

# The McCaskill-Bond Amendment

**What is it? ✦ How did it come about? ✦ How does it affect us?**

## **What is it?**

Passed as part of the Consolidated Appropriations Act of 2008, the **McCaskill-Bond Amendment** provides a process for achieving a “fair and equitable” seniority integration of employee groups affected by the combination of two or more airlines.

The seniority integration procedures provided for in the Amendment are those found in **Sections 3 and 13 of the Allegheny-Mohawk Labor Protective Provisions (LPPs)**. Imposed upon Allegheny Airlines and Mohawk Airlines by the Civil Aeronautics Board (CAB) in 1971, the LPPs governed the seniority integration of the employee groups when those two airlines merged in 1972 and were subsequently imposed on other mergers until the passage of the Airline Deregulation Act of 1978. After that, the LPPs were no longer imposed by the federal government. Nevertheless, unions generally negotiated for similar procedural safeguards relating to merger-related seniority integration to be incorporated in their collective bargaining agreements. As a shorthand, these contractual safeguards are frequently referred to as Allegheny-Mohawk LPP’s Sections 3 and 13.

**Section 3 of the LPPs provides that, where applicable, the carrier and the representatives of the affected employee groups shall attempt to achieve through collective bargaining a “fair and equitable” seniority integration.** If the parties are not able to reach an agreement on a “fair and equitable” seniority integration through negotiations, the dispute will be submitted to a neutral arbitrator for a **final and binding** resolution.

**Section 13 of the LPPs governs the arbitration process.** An arbitrator will be selected by the unions and the case is to be heard expeditiously. Each party will present its case to the arbitrator and may call witnesses, including employees, industry experts, and financial analysts. After completion of the case, the arbitrator will make the award – the new integrated seniority list. Per the LPPs, the cost of the arbitration will be split between the parties.

## **How did it come about?**

In 2001, American Airlines purchased TWA after this carrier had filed for bankruptcy. As part of the bankruptcy process, TWA successfully demanded that the unions representing TWA employees – including ALPA and the IAM – waive their contractual rights to seniority integration in accordance with Allegheny-Mohawk LPP’s Sections 3 and 13. As a result, the TWA pilots and flight attendants lost their right to demand the arbitration of an integrated seniority list. Instead, the seniority lists that were imposed on these TWA employee groups were largely the product of negotiations between American Airlines and its own unions.

In response to the perception that the seniority integration lists imposed on the TWA pilots and flight attendants were unjust, Senator Claire McCaskill, the Democratic Senator from Missouri, sponsored the current federal law that requires that the procedures of the Allegheny-Mohawk LPPs Sections 3 and 13 be followed – except where the respective employee groups are represented by the same union.

## **Exactly what does “seniority list integration” mean?**

Quite simply it means the method by which the two seniority lists are combined into one. Prior to negotiating over the integration of the seniority lists, each party must decide how they wish to see it accomplished. There is no set way of doing it. Each group determines what is best for their group. Below are four commonly used methods of list integration:

**Date-of-Hire** – Many people believe straight date-of-hire is the only fair way to merge the lists. It is the only method that gives each employee credit for her/his entire career at an airline. Under this method, one year at Airline X is no more or no less valuable than one year at Airline Y.

**Rank Ratio** – This method is fairly basic. For example, the ratio could be 1:1, 2:1, 4:3, 5:7: the combinations are infinite. A 1:1 ratio takes the number one person from Airline X and places her below the number one person at Airline Y (or vice versa); the number two person from Airline X goes behind the number two person at Airline Y and so on. A 2:1 ratio is the same as a 1:1 ratio except that numbers one and two of Airline X go behind the number one at Airline Y (or vice versa).

**Relative Seniority** – Each person maintains her/his relative seniority on the new combined list. For example, a person in the top 5% of Airline X will be in the top 5% of the combined list of Airline X-Y. A person who is in the bottom 38% at Airline Y will end up in the bottom 38% of the combined list of Airline X-Y. In a relative seniority integration no one loses or gains relative seniority; each person maintains the same bidding power as if the lists had not been merged.

**Career Expectation** – Used often in pilot list integrations is the career expectation method. This complex method examines each pre-merger group, including the routes, aircraft types, fleet plans, and growth plans. The list is integrated in a way that attempts to preserve each group's pre-merger career expectations.

Date-of-hire, rank ratio, relative seniority, and career expectation are but four methods used to integrate seniority lists. Often the lists are integrated using a combination of two or more of these methods. Another method of ensuring fairness is to fence all or part of the operation for some period of time.

**The Association will be posting more information as it becomes available. Please monitor the AMFA National Web site ([www.AMFANational.org](http://www.AMFANational.org)) for future updates.**