



Legal Opinion L-2003-03
December 5, 2006

U.S. Railroad Retirement Board Phone: (312) 751-7139
844 North Rush Street TTY: (312) 751-4701
Chicago Illinois, 60611-2092 Web: <http://www.rrb.gov>

TO : Suzanne Haynes
Chief of Records Analysis and Systems
Through: Ronald Russo
Director of Policy and Systems

FROM : Steven A. Bartholow
General Counsel

SUBJECT : Current Connection
Department of Homeland Security

This is in reply to your memorandum dated January 17, 2003, regarding employment with the Federal Government which will not break a current connection.

Under the Homeland Security Act of 2002, the Transportation Security Administration is being transferred from the Department of Transportation to the new Department of Homeland Security. It is anticipated that the transfer of most agencies will be effective March 1, 2003. You inquire how employment with the Transportation Security Agency or other Department of Homeland Security agencies will affect the current connection of rail employees who have been employed with the Department of Transportation. You also ask what effect work for the Transportation Security Administration will have on railroad employees who stop working for the railroad and take a position, after March 1, 2003, with the Transportation Security Administration or with other Departments of Homeland Security.

Although work outside the railroad industry following the relevant 30 month period may break an employee's current connection, section 1(o) of the Railroad Retirement Act excepts the following from employment which will break a current connection:

* * * employment with the Department of Transportation, the Interstate Commerce Commission, the Surface Transportation Board, the National Mediation Board, the National Transportation Safety Board, the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982) so long as it is an instrumentality of the State of Alaska, or the Railroad Retirement Board * * *. [Emphasis added.]

The Department of Homeland Security is not included in the list of Federal agencies listed in section 1(o) as a Federal agency employment with which will not break a current connection. Accordingly, employment with the Department of Homeland Security may break a railroad employee's current connection. Since the Transportation Security Administration will no longer be part of the Department of Transportation, employment with that office may break a current connection after the effective date of the transfer to the Department of Homeland Security, which, as mentioned above, is expected to occur on March 1, 2003. Therefore, the current connection of a railroad employee who accepts work with the Transportation Security Administration after the transfer to the Department of Homeland Security may be broken. However, this conclusion does not apply to employees who have been employed with the Transportation Security Administration while it is part of the Department of Transportation and who are consequently transferred to the Department of Homeland Security. With regard to those employees, we will not issue a decision until the terms of the transfer are known.