

Calendar No. 561

115TH CONGRESS }
2d Session

SENATE

{ REPORT
115-329

POST OFFICE DISCONTINUANCE
ACCOUNTABILITY ACT OF 2017

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1204

TO AUTHORIZE THE UNITED STATES POSTAL SERVICE TO
CARRY OUT EMERGENCY SUSPENSIONS OF POST OFFICES IN
ACCORDANCE WITH CERTAIN PROCEDURES, AND FOR OTHER
PURPOSES



SEPTEMBER 4, 2018.—Ordered to be printed

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POST OFFICE DISCONTINUANCE ACCOUNTABILITY ACT OF 2017

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Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1204]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1204) to authorize the United States Postal Service to carry out emergency suspensions of post offices in accordance with certain procedures, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 1204, the Post Office Discontinuance Accountability Act of 2018, is to establish procedures that the United States Postal Service (Postal Service) must follow when suspending operations at post offices in cases of emergencies.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Postal Service is an independent government agency, established to provide postal services to the United States which are paid for by customers through postage rate income.¹ In addition to receiving, transmitting, and delivering mail throughout the United States, the Postal Service is responsible for establishing and maintaining “postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.”² To fulfill this responsibility, Congress provided the Postal Service authority to determine the need for post offices and postal facilities.³

There are limits to this authority. Before the Postal Service may close or consolidate a post office, it must follow specific procedures outlined in section 404(d) of title 39, United States Code. First, the Postal Service must consider a number of factors regarding the closure or consolidation including: the impact of the action on the community served by the post office and the employees of the post office; the ability of the Postal Service to continue to provide effective and regular postal services to rural areas after the proposed action; and the anticipated economic savings for the Postal Service from the proposed action.⁴

After this step, the Postal Service must provide written notice of its intention to close a post office to those served by the post office at least 60 days in advance of the action including the findings of the above considerations.⁵ Any individual served by the post office may then appeal the closure or consolidation within 30 days to the Postal Regulatory Commission (Commission) for review.⁶ The Commission may then review the decision of the Postal Service and either affirm the decision or return it to the Postal Service for further consideration.⁷ The Commission has further clarified these procedures, including how and when affected individuals may participate in the appeal and how the Postal Service may respond.⁸ The Postal Service also has guidelines about how management may discontinue operations at a post office, which are described in the *Postal Service-Operated Retail Facilities Discontinuance Guide* (Handbook PO-101).⁹

There is no statutory restriction on the Postal Service temporarily suspending operations at a post office. District managers can suspend operations at a post office under certain circumstances, including: natural disasters; termination of a lease or rental agreement when no suitable alternative quarters exists in the community; severe damage to or destruction of the office; or lack of qualified personnel to operate the office. Suspension procedures are also laid out in Handbook PO-101 and include instructions on how to

¹39 U.S.C. §§ 101(d), 201 (2008).

²39 U.S.C. § 403(b)(3) (1979).

³39 U.S.C. § 404 (a)(3) (2006).

⁴*Id.*

⁵*Id.*

⁶*Id.*

⁷*Id.*

⁸See generally 39 C.F.R. § 3025 (2012).

⁹U.S. Postal Service, Handbook PO-101, *Postal Service-Operated Retail Facilities Discontinuance Guide* (2012) (on file with Committee staff).

notify Postal Service management and affected customers, reassign employees, and provide alternative service.

Although suspensions are supposed to be used by the Postal Service only in emergency situations, the Commission has raised concerns that the Postal Service may suspend or not restore services at some post offices to avoid the closure process.¹⁰ Since 2009, the Commission has reported on the number of post office suspensions in its Annual Compliance Determination (ACD) Report, which focuses on Postal Service compliance with pricing and service performance standards.¹¹ In the fiscal year (FY) 2013 ACD, the Commission recommended that the Postal Service “proceed expeditiously in either discontinuing offices under suspension or reopening them,”¹² recommendation which has been reiterated in each subsequent ACD.¹³

Despite this recommendation, post office suspensions reached their peak at the beginning of FY 2017, with 662 retail facilities suspended.¹⁴ As a result, the Commission directed the Postal Service to provide quarterly reports on the number of retail suspensions and establish a proposed timeline for resolving all suspensions. By the end of FY 2017, the Postal Service had resolved 304 post office suspensions, and has plans to resolve all remaining 378 suspensions by the end of the third quarter of FY 2019. As of the end of the second quarter of FY 2018, 276 post offices remain suspended.

While the Postal Service has made considerable progress towards resolving post office suspensions, over ninety percent of the remaining post offices suspensions are over two years old and over forty percent are over five years old.¹⁵ The longest suspension dates back to April 1984. The Commission has recommended in its report on the effectiveness and efficiency of postal laws that Congress consider a maximum time a post office may remain in suspension status.¹⁶

To address the recommendation of the Commission, as well as to ensure that the Postal Service cannot use suspensions as *de facto* closures, S. 1204 establishes a process which holds the Postal Service accountable to communities affected by post office suspensions, while also allowing the Postal Service to retain flexibility in emergency situations. The bill codifies the existing internal Postal Service procedures for suspensions, which were strengthened in 2012 to state that, when possible, if the circumstances of a closure are known in advance (such as in the case of an expired lease), a discontinuance study should be initiated in advance to allow for public input before services are suspended.¹⁷ This bill strengthens this in-

¹⁰ U.S. Postal Regulatory Comm’n, Order No. 335, 3 (Nov. 2009) available at https://www.prc.gov/docs/65/65562/Order_No_335.pdf.

¹¹ See generally U.S. Postal Regulatory Comm’n, Ann. Compliance Determination Rep. (2009-2017) available at https://www.prc.gov/prc-reports?keys=&field_report_type_value=Annual%20Compliance%20Reports.

¹² U.S. Postal Regulatory Comm’n, Ann. Compliance Determination Rep., 121 (2013) available at [https://www.prc.gov/docs/89/89500/2013%20ACD%20Final%20\(2\).pdf](https://www.prc.gov/docs/89/89500/2013%20ACD%20Final%20(2).pdf).

¹³ U.S. Postal Regulatory Comm’n, supra note 7.

¹⁴ U.S. Postal Regulatory Comm’n, Ann. Compliance Determination Rep., 163 (2017) available at https://www.prc.gov/sites/default/files/reports/2017_ACD.pdf.

¹⁵ See Postal Regulatory Comm’n, Ann. Compliance Review (2018) available at <https://www.prc.gov/dockets/document/104816>.

¹⁶ U.S. Postal Regulatory Comm’n, Section 701 Rep., Analysis of the Postal Accountability and Enhancement Act of 2006, 21 (2016) available at <https://www.prc.gov/sites/default/files/reports/Section%20701%20rpt.pdf>.

¹⁷ *Id.*

tent by explicitly stating that the Postal Service should notify customers if a suspension is possible due to an expiration of a lease or rental agreement for the post office, if a new lease or rental agreement is not expected.

While S. 1204 is not intended to limit the ability of the Postal Service to react to emergency situations, the bill seeks to prevent indefinite suspensions by requiring that after one year of suspension, a post office may be considered eligible for the closure appeal process described in section 404(d) of title 39, United States Code. However, the Postal Service may continue the suspension if it can demonstrate a need to continue the suspension and if the Postal Service is complying with the internal procedures which have been codified by this bill. The section also will not apply to the post offices for which the Commission and the Postal Service already have an established process for resolving the suspension, as outlined in the FY 2017 ACD.¹⁸

To improve the accountability to the affected community, particularly in the case of suspensions lasting longer than one year, S. 1204 requires the Postal Service to conduct a community meeting to present a plan of action to explain the suspension and present a plan of action to restore service. According to the existing guidelines which are codified by this bill, if a continued suspension is necessary the Postal Service should have already given notice to customers about the suspension and established an internal plan of action to restore service.¹⁹ This new requirement for the meeting aligns with Commission recommendations that Congress limit the length of suspension, by ensuring that in those extreme cases where suspensions longer than a year may be warranted, the affected community is well-informed of the Postal Service plans.

Finally, S. 1204 gives the Postal Service flexibility to change its internal procedures for post offices suspensions, provided it consults with the Commission before making changes. The current procedures are designed to inform affected customers and employees, while restoring service or permanently closing the post office as quickly as possible. While the Postal Service may need to alter the guidelines or regulations for suspensions to improve operations, the Commission should be involved in any change so as to protect those affected by suspensions. It is the intention of the Committee that the Postal Service should make available to the public a written copy of the suspension procedures.

III. LEGISLATIVE HISTORY

Senator Claire McCaskill (D–MO) introduced S. 1204, the Post Office Discontinuance Accountability Act of 2017, on May 23, 2017, with Senator Jerry Moran (R–KS). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1204 at a business meeting on June 13, 2018. During the business meeting, a modified substitute amendment was offered by Chairman Ron Johnson and Ranking Member McCaskill and accepted by unanimous consent. The amendment codifies the existing Postal Service procedures for post

¹⁸ U.S. Postal Regulatory Comm'n, Ann. Compliance Determination Rep., 165 (2018) available at https://www.prc.gov/sites/default/files/reports/2017_ACD.pdf.

¹⁹ U.S. Postal Service, *supra* note 5, at §§ 613.3, 618.

office suspensions, while adding the requirement that the Postal Service provide updates to communities affected by suspensions after one year. The amendment also allows the Postal Service to change their suspension procedures with input from the Commission.

The bill, as amended, was ordered reported favorably by voice vote *en bloc*. Senators present for the vote were Johnson, Portman, Lankford, Enzi, McCaskill, Carper, Peters, Hassan, Harris, and Jones.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section designates the short title of the bill as the “Post Office Discontinuance Accountability Act of 2018.”

Sec. 2. Emergency suspensions of post offices

Section 2 adds a new subparagraph following section 404(d) of title 39, United States Code, to codify Postal Services procedures for emergency suspensions of post offices.

New subparagraph (7)(A) requires the Postal Service to follow established procedures to temporarily suspend operations at post offices. Specifically, the Postal Service must follow existing procedures as described in Postal Service Handbook PO–101.

New subparagraph (7)(B) requires the Postal Service to notify affected customers of a post office with an expired lease or rental agreement if it does not reasonably expect to reach a new lease or rental agreement for the post office.

New subparagraph (7)(C) states that after a post office has been suspended for more than one year, postal customers may appeal to the Commission and force the Postal Service through the closure procedures for the post office. The Postal Service is exempt from this requirement if there is a demonstrated need for suspension and the Postal Service is following the procedures in Handbook PO–101, or if the Commission has already established procedures for resolving the suspension.

New subparagraph (7)(D) states that if the Postal Service demonstrates the need to continue the suspension, it must conduct a community meeting to explain the suspension, gather customer opinions, and present a plan of action to return service. The Postal Service must also periodically update the community if service is not restored according to the plan presented in the meeting.

New subparagraph (7)(E) requires the Postal Service to consult with the Postal Regulatory Commission if it makes any changes to the suspension procedures in Postal Service Handbook PO–101.

Finally, new subparagraph (7)(F) clarifies that any reference in the bill to the Postal Service Handbook PO–101 is referring to the document titled “Postal Service-Operated Retail Facilities Discontinuance Guide” published in October 2012 or any appropriate successor to that document.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will

have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 2018.

Hon. RON JOHNSON, *Chairman,*
Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1204, the Post Office Discontinuance Accountability Act of 2018.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 1204—Post Office Discontinuance Accountability Act of 2018

S. 1204 would set conditions and procedures for the temporary closing of post offices, including required notifications to the public by the Postal Service. The agency is currently following procedures that are very similar to those that would be required by the bill; thus, CBO estimates that implementing S. 1204 would have no effect on spending by the Postal Service.

Enacting S. 1204 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 1204 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 1204 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

UNITED STATES CODE

* * * * *

TITLE 39—POSTAL SERVICE

* * * * *

PART 1—GENERAL

* * * * *

CHAPTER 4—GENERAL AUTHORITY

* * * * *

SEC. 404. SPECIFIC POWERS.

(a) * * *

(b) * * *

(c) * * *

(d) * * *

(1) * * *

* * * * *

(7)(A) *The Postal Service may temporarily suspend operations at a post office if the Postal Service follows the procedures set forth in subchapter 61 of Postal Service Handbook PO-101.*

(B) *If the lease or rental agreement for a post office expires, and the Postal Service does not reasonably expect to reach a new lease or rental agreement, the Postal Service shall notify the affected customers of the possible suspension of the post office in accordance with section 613.3 of Postal Service Handbook PO-101.*

(C) *If a post office has been suspended for not less than 1 year, any person served by the post office may file and appeal with Postal Regulatory Commission. On review, the Commission may consider the suspension to be an action that is subject to the procedures required under paragraphs (1) through (6) unless—*

(i) *the Postal Service demonstrates that—*

(I) *the need for a suspension under sub-chapter 61 of Postal Service Handbook PO-101 continues to exist; and*

(II) *the Postal Service is complying with the applicable procedures under subchapter 61 of Postal Service Handbook PO-101; or*

(ii) *the Commission has already established a process for resolving the suspension of the post office.*

(D) *If the Postal Service demonstrates the need for a continued suspension under subparagraph (C)(i), the Postal Service shall—*

(i) *conduct a community meeting to—*

(I) *explain the circumstances of the suspension and obtain customer opinion about alternate service in a manner similar to the community meeting described in part 714 of Postal Service Handbook PO-101; and*

(II) *present the plan of action to restore service required under part 618 of Postal Service Handbook PO-101; and*

(ii) periodically update the affected community if service is not restored in accordance with the plan described in clause (i)(II) of this subparagraph.

(E) The Postal Service shall consult with the Postal Regulatory Commission in making any changes to suspension procedures in Postal Service Handbook PO-101.

(F) In this paragraph—

(i) the term “Postal Service Handbook PO-101” means the document titled “Postal Service-Operated Retail Facilities Discontinuance Guide” (Handbook PO-101), published by the Postal Service in October 2012, or any appropriate successor to that document; and

(ii) a reference to a provision of Postal Service Handbook PO-101 shall be deemed to include any appropriate successor to that provision.