

105TH CONGRESS
2D SESSION

S. 2035

To amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 1998

Mr. BAUCUS (for himself and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, 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 “Community and Postal
5 Participation Act of 1998”.

6 **SEC. 2. GUIDELINES FOR RELOCATION, CLOSING, OR CON-**
7 **SOLIDATION OF POST OFFICES.**

8 Section 404 of title 39, United States Code, is
9 amended by striking subsection (b) and inserting the fol-
10 lowing:

1 “(b)(1) Before making a determination under sub-
2 section (a)(3) as to the necessity for the relocation, clos-
3 ing, or consolidation of any post office, the Postal Service
4 shall provide adequate notice to persons served by that
5 post office of the intention of the Postal Service to relo-
6 cate, close, or consolidate that post office not later than
7 60 days before the proposed date of that relocation, clos-
8 ing, or consolidation.

9 “(2)(A) The notification under paragraph (1) shall
10 be in writing, hand delivered or delivered by mail to per-
11 sons served by that post office, and published in 1 or more
12 newspapers of general circulation within the zip codes
13 served by that post office.

14 “(B) The notification under paragraph (1) shall in-
15 clude—

16 “(i) an identification of the relocation, closing,
17 or consolidation of the post office involved;

18 “(ii) a summary of the reasons for the reloca-
19 tion, closing, or consolidation; and

20 “(iii) the proposed date for the relocation, clos-
21 ing, or consolidation.

22 “(3) Any person served by the post office that is the
23 subject of a notification under paragraph (1) may offer
24 an alternative relocation, consolidation, or closing proposal

1 during the 60-day period beginning on the date on which
2 the notice is provided under paragraph (1).

3 “(4)(A) At the end of the period specified in para-
4 graph (3), the Postal Service shall make a determination
5 under subsection (a)(3). Before making a final determina-
6 tion, the Postal Service shall conduct a hearing, and per-
7 sons served by the post office that is the subject of a notice
8 under paragraph (1) may present oral or written testi-
9 mony with respect to the relocation, closing, or consolida-
10 tion of the post office.

11 “(B) In making a determination as to whether or not
12 to relocate, close, or consolidate a post office, the Postal
13 Service shall consider—

14 “(i) the extent to which the post office is part
15 of a core downtown business area;

16 “(ii) any potential effect of the relocation, clos-
17 ing, or consolidation on the community served by the
18 post office;

19 “(iii) whether the community served by the post
20 office opposes a relocation, closing, or consolidation;

21 “(iv) any potential effect of the relocation, clos-
22 ing, or consolidation on employees of the Postal
23 Service employed at the post office;

24 “(v) whether the relocation, closing, or consoli-
25 dation of the post office is consistent with the policy

1 of the Government under section 101(b) that re-
2 quires the Postal Service to provide a maximum de-
3 gree of effective and regular postal services to rural
4 areas, communities, and small towns in which post
5 offices are not self-sustaining;

6 “(vi) the quantified long-term economic saving
7 to the Postal Service resulting from the relocation,
8 closing, or consolidation;

9 “(vii) whether postal officials engaged in nego-
10 tiations with persons served by the post office con-
11 cerning the proposed relocation, closing, or consoli-
12 dation;

13 “(viii) whether management of the post office
14 contributed to a desire to relocate;

15 “(ix)(I) the adequacy of the existing post office;
16 and

17 “(II) whether all reasonable alternatives to relo-
18 cation, closing, or consolidation have been explored;
19 and

20 “(x) any other factor that the Postal Service
21 determines to be necessary for making a determina-
22 tion whether to relocate, close, or consolidate that
23 post office.

24 “(5)(A) Any determination of the Postal Service to
25 relocate, close, or consolidate a post office shall be in writ-

1 ing and shall include the findings of the Postal Service
2 with respect to the considerations required to be made
3 under paragraph (4).

4 “(B) The Postal Service shall respond to all of the
5 alternative proposals described in paragraph (3) in a con-
6 solidated report that includes—

7 “(i) the determination and findings under sub-
8 paragraph (A); and

9 “(ii) each alternative proposal and a response
10 by the Postal Service.

11 “(C) The Postal Service shall make available to the
12 public a copy of the report prepared under subparagraph
13 (B) at the post office that is the subject of the report.

14 “(6)(A) The Postal Service shall take no action to
15 relocate, close, or consolidate a post office until the appli-
16 cable date described in subparagraph (B).

17 “(B) The applicable date specified in this subpara-
18 graph is—

19 “(i) if no appeal is made under paragraph (7),
20 the end of the 60-day period specified in that para-
21 graph; or

22 “(ii) if an appeal is made under paragraph (7),
23 the date on which a determination is made by the
24 Commission under paragraph 7(A), but not later

1 than 120 days after the date on which the appeal is
2 made.

3 “(7)(A) A determination of the Postal Service to relo-
4 cate, close, or consolidate any post office may be appealed
5 by any person served by that post office to the Postal Rate
6 Commission during the 60-day period beginning on the
7 date on which the report is made available under para-
8 graph (5). The Commission shall review the determination
9 on the basis of the record before the Postal Service in the
10 making of the determination. The Commission shall make
11 a determination based on that review not later than 120
12 days after appeal is made under this paragraph.

13 “(B) The Commission shall set aside any determina-
14 tion, findings, and conclusions of the Postal Service that
15 the Commission finds to be—

16 “(i) arbitrary, capricious, an abuse of discre-
17 tion, or otherwise not in accordance with the law;

18 “(ii) without observance of procedure required
19 by law; or

20 “(iii) unsupported by substantial evidence on
21 the record.

22 “(C) The Commission may affirm the determination
23 of the Postal Service that is the subject of an appeal under
24 subparagraph (A) or order that the entire matter that is
25 the subject of that appeal be returned for further consider-

1 ation, but the Commission may not modify the determina-
2 tion of the Postal Service. The Commission may suspend
3 the effectiveness of the determination of the Postal Service
4 until the final disposition of the appeal.

5 “(D) The provisions of sections 556 and 557, and
6 chapter 7 of title 5 shall not apply to any review carried
7 out by the Commission under this paragraph.

8 “(E) A determination made by the Commission shall
9 not be subject to judicial review.

10 “(8) In any case in which a community has in effect
11 procedures to address the relocation, closing, or consolida-
12 tion of buildings in the community, and the public partici-
13 pation requirements of those procedures are more strin-
14 gent than those provided in this subsection, the Postal
15 Service shall apply those procedures to the relocation, con-
16 solidation, or closing of a post office in that community
17 in lieu of applying the procedures established in this sub-
18 section.

19 “(9) In making a determination to relocate, close, or
20 consolidate any post office, the Postal Service shall comply
21 with any applicable zoning, planning, or land use laws (in-
22 cluding building codes and other related laws of State or
23 local public entities, including any zoning authority with
24 jurisdiction over the area in which the post office is lo-
25 cated).

1 “(10) The relocation, closing, or consolidation of any
2 post office under this subsection shall be conducted in ac-
3 cordance with section 110 of the National Historic Preser-
4 vation Act (16 U.S.C. 470h–2).”.

5 **SEC. 3. POLICY STATEMENT.**

6 Section 101(g) of title 39, United States Code, is
7 amended by adding at the end the following: “In addition
8 to taking into consideration the matters referred to in the
9 preceding sentence, with respect to the creation of any new
10 postal facility, the Postal Service shall consider the poten-
11 tial effects of that facility on the community to be served
12 by that facility and the service provided by any facility
13 in operation at the time that a determination is made
14 whether to plan or build that facility.”.

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