

**EMPLOYER STATUS DETERMINATION
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY**

This is the decision of the Railroad Retirement Board regarding the status of Los Angeles County Metropolitan Transportation Authority (LACMTA) as an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

LACMTA is a government agency which was formed April 1, 1993, from the merger of the Los Angeles County Transportation Commission and the Southern California Rapid Transit District. LACMTA's purpose is to oversee, coordinate, and approve use of state and local funds for public transit projects in Los Angeles County. It operates an extensive bus service, and operates or will operate approximately 55.6 miles of electric light rail service and 21.5 miles of heavy rail electric subway service within Los Angeles County. LACMTA's operations are entirely intrastate. It is also one member of a five county joint powers authority, Southern California Regional Rail Authority, which provides rail commuter service in Los Angeles County on lines purchased by LACMTA from railroad companies. The railroad companies retain rights to operate over those lines. Southern California Regional Rail Authority contracts with Amtrak to provide commuter rail service.

The definition of an employer contained in section 1(a) of the Railroad Retirement Act (45 U.S.C. § 231 (a)) reads in part as follows:

- (1) The term "employer" shall include--
 - (i) any express company, sleeping car company, and carrier by railroad, subject to [the Interstate Commerce Act];
 - (ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad * * *.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection, the term "employer" shall not include--

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(ii) any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general diesel-railroad system of transportation, but shall not exclude any part of the general diesel-railroad system of transportation now or hereafter operated by any other motive power. * * *

Section 1(a) of the Railroad Unemployment Insurance Act (45 U.S.C. § 351(a)) provides a substantially identical definition.

LACMTA is a governmental entity involved chiefly in the provision of financial oversight and other commuter-related functions and is also a member of a five county joint powers authority which provides rail commuter service through a contract with a rail operator, Amtrak. LACMTA's operations are strictly intrastate. It is not involved in the transportation of freight or passengers in interstate commerce and, accordingly, is not subject to the Interstate Commerce Act. LACMTA likewise does not provide any service or operate any equipment in connection with the transportation of freight or passengers in interstate commerce. Accordingly, it does not fall within the definition of employer in the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

The Board holds that LACMTA is not an employer under the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

Glen L. Bower

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LACMTA.COV

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Steve -

Section 1(a)(2) excludes coverage of certain railways. It seems that these commissions are not operators of railways so the exclusion does not apply. However, LACMTA does operate rail lines so I added a reference to 1(a)(2) in that case.

I added references to the operations being entirely intrastate.

It seems to me that the significance of the operation of the commuter lines by employees of a covered railroad is that the service performed by the covered railroad's employees is covered even though it is under a contract to operate a commuter line. That service is covered though by reason of the commuter-line operator being a covered employer, so I don't see that this issue bears on the coverage question pertaining to the commissions.

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In Board Order 89-74 the Board held that a lessor employer, which had sold all of its railroad assets so that the lessor no longer had the equipment necessary to resume railroad operations, was no longer an employer under section 1(a)(1)(i) of the Railroad Retirement Act. See Appeal of Board of Trustees of the Galveston Wharves, B.O. 89-74, April 24, 1989. The rationale of Board Order 89-74 applies in the instant case where the board of which LACMTA is a member has contracted for provision of commuter service and does not have the capability of providing that service itself. None of the other functions performed by LACMTA bring it within the definition of an employer under the Acts. It appears also that the exception for commuter railways contained in section 1(a)(2) of the Railroad Retirement Act, above, would apply to LACMTA.