Notes and Brief Reports

Social Insurance Legislation of 1972 *

There was considerable legislative activity in the field of social insurance during 1972 in addition to the major amendments to the Social Security Act. Several laws were passed that amended or made additions to existing Federal programs. Summaries of some of the major changes follow.

RAILROAD RETIREMENT AMENDMENTS OF 1972

On October 4, 1972, Congress overrode the President's veto of H.R. 15927 (Pulic Law 92-460) to approve a temporary 20-percent increase in annuities payable under the Railroad Retirement Act. It thus extended to beneficiaries under the railroad program the same increase that was granted to social security beneficiaries under Public Law 92-336, enacted July 1, 1972. In effect, the latter law automatically increased by 20 percent the railroad retirement benefits of approximately 25 percent of current railroad beneficiaries, mainly survivors, whose annuities are determined under the provisions of the minimum social security guarantee. This minimum guarantee assures that the railroad retirement annuities are at least 110 percent of the total amount that would be payable under the Social Security Act if railroad service were employment covered by that system.

The 20-percent increase applicable to the remaining 75 percent of the beneficiaries is effective for September 1972 and expires June 30, 1973, the same termination date scheduled for the two previous temporary increases of 10 and 15 percent enacted in 1970 and 1971. The 20-percent increase contained in this legislation is temporary because its permanent cost, when added to the costs of the two previous increases, would create a serious actuarial deficiency—estimated by the Railroad Retirement Board at $397.5 million a year or 6.70 percent of level payroll.

The law also stipulates that these three temporary increases can be made permanent only if a method is adopted to make the railroad retirement account financially solvent based on sound actuarial projections. Representatives of employees, retirees, and carriers must submit to Congress (and to the Railroad Retirement Board) by March 1, 1973, a report containing their mutual recommendations to insure the solvency of the railroad retirement account, weighing the recommendations in the June 30, 1972, report of the Commission on Railroad Retirement. The Board is then directed to submit comments on this report, including the views and specific recommendations of the Administration, by April 1, 1973.

A few technical amendments were also included in Public Law 92-460 to facilitate administration of the minimum social security guarantee provisions:

(1) In determining whether the minimum guarantee formula produces benefits greater than those under the regular railroad formula, the Board need now only take into account individuals in an annuitant's family who would be entitled to benefits under the Railroad Retirement Act. Under previous law, the Board had to consider all individuals in the annuitant's family who would qualify for benefits under the Social Security Act, even though many such individuals would not qualify for benefits under the railroad program.

(2) After a regular annuity has been granted the Board need no longer consider new additions to the family of a retired worker—except a newly acquired wife who qualifies for a spouse's annuity—in determining eligibility for, and the amount of, the minimum guarantee benefit resulting from a change in the Social Security Act. Previously, the Board had to send out questionnaires to get information about the annuitant's family composition at the time of each change in the Social Security Act.

(3) In computing the minimum guarantee amount, the Board need now only take into account benefits under the Social Security Act for which individuals have made application. Previously, the Board had to take into account not only benefits to which the individual or his family was entitled, but also the potential benefits to which they would have been entitled had such individuals applied for them.

(4) In computing the minimum guarantee amount, the Board need no longer consider earnings after retirement. Previously, the Board had to make additional recomputations when the record of an employee's earnings after retirement became available.

ADDED UNEMPLOYMENT INSURANCE BENEFITS

As part of the Public Debt Limitation Law (enacted on October 27, 1972, as Public Law 92-599), the extended unemployment compensation

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provisions of the Employment Security Amendments of 1970 were further amended to provide extra benefits to unemployed workers in specified States.

Under the permanent Federal-State extended benefit program established in 1970, additional benefits are provided for up to 13 weeks to workers who have exhausted their regular State unemployment insurance benefits during periods of high unemployment in either the given State or the country as a whole. Nationally, the program starts operating or is "triggered in" when the seasonally adjusted rate of insured unemployment for all States equals or exceeds 4.5 percent in each of the three most recent calendar months.

The State indicator is "on" for any individual State when its insured unemployment rate averages 4 percent or more for any 13-consecutive-week period and is equal to or greater than 120 percent of the average rate for the corresponding 13-week period in each of the 2 preceding years. The State extended-benefit period ends when either of these conditions is not met.

Because the rate of insured unemployment in several States has remained at a continuously high level for 2 years or more, the requirement that a State's unemployment rate must be equal to or greater than 120 percent of the average rate for the 2 preceding years has operated to trigger "off" the extended-duration benefits in these States. The amendment contained in Public Law 92-599 gives the State an option, with the consent of the State legislature, to disregard the 120-percent requirement in determining whether the extended-benefit program has been triggered "off." The 4-percent insured unemployment rate requirement is, at the same time, retained. The amendment applies to benefits paid for weeks of unemployment beginning October 29, 1972, or, if later, the date established pursuant to State law. No benefits will be paid, however, for weeks of unemployment after June 30, 1973.

Seven States and Puerto Rico are potentially affected by the amendment. The States are Alaska, Hawaii, Massachusetts, New Jersey, Rhode Island, Vermont, and Washington.

Under this Federal-State program, the Federal Government reimburses each State for one-half the cost of the extended benefits. The Federal share of the additional benefits provided by the change in the law is estimated at $48 million.

NEW SURVIVOR PLAN FOR MILITARY RETIREES

On September 21, 1972, President Nixon signed into law the Survivor Benefit Plan (SBP) for retired military service personnel (Public Law 92-425). The legislation affects more than 800,000 present military retirees and their dependents, as well as all future retirees and their dependents. The legislation resulted from dissatisfaction with the present survivor protection of career military personnel after retirement.

Background

Under the military retirement system, career personnel in the Armed Forces with at least 20 years of service qualify for a monthly pension equal to 2½ percent of monthly base pay at time of retirement multiplied by years of service, up to a maximum of 75 percent of pay. Until passage of the new law, the pension ended with the retiree's death unless he had, by electing a reduced pension for himself, arranged upon retirement to provide his wife and dependents with annuity-type survivor protection up to 50 percent of his retired pay. This program—known as the Retired Serviceman's Family Protection Plan (RSFPP)—is self-supporting, with no Government contribution. Because of the plan's high cost and complexity, only 15 percent of those eligible have elected to participate.

The New Plan

Under the new program, a retiree will have deducted from his retired pay 2½ percent of the first $3,600 per year plus 10 percent of the remainder. This will assure a surviving spouse of an annuity up to 55 percent of his retired pay at time of death.[1] The annuity will be increased periodically to keep pace with increases in the Consumer Price Index. These provisions parallel those for retired Federal civil service employees. For future retirees, deductions from retired pay will cover an estimated 63 percent of the cost of

[1] A retiree can also select a lesser amount than his full retired pay as a base for determining the deduction and his survivor's annuity. Special provisions apply where a retiree without dependents chooses to provide an annuity to a natural person with an insurable interest in that retiree.

their survivor benefits, with the Government assuming the remainder of the cost. The Government will assume a larger share for those already retired.

Effective September 21, 1972, all future retirees with dependents will automatically be covered by the new plan unless they elect not to participate. They will not in any case be able to participate in RSFPP. Present retirees will have 1 year to elect to participate in the plan. Those in RSFPP will be allowed to drop that plan and elect a survivor annuity under the new program. Alternatively, they can continue to participate in RSFPP and elect the new plan, but the total amount of the survivor annuities received under both plans cannot exceed 100 percent of retired pay. Survivor annuities will be paid under RSFPP as long as there are eligible survivors.

SBP benefits accrue to the retiree's widow or widower and are paid as long as he or she lives or until remarriage, if the remarriage occurs before age 60. The annuity does not cease if a widow or widower remarries at age 60 or thereafter.

In the absence of a widow or widower, the benefits go to the surviving dependent children in equal shares and the annuity is paid as long as there are eligible children. The coverage for children is provided on an actuarial basis—that is, there is a slight additional retired-pay deduction for such coverage; this deduction is eliminated when the child—unless incapable of self-support—reaches age 18, or age 22 if in school.

The annuities paid under the new program are integrated with survivor payments made under the old-age, survivors, disability, and health insurance (OASDHI) program. The payments to a surviving spouse are offset by the portion of the spouse's OASDHI payment that is attributable solely to the deceased retiree's active military service.

A widowed mother's entitlement to OASDHI payments may temporarily reduce the SBP payment when only one child and the widow are receiving OASDHI benefits. However, if the widow is working and her earnings are too high for her portion of the OASDHI payment to be made, the SBP payments are not reduced. Also, the widow's SBP payments are not reduced when more than one child receives OASDHI benefits. The SBP payments are permanently reduced in cases where the survivor is entitled to a widow's or widower's benefit at age 62 under the OASDHI program.

For current widows for whom the new program comes too late, a guaranteed minimum income is provided. This is accomplished by granting a widow whose income is less than $1,400 a year an SBP supplemental amount to bring her income up to that figure. The Veterans Administration's income-tested pension on this amount, when added to $1,400, will result in a combined total of about $2,100 a year—the guaranteed minimum amount.

The new law also provides the same survivor protection to a serviceman who remained on active duty though eligible to retire, and to a serviceman who chose to retire. A survivor of the former receives 55 percent of what the serviceman's retired pay would have been if he had been retired. In applying this provision, account will be taken of the fact that a dependency and indemnity compensation (DIC) is payable from the Veterans Administration to the spouse of a member dying on active duty. This will be done by offsetting the DIC against the 55 percent of retired-pay annuity.

Military retirees who subsequently work in the Federal civil service and then become eligible to retire from the civil service may waive their military retired pay and use their military years of service to increase their civil service benefits. The new law permits such a military retiree to cease contributing to the survivor benefit plan during the time his waiver of retired pay is in effect.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1972

On October 27, 1972, the President signed S.2318 (Public Law 92-576), amending the Longshoremen's and Harbor Workers' Compensation Act to provide, among other things, improved benefits. This act was last amended in 1961. The legislation closely followed the recommendations contained in the July 31, 1972, report of the National Commission on State Workmen's Compensation Laws in the following areas: the weekly maximum benefit, adjustment of original benefit awards, waiting period requirements, limits on aggregate benefit payments, second-injury fund provisions, and free choice of physicians.

Persons Affected

The Longshoremen's Act, originally enacted in 1927, establishes the standards of workmen's compensation for workers employed within the admiralty and maritime jurisdictions of the United States. By extension, it constitutes the workmen's compensation law for (a) private employees in the District of Columbia; (b) U.S. citizens who are employed outside the continental United States by contractors with the Federal Government; (c) workers employed in nonappropriated fund instrumentalities, such as post exchanges; and (d) employees of employers engaged in operations upon the outer Continental Shelf. There are approximately 800,000 workers in these categories.

Benefits under the act are paid by private employers or their insurers, not by the Government. Employers are required to secure the payment of compensation through workmen's compensation insurance or by self-insurance upon proper qualification under conditions set by the Office of Workmen's Compensation Programs, U.S. Department of Labor.

Benefit Improvements

A major feature of the law is the flexible maximum weekly benefit for workers who are injured or disabled on the job. A basic requirement of both the new and the old law is that a worker should receive two-thirds of his average weekly wage, subject to a maximum amount. Under the old law, the maximum was arbitrarily fixed at $70 a week. Since the average weekly wage for private nonagricultural employees in the United States has steadily risen in recent years to a current high of about $132, few injured workers covered by the act are now receiving the statutory two-thirds. Under the new provisions, a worker will be eligible to receive two-thirds of his average weekly wage subject to a phased-in maximum starting at 125 percent of the national average weekly wage and rising in 3 years to 200 percent of the national average. It is expected that this 200-percent maximum will enable approximately 90 percent of the affected workers to qualify for compensation amounting to two-thirds of their wage loss.

Specifically, the new law provides that the maximum will be 125 percent or $167, whichever is greater, during the period ending September 30, 1973; 150 percent during the period ending September 30, 1974; 175 percent during the period ending September 30, 1975; and 200 percent thereafter.

Effective October 1 of each year, the Secretary of Labor will determine the national average weekly wage, using the earnings of production workers on private, nonfarm payrolls in the three consecutive quarters ending June 30. These annual redeterminations will allow any increase in the national average weekly wage to be reflected in an appropriate increase in compensation levels.

In addition, the law provides for the upward adjustment of benefits in the estimated 2,000 cases of permanent disability or death that occurred before October 27, 1972.

Employees who die or are permanently injured after October 27, 1972, will also have their benefits adjusted upward each year in proportion to any increase in the national average weekly wage.

The benefit structure for survivors is altered under the new legislation to provide additional benefits for widows and children and to expand the class of dependents entitled to receive benefits. A surviving wife or husband is now entitled to compensatory payments equaling 50 percent of the deceased's average wage, and 16⅔ percent of the deceased's average wage for each dependent child.

Other changes in the benefit structure include: the elimination of the $24,000 ceiling on payments for temporary total and for permanent partial disability; payment of retroactive benefits for the 3-day waiting period when the disability lasts more than 14 days (previously 28 days); an increase in maximum funeral benefits from $400 to $1,000; and an extension of eligibility for surviving children's benefits to age 23 (previously age 18), provided the child is attending school.