

qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

(Pub. L. 96-101, § 8, Nov. 4, 1979, 93 Stat. 740; Pub. L. 97-468, title II, § 236(a), Jan. 14, 1983, 96 Stat. 2547.)

AMENDMENTS

1983—Pub. L. 97-468 substituted “April 1, 1984” for “April 1, 1981”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

EXEMPTION OF NATIONAL RAILROAD PASSENGER CORPORATION IN HIRING QUALIFIED TRAIN AND ENGINE EMPLOYEES

Section inapplicable to National Railroad Passenger Corporation in hiring of qualified train and engine employees holding seniority rights to work in intercity rail passenger service in connection with the assumption by such Corporation of functions previously performed under contract by other carriers, see section 4011(c) of Pub. L. 99-272, set out as a note under section 797b of this title.

§ 908. Employee protection agreements

(a) Agreement between Milwaukee Railroad and labor organizations

The Milwaukee Railroad and labor organizations representing the employees of such railroad may, not later than 20 days after November 4, 1979, enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad or a restructuring transaction carried out by such railroad. Such employee protection may include, but need not be limited to, interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

(b) Submission of matter to National Mediation Board

If the Milwaukee Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 20 days after November 4, 1979, the parties shall immediately submit the matter to the National Mediation Board. The National Mediation Board shall attempt, by me-

diation, to bring the parties to an agreement with respect to employee protection no later than 40 days after November 4, 1979.

(c) Fair and equitable agreements

(1) If the National Mediation Board is unable to bring the parties to an agreement under subsection (b) of this section within 40 days after November 4, 1979, the Milwaukee Railroad and the labor organizations representing the employees of such railroad shall immediately enter into an employee protection agreement that is fair and equitable.

(2) If an employee protection agreement is entered into under this subsection, any claim of an employee for benefits and allowances under such agreement shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement and shall certify such amount to the Milwaukee Railroad for payment.

(d) Payment of benefits and allowances

Benefits and allowances under an employee protection agreement entered into under this section shall be paid by the Milwaukee Railroad in accordance with section 914 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Milwaukee Railroad.

(Pub. L. 96-101, § 9, Nov. 4, 1979, 93 Stat. 741.)

§ 909. Supplementary unemployment insurance

(a) Eligible employees

Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction in service by such railroad prior to April 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad, and obtains employment, prior to April 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to April 1, 1984,

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Period of payment

Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after April 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after

such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Amount of payment

Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on November 4, 1979, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) Filing of application

An application for supplementary unemployment insurance shall be filed with the Board in such time and manner as the Board by regulation shall prescribe.

(e) Insurance as compensation

Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.].

(f) Employees not covered

(1) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

(g) Furloughed employees

For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

(Pub. L. 96-101, §10(a)-(g), Nov. 4, 1979, 93 Stat. 741, 742.)

REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in subsecs. (c)(2) and (e)(2), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (e)(1), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of this title. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of this title, section 231t of this title, and Tables.

CODIFICATION

Section is comprised of subsecs. (a) to (g) of section 10 of Pub. L. 96-101. Subsec. (h) of section 10 amended section 231f(b)(7) of this title.

§ 910. Repealed. Pub. L. 97-35, title XI, § 1144(b), Aug. 13, 1981, 95 Stat. 669

Section, Pub. L. 96-101, §11, Nov. 4, 1979, 93 Stat. 742, set forth provisions respecting employment of Milwaukee Railroad employees. See section 797c of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as an Effective Date note under section 1101 of this title.

§ 911. New career training assistance

(a) Eligible employees

Any employee who elects to receive a separation allowance from the Milwaukee Railroad under an employee protection agreement entered into under section 908 of this title shall be entitled to receive from the Board expenses for training in qualified institutions for new career opportunities.

(b) Commencement of training as condition

To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Filing of application; Board determination

Entitlement to expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) Assistance prohibited after April 1, 1984

No assistance may be provided under this section after April 1, 1984.

(e) Definitions

As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed \$3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, or a State-accredited institution which has been in existence for not less than two years.

(Pub. L. 96-101, §12, Nov. 4, 1979, 93 Stat. 743; Pub. L. 96-254, title I, §119(f), May 30, 1980, 94 Stat. 408.)

AMENDMENTS

1980—Subsec. (e)(2). Pub. L. 96-254 inserted reference to State-accredited institutions which have been in existence for not less than two years.

CHANGE OF NAME

Reference to Veterans' Administration deemed to refer to Department of Veterans Affairs pursuant to