affirmative action to abate the
14 violation; and

15 (ii) provide the remedies described in
16 subsection (e).

17 (C) ORDER.—If an order is issued under
18 subparagraph (B), the Secretary of Labor, at
19 the request of the complainant, shall assess
20 against the person against whom the order is
21 issued a sum equal to the aggregate amount of
22 all costs and expenses (including attorney's and
23 expert witness fees) reasonably incurred, as de-
24 termined by the Secretary of Labor, by the

1 complainant for, or in connection with, bringing
2 the complaint upon which the order was issued.

3 (D) FRIVOLOUS COMPLAINTS.—If the Sec-
4 retary of Labor finds that a complaint under
5 paragraph (1) is frivolous or has been brought
6 in bad faith, the Secretary of Labor may award
7 to the prevailing employer reasonable attorney's
8 fees not exceeding \$1,000.

9 (4) REVIEW.—

10 (A) APPEAL TO COURT OF APPEALS.—Any
11 person adversely affected or aggrieved by an
12 order issued under paragraph (3) may obtain
13 review of the order in the United States Court
14 of Appeals for the District of Columbia Circuit.
15 The petition for review must be filed not later
16 than 60 days after the date of the issuance of
17 the final order of the Secretary of Labor. Re-
18 view shall conform to chapter 7 of title 5,
19 United States Code. The commencement of pro-
20 ceedings under this subparagraph shall not, un-
21 less ordered by the court, operate as a stay of
22 the order.

23 (B) LIMITATION ON COLLATERAL AT-
24 TACK.—An order of the Secretary of Labor
25 with respect to which review could have been

1 obtained under subparagraph (A) shall not be
2 subject to judicial review in any criminal or
3 other civil proceeding.

4 (5) ENFORCEMENT OF ORDER BY SECRETARY
5 OF LABOR.—Whenever any person has failed to com-
6 ply with an order issued under paragraph (3), the
7 Secretary of Labor may file a civil action in the
8 United States district court for the district in which
9 the violation was found to occur to enforce such
10 order. In actions brought under this paragraph, the
11 district courts shall have jurisdiction to grant all ap-
12 propriate relief including, but not limited to, injunc-
13 tive relief and compensatory damages.

14 (6) ENFORCEMENT OF ORDER BY PARTIES.—

15 (A) COMMENCEMENT OF ACTION.—A per-
16 son on whose behalf an order was issued under
17 paragraph (3) may commence a civil action
18 against the person to whom such order was
19 issued to require compliance with such order.
20 The appropriate United States district court
21 shall have jurisdiction, without regard to the
22 amount in controversy or the citizenship of the
23 parties, to enforce such order.

24 (B) ATTORNEY'S FEES.—The court, in
25 issuing any final order under this paragraph,

1 may award costs of litigation (including reason-
2 able attorney's and expert witness fees) to any
3 party whenever the court determines such
4 award is appropriate.

5 (7) DE NOVO REVIEW.—With respect to a com-
6 plaint under paragraph (1), if the Secretary of
7 Labor has not issued a final decision not later than
8 210 days after the filing of the complaint and if the
9 delay is not due to the bad faith of the employee,
10 the employee may bring an original action at law or
11 equity for de novo review in the appropriate district
12 court of the United States, which shall have jurisdic-
13 tion over such an action without regard to the
14 amount in controversy, and which action shall, at
15 the request of either party to such action, be tried
16 by the court with a jury. The action shall be gov-
17 erned by the same legal burdens of proof specified
18 in paragraph (2)(B) for review by the Secretary of
19 Labor.

20 (e) REMEDIES.—

21 (1) IN GENERAL.—An employee prevailing in
22 any action under subsection (d) shall be entitled to
23 all relief necessary to make the employee whole.

1 (2) DAMAGES.—Relief in an action under sub-
2 section (d) (including an action described in
3 (d)(7)) shall include—

4 (A) reinstatement with the same seniority
5 status that the employee would have had, but
6 for the discrimination;

7 (B) any backpay, with interest; and

8 (C) compensatory damages, including com-
9 pensation for any special damages sustained as
10 a result of the discrimination, including litiga-
11 tion costs, expert witness fees, and reasonable
12 attorney's fees.

13 (f) ELECTION OF REMEDIES.—An employee may not
14 seek protection under both this section and another provi-
15 sion of law for the same allegedly unlawful act of the au-
16 thority.

17 (g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in
18 this section shall be construed to diminish the rights, privi-
19 leges, or remedies of any employee under any Federal or
20 State law, provision adopted by an authority created by
21 an interstate Compact, or under any collective bargaining
22 agreement. The rights and remedies in this section may
23 not be waived by any agreement, policy, form, or condition
24 of employment.

1 (h) NO PREEMPTION.—Nothing in this section pre-
2 empts or diminishes any other safeguards against dis-
3 crimination, demotion, discharge, suspension, threats, har-
4 assment, reprimand, retaliation, or any other manner of
5 discrimination provided by Federal or State law or provi-
6 sion adopted by an authority created by an interstate
7 Compact.

8 (i) DISCLOSURE OF IDENTITY.—

9 (1) Except as provided in paragraph (2) of this
10 subsection, or with the written consent of the em-
11 ployee, the Secretary of Transportation or the Sec-
12 retary of Homeland Security may not disclose the
13 name of an employee who has provided information
14 described in subsection (a)(1).

15 (2) The Secretary of Transportation or the Sec-
16 retary of Homeland Security shall disclose to the At-
17 torney General the name of an employee described
18 in paragraph (1) of this subsection if the matter is
19 referred to the Attorney General for enforcement.
20 The Secretary making such disclosure shall provide
21 reasonable advance notice to the affected employee if
22 disclosure of that person's identity or identifying in-
23 formation is to occur.

24 (j) PROCESS FOR REPORTING SECURITY PROBLEMS
25 TO THE DEPARTMENT OF HOMELAND SECURITY.—

1 (1) ESTABLISHMENT OF PROCESS.—The Sec-
2 retary shall establish through regulations after an
3 opportunity for notice and comment, and provide in-
4 formation to the public regarding, a process by
5 which any person may submit a report to the Sec-
6 retary regarding public transportation security prob-
7 lems, deficiencies, or vulnerabilities.

8 (2) ACKNOWLEDGMENT OF RECEIPT.—If a re-
9 port submitted under paragraph (1) identifies the
10 person making the report, the Secretary shall re-
11 spond promptly to such person and acknowledge re-
12 ceipt of the report.

13 (3) STEPS TO ADDRESS PROBLEM.—The Sec-
14 retary shall review and consider the information pro-
15 vided in any report submitted under paragraph (1)
16 and shall take appropriate steps to address any
17 problems or deficiencies identified.

18 **SEC. 302. PROTECTION FROM WHISTLEBLOWER RETALIA-**
19 **TIONS FROM LABOR UNION OFFICIALS.**

20 (a) IN GENERAL.—A labor organization or its offi-
21 cers or agents shall not discriminate against an employee
22 if such discrimination is due, in whole or in part, to the
23 employee's lawful, good faith act done, or perceived by the
24 labor organization to have been done or about to be
25 done—

1 (1) to provide information, directly cause infor-
2 mation to be provided, or otherwise directly assist in
3 any investigation regarding any conduct which the
4 employee reasonably believes constitutes a violation
5 of—

6 (A) any Federal law or regulation or provi-
7 sion adopted by an authority created by an
8 interstate Compact;

9 (B) any bylaw of the labor organization; or

10 (C) any fraud, waste, or abuse of the labor
11 organization's funds if the information or as-
12 sistance is provided to or an investigation stem-
13 ming from the provided information is con-
14 ducted by—

15 (i) a Federal, State, or local regu-
16 latory or law enforcement agency, or a reg-
17 ulatory or law enforcement agency created
18 by an interstate Compact (including an of-
19 fice of the Inspector General under the In-
20 spector General Act of 1978 (5 U.S.C.
21 App.; Public Law 95–452));

22 (ii) any Member of Congress, any
23 committee of Congress, or the Government
24 Accountability Office; or

1 (iii) a person with supervisory author-
2 ity over the employee or such other person
3 who has the authority to investigate, dis-
4 cover, or terminate the misconduct;

5 (2) to refuse to violate or assist in the violation
6 of any law, rule, or regulation relating to labor pol-
7 icy;

8 (3) to refuse to violate or assist in the violation
9 of any bylaw of the labor organization;

10 (4) to file a complaint or directly cause to be
11 brought a proceeding related to the enforcement of
12 this section or to testify in that proceeding;

13 (5) to notify, or attempt to notify, an officer of
14 the labor union, the employer, the inspector general,
15 or the Secretary of Labor of a violation of a law,
16 rule, regulation, or a bylaw of the labor organiza-
17 tion;

18 (6) to accurately report hours on duty pursuant
19 to chapter 211 of title 49, United States Code;

20 (7) to cooperate with a safety or security inves-
21 tigation by any Federal, State, or local regulatory or
22 law enforcement agency, or a regulatory or law en-
23 forcement agency created by an interstate Compact
24 (including an office of the Inspector General under

1 the Inspector General Act of 1978 (5 U.S.C. App.;
2 Public Law 95–452)); or

3 (8) to furnish information to any Federal,
4 State, or local regulatory or law enforcement agency,
5 or a regulatory or law enforcement agency created
6 by an interstate Compact, as to the facts relating to
7 any accident or incident resulting in injury or death
8 to an individual, damage to property, or misappropriation of funds.
9

10 (b) ENFORCEMENT ACTION.—

11 (1) FILING AND NOTIFICATION.—A person who
12 believes that he or she has been discharged or other-
13 wise discriminated against by any person in connec-
14 tion with a violation of subsection (a) may, not later
15 than 180 days after the date on which such violation
16 occurs, file (or have any person file on his or her be-
17 half) a complaint with the Secretary of Labor alleg-
18 ing such discharge or discrimination. Upon receipt
19 of a complaint filed under this paragraph, the Sec-
20 retary of Labor shall notify, in writing, the person
21 named in the complaint and the person’s employer
22 of the filing of the complaint, of the allegations con-
23 tained in the complaint, of the substance of evidence
24 supporting the complaint, and of the opportunities

1 that will be afforded to such person under paragraph
2 (2).

3 (2) INVESTIGATION; PRELIMINARY ORDER.—

4 (A) IN GENERAL.—Not later than 60 days
5 after the date of receipt of a complaint filed
6 under paragraph (1) and after affording the
7 person named in the complaint an opportunity
8 to submit to the Secretary of Labor a written
9 response to the complaint and an opportunity to
10 meet with a representative of the Secretary of
11 Labor to present statements from witnesses, the
12 Secretary of Labor shall conduct an investiga-
13 tion and determine whether there is reasonable
14 cause to believe that the complaint has merit
15 and notify, in writing, the complainant and the
16 person alleged to have committed a violation of
17 subsection (a) of the Secretary of Labor’s find-
18 ings. If the Secretary of Labor concludes that
19 there is a reasonable cause to believe that a vio-
20 lation of subsection (a) has occurred, the Sec-
21 retary of Labor shall accompany the Secretary
22 of Labor’s findings with a preliminary order
23 providing the relief prescribed by paragraph
24 (3)(B). Not later than 30 days after the date
25 of notification of findings under this paragraph,

1 either the person alleged to have committed the
2 violation or the complainant may file objections
3 to the findings or preliminary order, or both,
4 and request a hearing on the record. The filing
5 of such objections shall not operate to stay any
6 reinstatement remedy contained in the prelimi-
7 nary order. Such hearings shall be conducted
8 expeditiously. If a hearing is not requested in
9 such 30-day period, the preliminary order shall
10 be deemed a final order that is not subject to
11 judicial review.

12 (B) REQUIREMENTS.—

13 (i) REQUIRED SHOWING BY COM-
14 PLAINANT.—The Secretary of Labor shall
15 dismiss a complaint filed under this sub-
16 section and shall not conduct an investiga-
17 tion otherwise required under subpara-
18 graph (A) unless the complainant makes a
19 prima facie showing that any behavior de-
20 scribed in subsection (a) was a contrib-
21 uting factor in the unfavorable personnel
22 action alleged in the complaint.

23 (ii) SHOWING BY LABOR ORGANIZA-
24 TION OFFICER.—Notwithstanding a find-
25 ing by the Secretary of Labor that the

1 complainant has made the showing re-
2 quired under clause (i), no investigation
3 otherwise required under subparagraph (A)
4 shall be conducted if the labor organization
5 officer demonstrates, by clear and con-
6 vincing evidence, that the labor organiza-
7 tion officer would have taken the same un-
8 favorable personnel action in the absence
9 of that behavior.

10 (iii) CRITERIA FOR DETERMINATION
11 BY SECRETARY OF LABOR.—The Secretary
12 of Labor may determine that a violation of
13 subsection (a) has occurred only if the
14 complainant demonstrates that any behav-
15 ior described in subsection (a) was a con-
16 tributing factor in the unfavorable per-
17 sonnel action alleged in the complaint.

18 (iv) PROHIBITION.—Relief may not be
19 ordered under subparagraph (A) if the
20 labor union officer demonstrates by clear
21 and convincing evidence that the labor
22 union officer would have taken the same
23 unfavorable personnel action in the ab-
24 sence of that behavior.

25 (3) FINAL ORDER.—

1 (A) DEADLINE FOR ISSUANCE; SETTLE-
2 MENT AGREEMENTS.—Not later than 120 days
3 after the date of conclusion of a hearing under
4 paragraph (2), the Secretary of Labor shall
5 issue a final order providing the relief pre-
6 scribed by this paragraph or denying the com-
7 plaint. At any time before issuance of a final
8 order, a proceeding under this subsection may
9 be terminated on the basis of a settlement
10 agreement entered into by the Secretary of
11 Labor, the complainant, and the person alleged
12 to have committed the violation.

13 (B) REMEDY.—If, in response to a com-
14 plaint filed under paragraph (1), the Secretary
15 of Labor determines that a violation of sub-
16 section (a) has occurred, the Secretary of Labor
17 shall order the person who committed such vio-
18 lation to—

19 (i) take affirmative action to abate the
20 violation; and

21 (ii) provide the remedies described in
22 subsection (c).

23 (C) ORDER.—If an order is issued under
24 subparagraph (B), the Secretary of Labor, at
25 the request of the complainant, shall assess

1 against the person against whom the order is
2 issued a sum equal to the aggregate amount of
3 all costs and expenses (including attorney's and
4 expert witness fees) reasonably incurred, as de-
5 termined by the Secretary of Labor, by the
6 complainant for, or in connection with, bringing
7 the complaint upon which the order was issued.

8 (D) FRIVOLOUS COMPLAINTS.—If the Sec-
9 retary of Labor finds that a complaint under
10 paragraph (1) is frivolous or has been brought
11 in bad faith, the Secretary of Labor may award
12 to the prevailing labor organization officer rea-
13 sonable attorney's fees not exceeding \$1,000.

14 (4) REVIEW.—

15 (A) APPEAL TO COURT OF APPEALS.—Any
16 person adversely affected or aggrieved by an
17 order issued under paragraph (3) may obtain
18 review of the order in the United States Court
19 of Appeals for the District of Columbia Circuit.
20 The petition for review must be filed not later
21 than 60 days after the date of the issuance of
22 the final order of the Secretary of Labor. Re-
23 view shall conform to chapter 7 of title 5,
24 United States Code. The commencement of pro-
25 ceedings under this subparagraph shall not, un-

1 less ordered by the court, operate as a stay of
2 the order.

3 (B) LIMITATION ON COLLATERAL AT-
4 TACK.—An order of the Secretary of Labor
5 with respect to which review could have been
6 obtained under subparagraph (A) shall not be
7 subject to judicial review in any criminal or
8 other civil proceeding.

9 (5) ENFORCEMENT OF ORDER BY SECRETARY
10 OF LABOR.—Whenever any person has failed to com-
11 ply with an order issued under paragraph (3), the
12 Secretary of Labor shall file a civil action in the
13 United States district court for the district in which
14 the violation was found to occur to enforce such
15 order. In actions brought under this paragraph, the
16 district courts shall have jurisdiction to grant all ap-
17 propriate relief including, but not limited to, injunc-
18 tive relief and compensatory damages.

19 (6) ENFORCEMENT OF ORDER BY PARTIES.—

20 (A) COMMENCEMENT OF ACTION.—A per-
21 son on whose behalf an order was issued under
22 paragraph (3) may commence a civil action
23 against the person to whom such order was
24 issued to require compliance with such order.
25 The appropriate United States district court

1 shall have jurisdiction, without regard to the
2 amount in controversy or the citizenship of the
3 parties, to enforce such order.

4 (B) ATTORNEY'S FEES.—The court, in
5 issuing any final order under this paragraph,
6 may award costs of litigation (including reason-
7 able attorney's and expert witness fees) to any
8 party whenever the court determines such
9 award is appropriate.

10 (7) DE NOVO REVIEW.—With respect to a com-
11 plaint under paragraph (1), if the Secretary of
12 Labor has not issued a final decision within 210
13 days after the filing of the complaint and if the
14 delay is not due to the bad faith of the employee,
15 the employee may bring an original action at law or
16 equity for de novo review in the appropriate district
17 court of the United States, which shall have jurisdic-
18 tion over such an action without regard to the
19 amount in controversy, and which action shall, at
20 the request of either party to such action, be tried
21 by the court with a jury. The action shall be gov-
22 erned by the same legal burdens of proof specified
23 in paragraph (2)(B) for review by the Secretary of
24 Labor.

25 (c) REMEDIES.—

1 (1) IN GENERAL.—An employee prevailing in
2 any action under subsection (b) shall be entitled to
3 all relief necessary to make the employee whole.

4 (2) DAMAGES.—Relief in an action under sub-
5 section (b) shall include—

6 (A) reinstatement with the same seniority
7 status that the employee would have had, but
8 for the discrimination;

9 (B) any backpay, with interest, to be paid
10 by the labor organization in lieu of the em-
11 ployer; and

12 (C) compensatory damages, including com-
13 pensation for any special damages sustained as
14 a result of the discrimination, including litiga-
15 tion costs, expert witness fees, and reasonable
16 attorney's fees.

17 (3) POSSIBLE RELIEF.—Relief in any action
18 under subsection (b) may include punitive damages
19 in an amount not to exceed \$250,000.

20 (d) ELECTION OF REMEDIES.—An employee may not
21 seek protection under both this section and another provi-
22 sion of law for the same allegedly unlawful act of the au-
23 thority.

24 (e) NO PREEMPTION.—Nothing in this section pre-
25 empts or diminishes any other safeguards against dis-

1 crimination, demotion, discharge, suspension, threats, har-
 2 assment, reprimand, retaliation, or any other manner of
 3 discrimination provided by Federal or State law or provi-
 4 sion adopted by an authority created by an interstate
 5 Compact.

6 (f) RIGHTS RETAINED BY EMPLOYEE.—Nothing in
 7 this section shall be construed to diminish the rights, privi-
 8 leges, or remedies of any employee under any Federal or
 9 State law, provision adopted by an authority created by
 10 an interstate Compact, or under any collective bargaining
 11 agreement. The rights and remedies in this section may
 12 not be waived by any agreement, policy, form, or condition
 13 of employment.

14 **TITLE IV—OTHER PROVISIONS**

15 **SEC. 401. STANDARDIZATION OF FEDERAL TRANSIT BENE-** 16 **FITS.**

17 (a) IN GENERAL.—Not later than 15 days after the
 18 date of enactment of this Act, the General Services Ad-
 19 ministration (in this section referred to as “GSA”) shall
 20 initiate a review of the various transit benefit programs
 21 administered by each Federal department and agency with
 22 facilities located in the Washington Metropolitan Area
 23 Transit Zone for the purposes of standardizing the rate
 24 of benefit for all Federal employees enrolled in such a pro-
 25 gram.

1 (b) PURPOSE.—The standardized rate of benefit shall
2 constitute—

3 (1) an operating subsidy afforded to the Au-
4 thority from the Government in lieu of direct appro-
5 priations for the Authority’s operating costs; and

6 (2) a benefit to Federal employees who use the
7 services administered by the Authority to get to and
8 from their place of business.

9 (c) ESTABLISHMENT OF STANDARDIZED RATE.—Not
10 later than 75 days after enactment of this Act, the GSA
11 shall establish a policy for a standardized rate and shall
12 have issued rules and regulations to administer such rate,
13 including guidance for each department and agency to fol-
14 low in adopting the new rate of benefit. The initial rate
15 established shall be not less than 90 percent of the highest
16 rate used by any Federal agency or department, as deter-
17 mined at the time the policy is established. The policy shall
18 be made public, and shall include all relevant statistics
19 used to justify the proposed standardized rate.

20 (d) ADOPTION OF STANDARDIZED RATE.—Not later
21 than 60 days after the GSA makes public the policy in
22 subsection (c), all applicable departments and agencies of
23 the Government shall adopt and make available the stand-
24 ardized rate of benefit.

1 (e) ADJUSTMENT OF RATE.—The rate established in
2 subsection (c) shall be reviewed annually and adjusted, if
3 necessary, based on the same criteria used to calculate the
4 general schedule of salaries for the Washington-Baltimore-
5 Arlington, DC–MD–VA–WV–PA areas.

6 **SEC. 402. NATIONAL ACADEMY OF PUBLIC ADMINISTRA-**
7 **TION.**

8 (a) IN GENERAL.—Not less than 15 days after enact-
9 ment of this Act, the Secretary shall enter into a contract
10 with the National Academy of Public Administration for
11 the purposes of carrying out this Act. The Academy shall
12 provide assistance to the Secretary, the Authority, and the
13 Signatories (individually and collectively) for the purposes
14 of carrying out this Act.

15 (b) CONSIDERATIONS.—In carrying out the relevant
16 provisions of this Act, the Academy shall—

17 (1) recommend strategies, practices, and tools
18 to increase the effectiveness of the Board;

19 (2) facilitate engagement with the Signatories
20 to assist in the development and implementation of
21 a new interstate Compact;

22 (3) conduct research and analysis in response
23 to specific needs of the Board and the Signatories,
24 including key policy and management issues;

1 (4) provide support to the Board in the develop-
2 ment of a transition plan; and

3 (5) provide implementation support for any
4 changes to the Board, or any other changes required
5 by this Act.

6 (c) REPORTS.—

7 (1) PERIODIC REPORTS.—The Academy shall
8 submit periodic reports, in addition to a final report
9 upon completion of the contract, summarizing the
10 support provided and any findings and recommenda-
11 tions to the appropriate congressional committees.

12 (2) FINAL REPORT.—Not later than 30 days
13 after the date determined in subsection (d), the
14 Academy shall publish online in searchable format a
15 final report summarizing the support provided and
16 any findings and recommendations for consideration
17 in Congress. The Academy shall provide notice to
18 the appropriate congressional committees in advance
19 of the publication of the final report.

20 (d) CONTRACT LENGTH.—The initial term of the
21 contract with the National Academy of Public Administra-
22 tion shall be for a period of not less than 6 months after
23 the succeeding Compact is in place. The contract may be
24 renewed, as appropriate, such that the contract shall be

1 in effect for not less than 90 days after the interstate
2 Compact is amended pursuant to section 103.

3 **SEC. 403. FEDERAL TRANSIT ADMINISTRATION REVIEW.**

4 The Administrator of the Federal Transit Adminis-
5 tration shall conduct a review with respect to competitive
6 grant programs administered by the Federal Transit Ad-
7 ministration to identify alternative criteria that may be
8 used in addition to, or in lieu of, minimum capital costs
9 for transit grants awarded by the Administration. The
10 purpose of such a review is to establish criteria that will
11 incentivize efficiency within the entities applying for grant
12 funds. The Administrator shall review any relevant per-
13 formance metrics, including—

14 (1) system expenses relative to vehicle revenue
15 hours;

16 (2) cost per passenger mile;

17 (3) cost inefficiencies associated with inad-
18 equately planning for procurement of equipment such
19 as railcars and buses; and

20 (4) overall safety, including number of accidents
21 or injuries system-wide.

22 **SEC. 404. METRO REFORM COMMISSION.**

23 (a) ESTABLISHMENT.—Upon enactment of this Act,
24 there is established a Metro Reform Commission.

1 (b) PURPOSE.—The Commission will serve as an
2 intergovernmental body whose purpose is to—

3 (1) share information and provide a forum
4 through which proposals to improve the Authority
5 may be debated; and

6 (2) keep Congress and other relevant stake-
7 holders informed of the progress of the efforts by
8 the Signatories to amend the interstate Compact
9 and increase efficiencies within the Authority.

10 (c) MAKEUP.—The makeup of the Commission shall
11 be as follows:

12 (1) The Governor of Virginia.

13 (2) The Governor of Maryland.

14 (3) The Mayor of the District of Columbia.

15 (4) The Secretary of Transportation.

16 (5) The General Manager of the Authority.

17 (6) 1 member of the National Academy for
18 Public Administration contracted under section 402
19 of this Act.

20 (7) 8 Members of the House of Representatives
21 appointed by the Speaker of the House, 5 of which
22 shall be from the majority, and 3 of which shall be
23 from the minority.

1 (8) 3 Members of the Senate appointed by the
2 majority leader, 2 of which shall be from the major-
3 ity, and 1 of which shall be from the minority.

4 (d) DESIGNEE.—Any member of the Commission
5 may select an individual to serve as a designee on the
6 Commission.

7 (e) CHAIR.—The Chair shall be named by the Speak-
8 er of the House of Representatives.

9 (f) MEETINGS.—

10 (1) FREQUENCY.—The Commission shall meet
11 subject to the call of the Chair.

12 (2) OUTSIDE PARTICIPANTS.—The members of
13 the Commission may vote with not less than 10
14 votes to invite outside guests, including stakeholders,
15 subject matter experts, community leaders, elected
16 officials, representatives of the business community,
17 or other relevant entities to their meetings to provide
18 counsel or briefings.

19 (3) LOCATION.—The Chair shall name the time
20 and place of meetings, which may be held in a pub-
21 licly or privately owned building with no expectation
22 of reciprocal action or favoritism is provided to the
23 individual granting permission for use of the space.

24 (g) DUTIES.—The Governors of Maryland and Vir-
25 ginia, and the Mayor of the District of Columbia (referred

1 to in this section as the “executives”) jointly shall develop
2 a document to reflect specific amendments, deletions, ad-
3 ditions, or edits to the previous interstate Compact which
4 governed the Authority. The executives shall provide, to
5 the best of their ability, such document to the other mem-
6 bers of the Commission upon request, but at least as often
7 as the Commission convenes. Upon agreement among the
8 Signatories of a new interstate Compact, the executives
9 shall provide a final version of this document to the mem-
10 bers of the Commission.

11 (h) TERMS OF SERVICE.—The members of the Com-
12 mission shall serve as long as the Commission is author-
13 ized. If no amendments to the Compact are agreed upon
14 before the political term of a Commission member expires,
15 or that Commission member is defeated in a political elec-
16 tion, or is removed from office for any reason, his or her
17 successor to such political office shall serve on the Com-
18 mission.

19 (i) COMPENSATION.—The members of the Commis-
20 sion shall serve in addition to their regular professional
21 duties and obligations, and shall not receive compensation
22 for membership on, or participation with, the Commission.

23 (j) GIFTS.—Except as provided in subsection (f)(3)
24 of this section, the Commission members may not accept,

1 use, or dispose of gifts, including donations, services, prop-
 2 erty, or tangible goods.

3 (k) TERMINATION.—The Commission shall be termi-
 4 nated after the Signatories negotiate amendments to the
 5 Compact, adopt such amendments, and the Congress ap-
 6 proves such amendments.

7 **SEC. 405. NATIONAL CAPITAL AREA INTEREST ARBITRA-**
 8 **TION STANDARDS.**

9 Sections 18301 through 18304 of chapter 183 of title
 10 40, United States Code, are amended to read as follows:

11 **“§ 18301. Findings and purposes**

12 “(a) FINDINGS.—Congress finds that—

13 “(1) safe, reliable, and affordable public trans-
 14 portation at sufficient levels is essential to the eco-
 15 nomic vitality of the national capital area and is an
 16 essential component of regional efforts to improve
 17 air quality to meet environmental requirements and
 18 to improve the health of both residents of and visi-
 19 tors to the national capital area as well as to pre-
 20 serve the beauty and dignity of the Nation’s capital;

21 “(2) use of mass transit by both residents of
 22 and visitors to the national capital area is substan-
 23 tially affected by the prices charged for mass transit
 24 services, prices that are substantially affected by

1 labor costs, since more than 70 percent of operating
2 costs are attributable to labor costs;

3 “(3) labor costs incurred in providing mass
4 transit in the national capital area have increased at
5 an alarming rate and are unsustainable in light of
6 the financial condition of interstate Compact agen-
7 cies providing mass transit services in the national
8 capital area;

9 “(4) higher operating costs incurred for public
10 transit in the national capital area cannot be offset
11 by increasing costs to patrons, since this often dis-
12 courages ridership and thus undermines the public
13 interest in promoting the use of public transit;

14 “(5) higher operating costs incurred for public
15 transit in the national capital area cannot be offset
16 by service cuts since this undermines the public in-
17 terest in promoting the use of public transit and
18 could impact public safety;

19 “(6) spiraling labor costs cannot be offset by
20 the governmental entities that are responsible for
21 subsidy payments for public transit services since
22 local governments face other substantial financial
23 obligations;

24 “(7) labor costs cannot be increased during pe-
25 riods of time when an interstate Compact agency op-

1 erating in the national capital area providing public
2 transportation is financially stressed taking into ac-
3 count operating costs, legacy benefit obligations,
4 capital needs, and reserve levels;

5 “(8) imposition of mandatory standards appli-
6 cable to arbitrators resolving arbitration disputes in-
7 volving interstate Compact agencies operating in the
8 national capital area will ensure that wages, bene-
9 fits, and other terms and conditions of employment,
10 including work rules, are justified and do not ad-
11 versely impact the ability of the interstate Compact
12 agencies to provide affordable, safe, and reliable
13 public transit services at levels sufficient to serve the
14 needs of the Washington metropolitan area;

15 “(9) Federal legislation is required to ensure
16 that interest arbitration decisions do not adversely
17 impact the ability of interstate Compact agencies op-
18 erating in the national capital area to emerge from
19 periods of financial stress and avoid future periods
20 of financial stress; and

21 “(10) Federal legislation is necessary under
22 section 8 of article I of the Constitution to balance
23 the need to moderate and lower labor costs while
24 maintaining labor peace.

1 “(b) PURPOSE.—The purpose of this chapter is to
 2 adopt standards governing arbitration that arbitrators
 3 must apply exclusively in resolving disputes involving
 4 interstate Compact agencies operating in the national cap-
 5 ital area in order to lower operating costs and facilitate
 6 the provision of safe, reliable, and affordable public transit
 7 services at sufficient levels in the Washington metropoli-
 8 tan area.

9 **“§ 18302. Definitions**

10 “In this chapter, the following definitions apply:

11 “(1) ARBITRATION.—The term ‘arbitration’—

12 “(A) means the arbitration of disputes, re-
 13 garding the terms and conditions of employ-
 14 ment, that is required under an interstate Com-
 15 pact governing an interstate Compact agency
 16 operating in the national capital area; but

17 “(B) does not include the interpretation
 18 and application of rights arising from an exist-
 19 ing collective bargaining agreement.

20 “(2) ARBITRATOR.—The term ‘arbitrator’ re-
 21 fers to either a single arbitrator, or a board of arbi-
 22 trators, chosen under applicable procedures.

23 “(3) INTERSTATE COMPACT AGENCY OPER-
 24 ATING IN THE NATIONAL CAPITAL AREA.—The term
 25 ‘interstate Compact agency operating in the national

1 capital area’ means any interstate Compact agency
2 that provides public transit services and that was es-
3 tablished by an interstate Compact to which the Dis-
4 trict of Columbia is a signatory.

5 “(4) FINANCIAL STRESS.—The term ‘financial
6 stress’ means that at least 2 of the following 3 fi-
7 nancial issues are affecting an interstate Compact
8 agency operating in the national capital area:

9 “(A) The interstate Compact agency’s
10 ratio of operating revenues (excluding any sub-
11 sidy payment or budgetary assistance) to oper-
12 ating expenses (as measured on the last date of
13 each fiscal year) has decreased in the aggregate
14 over the preceding 2-year period.

15 “(B) The interstate Compact agency has
16 taken at least one of the following measures
17 during the preceding 2-year period:

18 “(i) Reduced service.

19 “(ii) Increased fares.

20 “(iii) Diverted capital funds to pay for
21 operating expenses during a period in
22 which the interstate Compact agency’s
23 ratio of capital backlog to system value is
24 greater than the average ratio of capital

1 backlog to system value for other United
2 States transit systems.

3 “(C) It is not reasonably foreseeable that
4 the interstate Compact agency will be in a state
5 of good repair within the following 2 years as
6 determined by the Federal Transit Administra-
7 tion’s Transit Economic Requirements Model or
8 any other alternative model that the Federal
9 Transit Administration may utilize in the fu-
10 ture.

11 **“§ 18303. Standards for arbitrators**

12 “(a) DEFINITION.—In this section, the term ‘public
13 welfare’ means, with respect to arbitration under an inter-
14 state Compact—

15 “(1) the ability of the interstate Compact agen-
16 cy to finance wages and benefits resulting from an
17 arbitrator’s award consistent with its projected oper-
18 ating and capital budgets during the term of such
19 award without adversely impacting the agency’s abil-
20 ity to provide safe, reliable, and affordable public
21 transportation at sufficient levels;

22 “(2) the ability of the interstate Compact agen-
23 cy to finance wages and benefits resulting from an
24 arbitrator’s award as set forth in subsection (c); and

1 “(3) the continuity and stability of interstate
2 Compact agency operations to the effect that such
3 operations are not detrimental to any facet of the re-
4 gional economy or to the ability of employees of the
5 Federal, State, or local governments to conduct busi-
6 ness.

7 “(b) FACTORS IN MAKING ARBITRATION AWARD.—
8 An arbitrator rendering an arbitration award involving the
9 employees of an interstate Compact agency operating in
10 the national capital area must exclusively consider the fol-
11 lowing factors, in addition to the factors prescribed in sub-
12 section (c):

13 “(1) The existing wages, benefits, and terms
14 and conditions of employment of the employees in
15 the bargaining unit except that structural changes
16 should be awarded to the benefit of an interstate
17 Compact agency operating in the national capital
18 area where such changes are consistent with the
19 public welfare.

20 “(2) The reasonably available and ongoing fi-
21 nancial resources of the interstate Compact agency,
22 taking into account the liabilities and obligations (in-
23 cluding capital needs, legacy benefit obligations, and
24 reserve levels) of the interstate Compact agency,

1 based on the agency's budget for the current year
2 and its projected budget for the next 10 years.

3 “(3) The annual increase or decrease in con-
4 sumer prices for goods and services as reflected in
5 the most recent Consumer Price Index for the Wash-
6 ington-Baltimore, DC–MD–VA–WV Consolidated
7 Metropolitan Statistical Area, published by the Bu-
8 reau of Labor Statistics.

9 “(4) The wages, benefits, and terms and condi-
10 tions of the employment of other employees in the
11 District of Columbia, Maryland, and Virginia whose
12 positions require qualifications and skills similar to
13 those required by employees in the bargaining unit
14 except that an arbitrator rendering an arbitration
15 award involving the employees of an interstate Com-
16 pact agency operating in the national capital area
17 may not consider the wages, benefits, and terms and
18 conditions of employment of employees working out-
19 side of the District of Columbia, Maryland, and Vir-
20 ginia.

21 “(5) The wages, benefits, and terms and condi-
22 tions of employment applicable to other employees of
23 the interstate Compact agency taking into account
24 the special nature of the work performed by the em-
25 ployees in the bargaining unit, including any hazards

1 or the relative ease of employment, physical require-
2 ments, educational qualifications, job training and
3 skills, shift assignments, and the demands placed
4 upon the employees as compared to only other em-
5 ployees of the same interstate Compact agency.

6 “(6) The interests and welfare of the employees
7 in the bargaining unit, including—

8 “(A) the overall compensation presently re-
9 ceived by the employees, having regard not only
10 for wage rates but also for wages for time not
11 worked, including vacations, holidays, and other
12 excused absences;

13 “(B) all benefits received by the employees,
14 including previous bonuses, insurance, and pen-
15 sions; and

16 “(C) the continuity and stability of em-
17 ployment, such that the arbitrator shall not
18 issue an award increasing wages or benefits
19 where the interstate Compact agency operating
20 in the national capital area can show that such
21 recommended increases could result in
22 headcount reductions.

23 “(7) The public welfare.

24 “(c) ABILITY TO FINANCE WAGES AND BENEFITS

25 PROVIDED IN AWARD.—An arbitrator rendering an arbi-

1 tration award involving the employees of an interstate
2 Compact agency operating in the national capital area
3 shall not, with respect to a collective bargaining agreement
4 governing conditions of employment, provide for wages or
5 other benefits that exceed the reasonable and ongoing abil-
6 ity of the interstate Compact agency operating in the na-
7 tional capital area to obtain the necessary financial re-
8 sources to pay for wage and benefit increases for employ-
9 ees of the interstate Compact agency while providing safe,
10 reliable, and affordable transit services at levels sufficient
11 to serve the needs of the Washington metropolitan area.
12 The following conditions shall be met to comply with this
13 subsection:

14 “(1) An arbitrator’s award shall not provide for
15 wages and benefits that will result in an annual in-
16 crease in operating subsidy of more than 1.5 percent
17 inclusive of both labor and nonlabor-related oper-
18 ating costs, unless there is substantial evidence that
19 the interstate Compact agency is able to finance the
20 additional costs consistent with its budget and pro-
21 jected budgeted costs without adversely impacting
22 the agency’s ability to provide safe, reliable, and af-
23 fordable public transportation at sufficient levels.

24 “(2) During those periods of time when an
25 interstate Compact agency operating in the national

1 capital area is financially stressed, the arbitrator
2 shall issue an award that either reduces or does not
3 increase the interstate Compact agency's personnel
4 costs.

5 “(3) The arbitrator's award must give substan-
6 tial deference to the evidence presented by the inter-
7 state Compact agency's management regarding fi-
8 nancial issues.

9 “(4) The arbitrator's award may not cause the
10 interstate Compact agency operating in the national
11 capital area to be in noncompliance with any other
12 legal obligations.

13 “(d) CLARIFICATION.—An arbitrator rendering an
14 arbitration award involving the employees of an interstate
15 Compact agency operating in the national capital area
16 shall consider the factors in subsection (b) independently
17 from the factors in subsection (c).

18 “(e) REQUIREMENTS FOR FINAL AWARD.—

19 “(1) WRITTEN AWARD.—In resolving a dispute
20 submitted to arbitration involving the employees of
21 an interstate Compact agency operating in the na-
22 tional capital area, the arbitrator shall issue a writ-
23 ten award that demonstrates that all the factors set
24 forth in subsections (b) and (c) have been considered

1 and applied and that the arbitrator has not consid-
2 ered and applied any other factors.

3 “(2) PREREQUISITES.—An award may grant an
4 increase in pay rates or benefits (including insurance
5 and pension benefits), or reduce hours of work, only
6 if the arbitrator concludes that any costs to the
7 agency do not adversely affect the public welfare.

8 “(3) SUBSTANTIAL EVIDENCE.—The arbitra-
9 tor’s conclusion regarding the public welfare must be
10 supported by substantial evidence.

11 “(f) COMPLIANCE WITH SECTION 5333(b) OF TITLE
12 49, UNITED STATES CODE.—

13 “(1) CLARIFICATION.—Neither the existence of
14 this statute, nor any arbitrator’s award issues pur-
15 suant to this law, shall be deemed to violate the re-
16 quirements of section 5333(b) of title 49, United
17 States Code.

18 “(2) PROHIBITION ON DENIAL.—For the avoid-
19 ance of doubt, the Department of Labor or the De-
20 partment of Transportation shall not deny any cer-
21 tification of compliance with section 5333(b) of title
22 49, United States Code, and an interstate Compact
23 agency operating in the national capital area shall
24 not be denied any Federal grant as a result of this

1 statute or any arbitrator's award issued pursuant to
2 this statute.

3 **“§ 18304. Procedures for enforcement of awards**

4 “(a) MODIFICATIONS AND FINALITY OF AWARD.—
5 Within 10 days after the parties receive an arbitration
6 award to which section 18303 of this title applies, the
7 interstate Compact agency and the employees, through
8 their representative, may agree in writing on any modifica-
9 tions to the award. After the end of that 10-day period,
10 the award, and any modifications, become binding on the
11 interstate Compact agency, the employees in the bar-
12 gaining unit, and the employees' representative.

13 “(b) IMPLEMENTATION.—Each party to an award
14 that becomes binding under subsection (a) shall take all
15 actions necessary to implement the award.

16 “(c) JUDICIAL REVIEW.—Within 60 days after an
17 award becomes binding under subsection (a), the inter-
18 state Compact agency or the exclusive representative of
19 the employees concerned may bring a civil action in a
20 court that has jurisdiction over the interstate Compact
21 agency for review of the award. The court shall review the
22 award on the record, and shall vacate the award or any
23 part of the award, after notice and a hearing, if—

24 “(1) the award is in violation of applicable law;

1 “(2) the arbitrator exceeded the arbitrator’s
2 powers;

3 “(3) the decision by the arbitrator is arbitrary
4 or capricious;

5 “(4) the arbitrator conducted the hearing con-
6 trary to the provisions of this chapter or other laws
7 or rules that apply to the arbitration so as to sub-
8 stantially prejudice the rights of a party;

9 “(5) there was partiality or misconduct by the
10 arbitrator prejudicing the rights of a party;

11 “(6) the award was procured by corruption,
12 fraud, or bias on the part of the arbitrator; or

13 “(7) the arbitrator did not comply with the pro-
14 visions of section 18303 of this title.”.

○