

THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND UNEMPLOYMENT COMPENSATION ADMINISTRATION

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The approval of the Railroad Unemployment Insurance Act on June 25, 1938, brought to fruition a movement which began as early as 1934. In his annual report for that year the Federal Coordinator of Transportation recommended the establishment of a Federal plan of unemployment insurance for transportation workers, and later the Interstate Commerce Commission concurred in this recommendation. In 1935 the Committee on Economic Security made a similar recommendation, saying:

"We are opposed to exclusions of any specified industries from the Federal act, but favor the establishment of a separate nationally administered system of unemployment compensation for railroad employees and maritime workers."

In March 1936 a detailed plan, *Unemployment Compensation for Transportation Employees*, was published by the Federal Coordinator of Transportation, and a series of discussions was started with various affected groups. The draft bill included in this report was not entirely satisfactory to the standard railway labor unions, who appointed a special committee on unemployment insurance to continue a study of the problem. The major objective of this committee was the drafting of a bill which would be relatively simple to administer and easily intelligible to the ordinary worker.

While working on this problem, the Railway Labor Executives' Association consulted with a number of interested Government agencies and individuals. When the bill was in substantially final form, the Association entered negotiations with the railroads, in the hope that they might jointly sponsor a mutually satisfactory bill. When, however, it became apparent that the negotiations could not be successfully concluded before the adjournment of the 75th Congress, the Association decided to sponsor its bill independently. The bill was reported favorably to both Houses of Congress and passed without a single dissenting vote.

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Main Provisions of the Act

The act creates a national pooled-fund system of unemployment insurance for railroad workers. It, therefore, excludes this type of interstate employment from coverage by title IX of the Social Security Act as of July 1, 1939, and, as of this same date, requires the States to cease covering this employment by their unemployment compensation laws. It provides that both old-age and unemployment insurance for railroad workers shall be administered by a single Federal agency, the Railroad Retirement Board, on the basis of a single set of reports from employers. The plan will be financed by employer contributions levied on the same base as the tax levied by the Carriers Taxing Act. The coverage, identical with that of the Carriers Taxing Act and the Railroad Retirement Act of 1937, includes chiefly interstate railroads, certain of their operating subsidiaries, sleeping-car and express companies, traffic and similar associations maintained by the railroads, and railroad labor organizations.

Since the main provisions of this act were briefly summarized in an earlier issue of this Bulletin,¹ it is necessary here to mention only its central features, and particularly the benefit provisions. Benefits become payable only with respect to unemployment occurring after June 30, 1939. An employee of a covered employer will then be eligible to receive benefits:

(a) If, within the appropriate preceding calendar year, he has earned \$150 or more in covered employment; and

(b) If, within 6 months preceding the beginning of any benefit year, he has had a waiting period of 15 consecutive days of unemployment or 2 half months in each of which there were 8 days of unemployment for which benefits were not paid.

Benefits will be paid for each day of total unemployment in excess of 7 during any period of 15 days, in amounts ranging from \$1.75 to \$3.00, according to the employee's total earnings from covered employment in a preceding calendar year. The maximum total benefits payable to any em-

¹ See *Social Security Bulletin*, Vol. 1, No. 0, June 1938, p. 31.

ployee during a period of 12 months will be 80 times his daily benefit amount. In other words, the rates range from \$14 to \$24 per half month of total unemployment, and the maximum duration is a flat 5 months.

The benefit schedule is as follows:

Total earnings in base year	Daily benefit amount	Maximum amount of benefits payable in any benefit year
\$150 to \$199.99.....	\$1.75	\$140
\$200 to \$474.99.....	2.00	160
\$475 to \$749.99.....	2.25	180
\$750 to \$1,024.99.....	2.50	200
\$1,025 to \$1,299.99.....	2.75	220
\$1,300 and over.....	3.00	240

The plan is to be administered by the Railroad Retirement Board. With no exception, the personnel is to be engaged under civil-service rules and regulations. The Board receives all necessary powers, including the authority to establish special employment offices for railroad workers, but the act clearly intends that the Board shall endeavor to make the maximum use of all existing facilities.

In order to reconcile the provisions of the two acts, section 303 of the Social Security Act is amended by providing that the Social Security Board shall make no certification for payment of an administrative grant to any State unemployment compensation agency if it finds that the agency (a) does not make its records available to the Railroad Retirement Board or (b) does not afford reasonable cooperation to every Federal agency administering an unemployment insurance law.

Significant Features of the Act

It is evident that this act differs fundamentally from the typical State unemployment compensation laws. Certain of these differences resulted from the determination to integrate its administration with that of the Railroad Retirement Act; others proved to be essential in order to adapt unemployment insurance to the nature of the railroad unemployment problem. Still other differences resulted from the search for administrative simplicity.

The use of days of unemployment, instead of weeks of partial or total unemployment, eliminates the problem of partial benefits. Benefits are payable only for days of unemployment in excess of

7 during any period of 15 days, partly because of certain railroad employment practices, partly in order not to give benefits to a worker who has earned approximately 50 percent of his normal semimonthly wage. The provision of substantial minimum benefits and the payment of proportionately higher benefits to workers in the lower wage classes were regarded not only as necessary for an equitable and socially useful unemployment insurance plan but as essential for a sound railroad unemployment insurance plan, because the seniority practices of that industry concentrate unemployment among the short-service and low-paid workers.

Merit rating was abandoned, partly because of doubts about its general soundness, but especially because it was believed to be particularly unsound for the American railroad industry. Changes in the amount of railroad employment depend almost directly on changes in the volume of traffic, which, in turn, are dependent on general business conditions over which the railroads have no control. In fact, the railroads probably have less opportunity to influence the amount of employment they offer than do other employers who, by price policies, advertising and sales campaigns, and the like, can sometimes increase or maintain sales volume and employment. Moreover, within the limits of the traffic available, certain strategically situated railroads, by their power to route traffic over one or other connecting lines, can influence the distribution of employment and unemployment on connecting carriers, and should not receive an incentive to route traffic in such a way as to permit favored connections to obtain merit-rating reductions. In short, stable or unstable employment in railroading does not reflect "merit" or managerial efficiency nearly as much as it reflects the economic and climatic character of the territories through which the railroads operate.

The simple eligibility requirement of \$150 in earnings and the basing of benefit rates, six in number, on classified annual earnings during a fixed calendar base year permit predetermination of benefit rights and almost completely decentralized claims administration. The absence of overlapping base periods and of merit rating eliminate the need for complicated charging of benefits against the workers' wage credits and the employers' accounts. Fixed durations of benefits eliminate certain computations difficult to explain or justify and assures that every

eligible worker will be entitled to draw benefits for a period long enough to be of genuine assistance. In colloquial terms, the railway unions rightly called this a "streamlined" program. Any worker can understand it; administration of routine cases will be simple.

Tentative Administrative Plans

Although no definite administrative plans have yet been formulated by the Railroad Retirement Board, it is likely that its ultimate procedure will follow such lines as these: The Board is now planning to furnish every worker with an annual statement of his earnings credited for retirement purposes. The form used for this purpose can be amended to include a statement of his eligibility for unemployment insurance, his benefit rate, and maximum benefits. When a claimant presents such a statement at a local office and proves his unemployment, the local official will be able to approve the claim and send a benefit voucher to the nearest disbursing officer of the Treasury, who will write the check. All doubtful claims will be referred to a district insurance officer. Any claim disallowed by the district insurance officer and disputed will be referred to an appeal tribunal. The functions of the Washington office will be largely those of supervision and control. Basic operations will be decentralized to the greatest possible extent.

Practically every unit of the railroad industry has some formal organization of joint committees for the handling of industrial relations problems. This opens up a possibility, as yet unexplored, of utilizing this or other railroad machinery for the preliminary handling of claims. It is not impossible, for example, that workers might file their claims wherever they file their time and mileage slips to be routed to an officer of the Board after verification by the pay-roll office.

For placement purposes—and, to the extent that an arrangement such as that described above cannot be effected, also for claims purposes—the Board hopes to arrange to use the facilities of the Federal-State employment offices. Only a few specialized railroad employment offices will be established in large railroad centers where a State would be justified in establishing such a specialized occupational office. The Board will probably find it necessary to assign one or more of its own employees to a few other large State offices. Whatever the final arrangements—whether State

unemployment compensation and employment offices are used for both claims and placement or only for placement—the Board hopes to use the existing State offices and to pay for the service rendered. It will not set up a Nation-wide system of duplicate facilities.

Effect on State Unemployment Compensation Laws and Agencies

There has been concern among some groups about the effect of this act on policies and administration in the Federal-State unemployment compensation program. It has been suggested that this act may be the entering wedge for a wholly Federal system of unemployment insurance. It is doubtful that the Railroad Unemployment Insurance Act could be a decisive factor in stimulating any such change. This act sets up a national system to handle an industry which, to a unique degree, is national in its scope, its operation, and its viewpoint. Employers and workers are organized on a national basis; wages and working conditions are negotiated on a national basis. Practically every aspect of railroad operation and labor relations is regulated on a national basis by national agencies. From any practical viewpoint, unemployment insurance for this industry must likewise be national in scope. As to its stimulating a general Federal system, it can only be said that the act received support from those who hoped it would and met opposition from those who feared it would not contribute to a general Federal scheme. The first group believed that the act would set the necessary example; the second, that it would deprive the "Federalists" of the support of one of the most influential pressure groups interested in getting uniform national coverage.

There was also some concern lest the act have a seriously adverse effect on the State funds, especially in certain western and southern States. It was assumed, for example, that to take away 20 or 25 percent of the total coverage in a few States would endanger the solvency of their unemployment compensation funds. This situation might arise on two conditions: first, that the frequency and severity rates of unemployment in railroading are very much less than those for all covered employments; and, second, that all States had completely pooled funds.

The first condition is probably true, but in less degree than one might suppose. The margin of

railroad collections over disbursements would be a safety factor in a State which has a completely pooled fund; but merit rating is designed to return this margin of safety, if any, to the railroad employers in the form of reduced contribution rates. In other words, it cannot be said that this act endangers State funds when, at the worst, its financial effect will probably be about the same as that of the merit-rating provisions found in most State unemployment compensation laws.

Since the majority of the State legislatures have already anticipated the passage of the Railroad Unemployment Insurance Act by excluding from covered employment any service covered by a Federal unemployment compensation act and by authorizing participation in reciprocal agreements with any agency administering such a Federal law, the stage is well set for the few amendments to each State law which passage of this act may now require.

Probably the most important amendment will prove to be one authorizing the State to comply with the requirements of the so-called transfer provisions. Each State will be required to transfer directly or indirectly from its account in the unemployment trust fund to the railroad unemployment insurance account an amount which will be determined by the Social Security Board after agreement with the Railroad Retirement Board and consultation with each State. The amount to be transferred is divided into two parts, the "preliminary amount" and the "liquidating amount." With respect to employers' reserve accounts, the preliminary amount will be the balances as of June 30, 1939, in the reserve accounts of employers covered by the Railroad Unemployment Insurance Act; with respect to pooled funds, it will be the proportion of the balance of each State fund as of June 30, 1939, represented by the ratio of its railroad collections as of that date to total collections. The liquidating amount in all cases will be the total amount collected from railroad employers after June 30, 1939, with respect to employment prior to that date.

If for any reason a State is unable to obtain the necessary legislative authorization to make this transfer directly, it will be effected indirectly by the withholding of administrative grants by the Social Security Board until the required amount has been so withheld and transferred to the railroad unemployment insurance account.

In the meantime, the State thus affected is authorized to withdraw from its account in the unemployment trust fund the amount which the Social Security Board finds necessary for proper administration.

These transfer provisions will be relatively easy to administer. In the near future each State will receive a list of all employers now determined to be covered by the Railroad Unemployment Insurance Act, most of whom will be in the industrial classification "40." As of June 30, 1939, the State agency will total the contributions of these employers, compute the percentage of this total to all collections, and apply that percentage to the fund balance. This computation will give the so-called "preliminary amount." The State will earmark subsequent collections from these employers since the total of these amounts will constitute the "liquidating amount." The final determination, however, will not be made without consultation with the State and Federal agencies affected. Steps are under way to set up a special joint committee of all the agencies concerned to consider common problems.

The act contains certain transitional provisions, the effect of which is to protect any worker who has started a benefit year under a State law between July 1, 1938, and June 30, 1939, by assuring that he will suffer no loss of benefits during that benefit year. These provisions require the Railroad Retirement Board to assume the liability for benefits to such workers. Again, it is hoped that these provisions will be administered without difficulty in some such fashion as follows: The State agencies will pull out all claims files of railroad employees and of other workers whose benefits are chargeable to employers covered by the Railroad Unemployment Insurance Act. The State agency will notify each worker that his coverage under the State law is terminated as of June 30, 1939, and that he must present his claim for benefits thereafter to the Railroad Retirement Board. The State will also send the Board a list of these employees giving name, number, address, benefit year, employer chargeable, maximum benefits, and balance of benefits. The Railroad Retirement Board will then carry on.

Some difficulty is anticipated in connection with those workers who shift between railroad employment and employment covered by a State unemployment compensation law. The volume of claims from these workers, however, may be

substantially less than the volume of claims from multistate railroad workers of whom the State agencies are being relieved by the Railroad Retirement Board. When the problem is broken down it begins to look smaller. A worker of mixed employment history may be:

- (1) eligible under both laws,
- (2) eligible under only the railroad law,
- (3) eligible under only the State law, or
- (4) eligible under neither law.

In the first situation he will undoubtedly elect to draw benefits under the more liberal law. Then the only difficulty—which can be met by a not impossible system of clearance of claims—will be to prevent his drawing under both laws at the same time. In the second situation no problem arises. In the third situation the only difficulty is that the worker may have lost the right to not more than an average of about \$12.50 in State benefits based on railroad employment. The fourth situation is the most troublesome, because a few such workers might have been eligible for very limited benefits if all their employment had been covered by the State law. In this connection it might be wise to recognize the fact that it is likely that such a worker would shortly be dependent on relief and should perhaps not be included in the insurance system. In connection with the third and fourth cases, the Railroad Retirement Board has authority to enter into reciprocal agreements with the States whereby the latter may be reimbursed for any benefits paid by them on the basis of railroad employment.

This act will not significantly affect the placement work of the employment offices except in a dozen or so centers where the Railroad Retirement Board may establish its own offices. There the problem will be one of establishing a central metropolitan file or some system of duplicate regis-

tration cards or interoffice clearance. A suggestion has been made that the State employment offices might discriminate against railroad workers, but it cannot be taken seriously without casting unwarranted aspersions on the present practices and future prospects of the Federal-State employment services.

Conclusion

The Railroad Unemployment Insurance Act was passed at a time when most State administrators of unemployment compensation were still struggling to cope with the deluge of claims that started on January 1, 1938. In the midst of their problems it may easily have appeared to be the last straw. There is nearly a year, however, in which to adjust to this new law, and it is hoped that there will be few administrators who, after mature consideration, will fail to appreciate its genuine contribution to the cause of social security. It points the way toward a simplified system. It adds a further distinctive experiment to those now in process in this field. It will result in a slight saving to the railroads and will assure the railroad workers nationally uniform and equitable treatment. In particular, it removes the dangerous possibility that the operation of the State laws might have introduced various types of State differentials to impair or complicate the sound national basis of industrial relations which now prevails in the railroad industry. It will free the State commissions from a substantial part of the complex problem of multistate workers. The act presents a challenging opportunity to demonstrate the possibility of integrated and economical administration. To all who are concerned with the field of unemployment insurance it presents an opportunity for the cooperative solution of a common problem.