

The Labor Relations Advisor

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FAA To Raise Pilot Retirement Age

Emphasizing that “experience counts” in the cockpit, the Federal Aviation Administration (FAA) will propose raising the mandatory retirement age for U.S. commercial pilots from 60 to 65 years. The proposal will mirror International Civil Aviation Organization (ICAO) standards that permit pilots to fly until age 65 as long as one member of a two-person cockpit crew is under age 60. “Foreign airlines have demonstrated that experienced pilots in good health can fly beyond age 60 without compromising safety,” noted FAA Administrator Marion C. Blakey.

Raising the pilot retirement age holds myriad economic and operational implications for airlines and labor groups, according to a study committee appointed last fall by Blakey. The industry may face potential issues in the areas of benefits, disability, insurance, pay, retirement plans, scheduling, seniority, and staffing. For example, a higher pilot retirement age could

(Continued on page 2)

DOL Issues Final Rule on Jobless Benefits

The Labor Department has announced a final rule that requires an individual be “able to work and available to work” in order to receive unemployment compensation. The directive was published in the *Federal Register* of January 16, 2007, and will become effective on February 15th (20 CFR Part 604). The standard codifies the department’s long-standing interpretation of eligibility requirements for jobless benefits provided by a program jointly administered by the federal Employment and Training Administration (ETA) and state governments.

The federal directive is intended both to highlight the existence of the “able and available” (A&A) standard, and to define the scope of the requirement. The DOL rule does not require a claimant to search actively for work, but it clarifies that an individual whose actions suggest a “withdrawal” from the labor market will be ineligible for unemployment benefits. ETA emphasized that its rule sets a minimum federal standard, and maintains the states’ freedom to set higher requirements. For example, states retain the right to mandate an active job search. In fact, the ETA noted that sound state policy should require a job search for eligibility. States also retain the flexibility to apply different A&A tests to subsets of the population, such as victims of domestic violence or part-time workers. The DOL emphasized, however, that state laws must assure that a claimant’s unemployment for any week is involuntary due to the unavailability of suitable work. ■

In This Issue

| | |
|--|-------|
| FAA To Raise Pilot Retirement Age | pg. 1 |
| DOL Issues Final Rule on Jobless Benefits | pg. 1 |
| State Mandates Benefits To Quit Smoking | pg. 1 |
| Emergency Board Issues Proposed Settlement for Metro-North Dispute | pg. 3 |
| Union Membership Continues To Drop | pg. 3 |
| News Briefs | pg. 4 |
| Mail Handlers Approve USPS Pact | pg. 4 |
| Airline Labor Restructuring Aids Recovery | pg. 5 |
| NY Hospitals, 1199 SEIU Reach Tentative Pact | pg. 5 |

State Mandates Benefits To Quit Smoking

Smokers in Rhode Island who want to quit smoking may receive some help from a new wellness benefit provided by their employer’s group health plan. Effective January 1st, the Ocean State requires that employer health plans offer coverage of smoking cessation programs. Rhode Island joins the ranks of New Mexico and Maryland which already mandate benefits for such programs.

Smoking cessation programs are “one of the most cost-effective preventative services out there,” noted Ron Finch, Vice President of the National Business Group on Health. The organization recommends that employers in every state should provide full coverage for screening and treatment services for smokers who want to quit puffing. Sponsors of the Rhode Island legislation expect the law to bolster

(Continued on page 4)

FAA *(continued from page 1)*

raise the average seniority at some carriers and increase average wage levels. Airlines with high longevity pilot groups might be placed at a competitive disadvantage compared to airlines with less senior pilots. Higher reserve staffing may be required to handle the requirement that one crewman in the cockpit be younger than 60. Scheduling procedures will need revamping to avoid assigning two pilots over age 60 to the same flights. Finally, some evidence suggests that an older pilot population may use increased sick leave.

“The FAA plans to formally propose the rule by the end of 2007, and will publish a final rule after evaluation of public comments.”

The FAA plans to formally propose the rule by the end of 2007, and will publish a final rule after evaluation of public comments. Adoption of a final rule generally takes about 18 months. The new age 65 retirement rule will apply only to pilots who reach age 60 after the final rule is adopted. ■

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Emergency Board Issues Proposed Settlement for Metro-North Dispute

A Presidential Emergency Board (PEB) has recommended a settlement in a 4-year collective bargaining dispute between Metro-North Railroad and a coalition of unions representing 3,500 commuter rail workers. The non-binding decision advises adoption of the company's wage offer, and addresses disputes regarding the retirement and health plan premiums.

Union contracts with Metro-North, a subsidiary of the New York state Metropolitan Transportation Authority (MTA), became amendable on January 1, 2003. Following almost four years of negotiations, including utilizing services of the National Mediation Board (NMB), the unions declined an offer of binding arbitration in November 2006. A Presidential executive order established the PEB effective December 7, 2006, at the request of Metro-North. The Railway Labor Act provides that any strikes by the union coalition will be delayed 120 days from the PEB's creation. Should the parties still fail to reach an agreement, a second board could be appointed to help resolve the dispute.

The PEB recommended the following settlement:

- **Wages.** Payment of \$1,000 lump sum for 2003; 3 percent pay increase in 2004, 2005, and 2006; 4 percent increase in 2007; and 3.5 percent increase in 2008.
- **Retirement.** Employee contribution of 3 percent of annual gross wages.
- **Health Premiums.** Employees contribute 1.5 percent of 40 hours of weekly gross wages. Employee contributions are limited to 2 percent of gross pay.
- **"Me too."** Coalition to withdraw proposal that Metro-North will provide any superior provisions negotiated with other unions during life of the contract.
- Other recommendations addressed holidays, life insurance, retiree medical coverage, and sick leave pay.

Union coalition members include the American Railway and Airway Supervisors Association, the International Association of Machinists, the International Brotherhood of Electrical Workers, the National Conference of Firemen and Oilers, the Sheet Metal Workers, the Transportation Communications Union, and the Transport Workers Union. ■

Union Membership Continues To Drop

Union membership maintained its steady decline last year, dropping to 12 percent of employed workers in 2006 compared to 12.5 percent in 2005, according to the U.S. Department of Labor's Bureau of Labor Statistics (BLS). Membership rolls of organized labor have shrunk continuously from 20.1 percent in 1983, the first year for which BLS has collected comparable data. Following are summary highlights of 2006 data:

- **Public vs. Private Industry.** Public employees had a union membership rate of 36.2 percent, nearly 5 times that of private sector workers (7.4 percent). Among public sector occupations, the most heavily unionized were teachers, police officers, and fire fighters. Among private industry, transportation and utilities had the highest union membership rate (23.2 percent), followed by construction (13.0 percent).
- **Gender.** Thirteen percent of male workers hold a union membership card, compared to 10.9 percent of women. This represents a narrowing of the gender gap since 1983, when the rate for men exceeded that for women by about 10 percentage points.
- **Race.** A look at racial break-outs found union membership measuring 14.5 percent among black workers, 11.7 percent for whites, 10.4 percent for Asians, and 9.8 percent among Hispanics.
- **Age.** Union membership was highest in the age group of 45 to 64 years (16.0 percent) and lowest among the youngest workers between the ages of 16 and 24 years (4.4 percent).
- **Earnings.** Median weekly earnings of full-time workers who were union members measured \$833, exceeding those of non-union members (\$642). This difference reflects a variety of influences in addition to coverage by a collective bargaining agreement, including variations in occupation, industry, firm size, and geographic region. ■

NEWS BRIEFS...

NEGOTIATIONS...The TWU plans to open early negotiations in November 2007 for contracts covering 27,000 mechanic and related workers at **American Airlines**. The company has already begun early negotiations with its pilots and dispatchers. American's union-represented employees are working under 2003 concession contracts that will become amendable May 1st, 2008... A new tentative pilot agreement at **Frontier Airlines** improves retirement benefits and job protections, and provides minor cost of living adjustments. FALPA members will vote on the deal by mid-February...IBT-represented mechanics, cleaners, and stock clerks at

Netjets have ratified a new 5-year contract that provides pay increases, job protections, and fully-paid health benefits through 2008...**FAMILY MEDICAL LEAVE...** Senator Christopher Dodd (D-CT) plans to launch a bill to expand the Family Medical Leave Act to provide 6 weeks of paid leave for an employee's illness or the illness of a worker's close family member. Funding would be shared by business, workers, and the federal government...**INFLATION...**The Labor Department's Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for 2006 rose 3.2 percent from a year earlier, and 13.6 percent over the past 5 years. ■

Mail Handlers Approve USPS Pact

Approximately 55,000 mail handlers have ratified a new five-year contract with the U.S. Postal Service (USPS). Represented by the National Postal Mail Handlers Union, the workers approved the agreement by a vote of 15,244 to 2,116. The agreement will boost salaries by 6.78 percent over the term of the agreement, and continue providing biannual cost of living adjustments through 2011. Before the wage increases, salaries ranged from \$30,810 to \$47,203, and averaged about \$42,800 per year. The Mail Handlers pact marks the second recently-ratified collective bargaining agreement with the USPS. Members of the American Postal Workers Union (APWU) approved their tentative agreement in mid-January. (See *Labor Relations Advisor*, January 2007.)

Smoking *(continued from page 1)*

employees' health, resulting in a reduction of insurers' expenses and a drop in premiums for employers and employees. Under the Rhode Island law, group health plans must cover smoking cessation treatments if those plans provide medical coverage for physician services and major medical or other comprehensive benefits. Covered treatment includes over-the-counter or prescription nicotine replacement drugs that have been approved by the Food and Drug Administration (FDA), when used in conjunction with outpatient smoking cessation counseling. A plan that does not already include prescription drug benefits need not cover the nicotine replacement drugs, but it must still provide benefits for the counseling. Co-payments or deductibles may be charged.

The Maryland and New Mexico laws vary from the Rhode Island mandate. A Maryland insurance carrier that offers prescription drug benefits must provide coverage for an FDA-approved nicotine replacement therapy prescribed for two 90-day courses per year. Smoking cessation programs, including diagnostic services and counseling, are not covered under the Maryland law. In New Mexico, health insurance plans that cover maternity care must also provide stop-smoking benefits for all participants. Smoking cessation benefits in this state include diagnostic services and two 90-day courses of drug therapy per year. New Mexico plans must also provide coverage for 90 minutes of counseling or two multi-session group counseling programs per year.

Other new wellness laws took effect January 1st in two other states. Michigan health insurers may now rebate up to 10 percent of the premiums or reduce co-payments, co-insurance or deductibles for participants who enroll in their employer's wellness programs. Health plans in Alaska must cover the cost of colorectal cancer screening for high-risk persons and those over 50 years old. Eighteen other states presently require benefit plans to cover the screening for this condition. ■

Airline Labor Restructuring Aids Recovery

The U.S. airline industry experts see a promising outlook for 2007, due largely to robust revenues and cost reductions, including labor cost declines. "Labor restructuring has resulted in substantial gains in airline productivity and contributed enormously to the industry's remarkable recovery," noted the Air Transport Association's (ATA's) Chief Economist, John Heimlich.

Painful cost reduction efforts over recent years have cut the average pay of airline workers from \$77,497 in 2003 to \$73,091 in 2005, a decline of 5.7 percent. A look at recent statistics shows that the cost of airline wages, benefits, and payroll taxes continues to trend downward. In the second quarter of 2006, costs per worker declined from the same quarter a year ago, when the industry's average labor expense measured \$72,549 per worker.

In addition to cost reductions, airline labor restructuring since 2001 has resulted in fewer jobs. Passenger airlines shed 155,000 jobs, or 28 percent of employment between the 2001 terrorist attacks and October 2006. Employment at traditional "legacy" carriers was affected the most, with the number of workers dropping from 446,900 to 275,500 over the period – a loss of 170,400 jobs, or 38 percent of staff. By contrast, employment at low cost and regional carriers grew from 98,700 employees to approximately 114,200 in 2006, an increase of 15,500 jobs or almost 16 percent. ATA predicts passenger airline employment to remain stable in 2007. ■

NY Hospitals, 1199 SEIU Reach Tentative Pact

An association of 94 New York hospitals and nursing homes has forged a tentative settlement with 1199 SEIU United Healthcare Workers East (1199 SEIU) that will provide job security, close a funding gap in the benefit plan, and make other improvements. The master contract -- the largest labor agreement for health care employees in the United States -- covers 70,000 employees at the League of Voluntary Hospitals and Homes (League), and influences pattern bargaining for an additional 55,000 area health care workers. Although the pact was not due to expire until April 2008, the parties opened negotiations early in order to address two looming crises -- impending massive layoffs due to restructuring of the health care system, and a growing shortfall in benefit plan funding.

The job security crisis stemmed from the report of the governor-appointed Berger Commission, that advised sweeping restructuring of health care facilities across the state to help constrain health care costs. The Commission's December 2006 recommendations included the downsizing or closing of 57 hospitals and additional nursing homes, resulting in the loss of thousands of jobs. The binding recommendations must be implemented by June 30, 2008.

Striving to cushion the impact of expected layoffs, the League and 1199 SEIU negotiated several measures of job security. The tentative pact provides that League employees as of January 1, 2003 are guaranteed jobs until the end of September 2011 -- the tentative contract's expiration date. Workers who lose their jobs will be placed in comparable positions in other League facilities within six months. Employees covered by 1199 SEIU contracts with non-League institutions will receive benefits from the job

security fund for six months while the union and the League try to place them in League positions. The agreement will provide for supplemental income support, health benefits, and retraining for any protected employees who are laid off.

Along with job security, the parties addressed benefit plan underfunding as a top priority. Exploding health care costs have resulted in an expanding shortfall in the National Benefit Fund that provides health benefits for the 1199-represented workers and their families. The funding gap was projected to reach \$700 million through 2011. The tentative agreement provides several ways to fund the plan while maintaining current benefit levels. The League's contribution to the Fund will rise from 20.85 percent of payroll to 22.5 percent in September 2007. The parties also agreed to divert to the Benefit Fund approximately \$300 million in company contributions to the pension fund, which currently holds a surplus. Finally, employers will make three lump sum contributions to the Fund, producing a total of \$126 million over 41 months.

The pact also includes wage adjustments and other changes. As a cost-saving measure, a 3 percent wage increase originally scheduled for July 2007 will be delayed until December 1st. Workers hired after December 1st will receive pay rates that are 3 percent below the minimum rates during their first year of employment. Employees will receive deferred 3 percent pay increases on December 1st 2008, 2009, and 2010. The parties also agreed to increase the pension formula, and to provide paid time for union delegates to educate the membership about benefit cost savings programs. ■

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1300 19th Street, N.W.
Suite 700
Washington, DC 20036

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