

**EMPLOYER STATUS DETERMINATION
SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY**

This is the decision of the Railroad Retirement Board regarding the status of Southern California Regional Rail Authority (SCRRA) as an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

According to information provided by Charles A. Spitulnik and Richard F. Riley, Jr., attorneys for SCRRA, SCRRA is a separate "joint powers agency" created under California Public Utility Code §130255 and California Government Code §§6500 et seq. in July 1991 by five southern California agencies which executed a Joint Powers Agreement.¹ Under the Joint Powers Agreement SCRRA administers all the commuter rail service over rail lines or easements which have been acquired by the five county agencies from the Atchinson, Topeka and Santa Fe Railway Company, the Southern Pacific Transportation Co., and the Union Pacific Railroad Co. SCRRA performs this duty by contracting the actual operation of the rail service to Amtrak. SCRRA's operations are entirely intrastate.

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 subchapter I of chapter 105 of Title 49;

(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

¹The agencies are San Bernardino Associated Governments ("SANBAG"), the Ventura County Transportation Commission ("VCTC"), the Los Angeles County Metropolitan Transportation Commission ("LACMTA"), the Orange County Transportation Authority ("OCTA"), and the Riverside County Transportation Commission ("RCTC"). LACMTA, OCTA and RCTC have all been found not to be employers covered by the Acts. See B.C.D. 94-48, B.C.D. 94-47, and B.C.D. 94-47.1, respectively. SANBAG and VCTC have been submitted for Board opinions simultaneously with this request for SCRRA.

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

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or icing, storage, or handling of property transported
by railroad * * *.

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

SCRRA is a governmental entity which is charged with the administration of commuter rail operations in southern California. It operates no trains but contracts this function out to Amtrak, an employer under the Acts. This agency has previously held that a public entity which lacks the capability of operating as a railroad but rather contracts with an employer under the Acts to operate rail service over the lines is not an employer under the Acts. See Legal Opinions L-91-86 (Bi-State Development Agency of the Missouri-Illinois Metropolitan District) and L-90-160 (Massachusetts Bay Transportation Authority).

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

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