

DEFINITION OF WAGES FOR PURPOSES OF STATE AGREEMENTS UNDER SOCIAL SECURITY ACT

AUGUST 4, 1958.--Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H. R. 8599]

The Committee on Finance, to whom was referred the bill (H. R. 8599) to amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (1) of such act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such act, having considered the same, report favorably thereon with amendments, and recommend that the bill, as amended, do pass.

GENERAL STATEMENT

H. R. 8599 would amend title II of the Social Security Act to make inapplicable to payments to State and local government employees for employment covered under a Federal-State old-age and survivors insurance coverage agreement the provision of present law (sec. 209 (i)) which excludes, from "wages," payments for periods after the employee reaches retirement age in which he renders no services. While the principal effect of the bill would be to permit inclusion of salary of State and local government employees for periods during which the employee is on sick leave as wages for old-age and survivors insurance purposes after the employee reaches retirement age, it would also apply to any standby payments or other payments to such an employee for periods after retirement age in which he does no work for the employer. The bill would apply prospectively, and also to payments made prior to the enactment of the bill, if the social-security contributions thereon are paid prior to 1959.

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AMENDMENTS

The Department of Health, Education, and Welfare advised the Committee on Finance that the present language of section 1 of the House-passed bill was broader in its effect than would be required to meet the problem presented by the States, since it would apply to standby pay and other payments for periods after retirement age in which an employee of a State or local government does no work for the employer as well as to sick-leave payments. At their suggestion section 1 was revised to apply only to State and local government sick-leave payments.

The committee adopted further amendments suggested by the Department of Health, Education, and Welfare revising the language of section 2 making clarifying changes in the effective date of the bill.

The title is amended to read: An Act to amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (i) of such Act shall not be applicable to payments to employees of a State or a political division thereof for periods of absence from work on account of sickness.

The recommendations of the Department of Health, Education, and Welfare are set forth in their letter of June 26, 1958, which follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
June 26, 1958.

HON. HARRY F. BYRD,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of August 6, 1957, for a report on H. R. 8599, a bill "To amend title II of the Social Security Act so as to provide that the exception from 'wages' made by section 209 (i) of such Act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such Act."

The bill is designed to meet a problem of the States and their political subdivisions that results from the fact that under present law most of their wage and salary payments for periods when the employee is on sick leave are not treated the same for the few employees who have reached retirement age as they are for the great majority of employees, who, of course, have not reached retirement age. (These sick leave payments are counted as wages until the employee reaches retirement age, but are excluded from wages after retirement age.)

For their own purposes, State and local governments generally do not give different treatment to payments to employees after a specific age, and their payroll records may not show the employee's age. Also, their payroll records may not show whether the employee was on sick leave during the pay period. These employers, therefore, have great difficulty in identifying payments to employees past retirement age who were on sick leave for the entire pay period so that these payments can be omitted from their wage reports under old-age and survivors insurance.

Legislation that would make the treatment of State and local government sick-leave payments the same before and after the employee reaches retirement age is desirable not only as a means of improving administration but also as a matter of principle. The age of the employee ought to have no bearing on the question of whether payments for a period of sickness are wages for old-age and survivors insurance purposes. The treatment of sick pay in private employment is not affected by the employee's age (all sick pay under a plan or system is excluded). We, therefore, favor enactment of legislation such as that proposed by the bill.

We suggest, however, that the language of the bill be revised. We are sending you language that could be substituted.

Our substitute language for section 1 makes a change in section 209 of the Social Security Act, which relates to the conditions under which State and local government employees are covered under old-age and survivors insurance. The present language of section 1 of the bill is broader in its effect than would be required to meet the problem presented by the States, since it would apply to standby pay and other payments for periods after retirement age in which an employee of a State or local government does no work for the employer as well as to sick-leave payments. The program considerations which favor a change with respect to sick-leave payments do not necessarily apply to these other types of payments; the treatment of these payments should not be changed without further study. The revision we suggest would make the change apply only to State and local government sick-leave payments.

Our suggested revision of section 2 makes clarifying changes relating to the effective date of the amendment. One change makes clear that if sick-leave payments to members of a coverage group are covered retroactively such coverage must be retroactive to the effective date of old-age and survivors insurance coverage for the coverage group. The other change is designed to assure that failure, through error or oversight, of a State to pay the full amount of contributions due before January 1, 1959, shall not preclude retroactive coverage.

We recommend that the bill, amended as suggested above, be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your Committee.

Sincerely yours,

E. L. RICHARDSON,
Assistant Secretary

(The favorable report from the Bureau of the Budget follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 24, 1958:

Hon. HARRY F. BYRD,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letter of August 6, 1957, requesting the views of this office with respect to H. R. 8599, "To amend title II of the Social Security Act so as to provide that

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the exception from 'wages' made by section 209 (i) of such Act is not applicable to payments of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such Act."

In the report which the Secretary of Health, Education, and Welfare is making to your committee on this bill, he is recommending its enactment with certain modifications.

This office defers to the Department of Health, Education, and Welfare with respect to the merits of this proposal.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate; changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 209 OF THE SOCIAL SECURITY ACT

DEFINITION OF WAGES

SEC. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) * * *

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains retirement age (as defined in section 216 (a)), if he did not work for the employer in the period for which such payment is made. *As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 218 (b) (2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness; or*

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