

Ligant

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L55-528

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The Board

The Associate General Counsel

The Effect of the "Disability Freeze" of the Social Security Act on the Over-All Minimum of the Railroad Retirement Act. (My memorandum to the Chief Executive Officer dated May 17, 1955, transmitting L-55-283, and letter dated October 11, 1955, from the Acting Commissioner of the Social Security Administration to the Chairman of the Board.)

In considering the letter of October 11, 1955, to the Chairman, above referred to, I suggest that consideration be given also to the following:

1. In L-55-283 I stated in footnote 4 at page 6 as follows:

In this connection, we must consider that the disability freeze determination concerns, for the most part, merely a question of the amount of benefit payable, generally only from age 65 on, or if earlier, as in the case of children, for fairly short periods, whereas the determination for purposes of a disability annuity, which would be the prior concern of the Board, has to do with eligibility for the disability annuity itself, which is payable during the life of the disabled beneficiary and whose disability annuity could begin at an age considerably earlier than sixty. The tendency would be therefore to apply less strict standards of proof in the freeze cases, a tendency which would be seriously aggravated, of course, by the circumstance that these determinations would be made by state agencies having otherwise no interest in, or responsibility for, the program.

With regard to the above quote from L-55-283, it is pertinent to refer to a statement made by J. Duffy Hancock, M.D., Chairman, Medical Advisory Committee, Social Security Administration, concerning the proposals

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in the bill H.R. 7225, 84th Congress, 1st Session, for disability benefits under the Social Security Act. Dr. Hancock's statements support fully the view I expressed in the memorandum, above referred to, that the standards for the disability freeze are not the same as the standards for disability benefits. Dr. Hancock said, in pertinent part, as follows:

Mr. Roswell B. Perkins,
Assistant Secretary, Department of Health, Education,
and Welfare,
Washington, D. C.

"Dear Sir: In reply to your inquiry regarding my feeling about legislation to begin pension payments immediately to those determined totally disabled under the so-called disability-freeze law, please be advised that I am very much opposed to it on three grounds:

"The first deals with the concept regarding the purpose of the disability freeze. It was my impression that the philosophy behind the disability freeze was the rehabilitation of those disabled in order to enable them to become gainfully employed again. * * *

* * * There is a backlog of several hundred thousand cases which must be processed. * * *

* * * the standards which the committee has established for total disability have been necessarily liberal in view of the tremendous backlog and the necessity for some non-professional administration of the regulations. Should the payments be made immediately available, another stricter interpretation of what is meant by totally disabled would have to be recommended by the committee. * * *" (Emphasis supplied.) (Report No. 1189 [to accompany H.R. 7225], 84th Congress, 1st Session, House of Representatives, page 65.)

2. In said L-55-283, at page 11, I stated as follows:

Consider, in this connection, another problem. Conceivably, a determination of a disability freeze period made by the Secretary, or by any one of the many state agencies, for a career railroad employee, might be on the basis of standards and procedures not in conformity with the standards and procedures employed by the Board in determining total and

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permanent disability for the purpose of an annuity under the Railroad Retirement Act or even a 'disability freeze period'. Therefore, a career railroad employee, who would be denied, or awarded, a disability freeze period under the Secretary's, or some state agency's, standards and procedures, might be awarded, or denied, respectively, a disability freeze period, or a disability annuity, under the Railroad Retirement Act. It should be noted that both agencies have continued to assert that such conflicting decisions must be avoided if good administration by both is to be maintained.";

and at page 13 of said L-55-283, I said as follows:

"During our discussion of this issue on May 2 and 3, 1955, in Baltimore, representatives of the Secretary presented two main objections to this proposal [to restore in the Board by legislation the authority to make disability freeze determinations of career railroad employees]. The first was with respect to contracts already entered into between the Secretary and some state agencies under which such agencies were given authority to make determinations of periods of disability for career railroad employees.

The admission in the October 11, 1955 letter from the Acting Commissioner that state agencies would no longer present any problem would seem to remove the objection of the Social Security Administration to the proposed legislation; and it is therefore not clear why the request was made that no legislation be introduced. Moreover, as pointed out in the first above-quoted statement from L-55-283, the same problem would arise from a decision by the Secretary as would from a decision of a state agency. Therefore, the elimination of the state agency problem does not seem to eliminate the necessity for legislation.

3. Cooperation between the two agencies is, of course, essential and is to be encouraged; but there appears to be no reason to warrant the conclusion that such cooperation would be possible only if jurisdiction

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over disability freeze determinations for career railroad employees is retained in the Social Security Administration; there is no basis for the implication that such cooperation would not be just as feasible if such jurisdiction were in the Board, as in the case of the coordinated survivor benefits program.

4. The administrative difficulties which would result from permitting the Social Security Administration to retain jurisdiction over disability freeze determinations for career railroad employees should not be overlooked.

David B. Schreiber
Associate General Counsel

CC: Secretary of the Board
Chief Executive Officer
Director of Research
Director of Retirement Claims
Director of Wage and Service Records

DBS:jsl