

**March 20, 2000**  
**L-2000-9**

TO: V. M. Speakman, Jr.  
Labor Member

FROM: Steven A. Bartholow  
General Counsel

SUBJECT: Payments for Attendance at a Meeting of a Railway Labor  
Organization's State Legislative Board

This is in reply to your February 29, 2000 inquiry as to the characterization of payments made to an individual for his attendance at the Quadrennial Reorganization Meeting of the Illinois Legislative Board of the United Transportation Union (UTU).

Information provided indicates that the individual in question is a legislative representative of the UTU's Illinois Legislative Board who is currently in a non-paid position with the local union. The representative will receive a small amount of compensation in addition to a per diem rate of \$113.00 per day when attending the Quadrennial Meeting.

To be considered compensation creditable under the Railroad Retirement Act, the earnings received must be for services rendered as an employee or employee representative. See 45 U.S.C. § 231(h)(1). Under the circumstances described, it is my opinion that the legislative representative would not be providing services for an employer under the Railroad Retirement Act, but would merely be serving as a representative at the Board Meeting. Consequently, the payments he receives for his attendance at the Board Meeting would not be creditable as compensation. Rather, the payments received would constitute self-employment income, similar to that received by a member of a Board of Directors of a corporation. See 1999 Social Security Explained, ¶ 401.2. As such, the amounts paid to the individual would constitute non-railroad earnings subject to the monthly earnings limit for disabled employee annuitants.

Your inquiry recounts the Board's position as to how to characterize payments made to delegates to conventions of a national convention of their union. The gathering at issue in this case is a meeting, not a convention. However, if the meeting at issue was a convention, the rationale behind the policy adopted in 1994 would extend to any convention where the delegate is not subject to the direction and control of the entity sponsoring the convention.