

A FELA Primer

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What Do Railroaders Do?

- Shop Jobs
- Maintenance of way (MOW)
- Yard
- Local
- Road



How Are Railroaders Paid?



- Hourly jobs
- Standard day
 - 100 miles until 1982
 - increased gradually from 1982 through 1996 to its present level, 130 miles
- Arbitraries
- Short crew pay

How Are Railroaders Paid? (continued)



- Pay gets complicated for railroaders in **through freight** and **local** -- thankfully, we seldom have to worry about this
- Pay and benefits don't vary much for **Class 1 railroads** but **short lines** are a different story

Estimating Lost RR Earnings



- Railroading pays well but all railroad jobs are not high paying
 - **local freight** pays well and is easy work (usually); this is the choice of those with high seniority
 - **through freight** can pay very well but is disruptive; Western U.S. workers tend to make more than Eastern

Estimating Lost RR Earnings (continued)



- **yard service** is an hourly job with overtime usually available
- **maintenance of way (MOW)** is construction work with seasonal layoffs for junior employees
- **car shop** employs carpenters, welders, etc.

Estimating Past Earnings



- There are two basic methods:
 - Extrapolate Past Pay
 - Cohort Group
- **Extrapolate Past Pay:**
 - Adjust for changes in union contract
 - Adjust for “steps” to full pay

Estimating Past Earnings (continued)

- Remember to add lump sums and separate these from the base for projections
- New workers present special problems
- Short crew pay
- Buyouts and other unusual events



Estimating Past Earnings (continued)



- **Cohort Group:**
 - Usually “three above and three below”
 - Calculate plaintiff’s pay as percent of cohort average
 - Use cohort pay and percentage to forecast pre-trial earnings
 - Exercise care since cohort members are not always comparable

Projecting Future Earnings



- **Historical Trends in RR Earnings**
 - Until the 1990's railroad workers' earnings grew faster than manufacturing and the national average
 - Since then railroad workers' earnings growth has not kept pace with those of workers in manufacturing or the national average
 - Unions are powerful but reasonable

Projecting Future Earnings (continued)



- **Historical Trends (continued)**
 - Roads are in better financial shape (as a group) than in the past but are not out of the woods yet
 - Worker productivity is up but from a very low base
 - Railroading is skilled work and new operating employees are frequently junior college grads of RR programs

Projecting Future Earnings (continued)



- **Historical Trends (continued)**
 - **Bottom Line:** it would be tough to argue that relative wages will either rise or fall in the future
- **How We Project Railroad Earnings**
 - adjust past earnings for changes in union contract or the standard day (if relevant past earnings go back far enough)

Projecting Future Earnings (continued)



- **How We Project RR Earnings (continued)**
 - separate continuing earnings from the following lump sum or other payments:
 - **cost of living allowances (COLA's)** not rolled into base pay
 - **productivity shares** (short crew pay -- limited to one third of wages; worker must have been hired before July 1984 to be eligible)
 - **buyouts** (of productivity or other funds)
 - **moving or other allowances**

Projecting Future Earnings (continued)



- **How We Project RR Earnings (continued)**
 - Normalize past recurring earnings to base year and calculate an average
 - Project normalized (base) earnings forward in accordance with the provisions of the latest union contract
 - Adjust projected earnings for the employee's mortality and probability of being unemployed

Projecting Future Earnings (continued)



- **Employee Business Expenses**
 - Railroad workers have unreimbursed employee business expenses for:
 - Union dues
 - Work clothes and safety equipment
 - Pagers and telephone service
 - Expenses associated with time away from home

Projecting Future Earnings (continued)



- **Employee Business Expenses (continued)**
 - Our experience has been that these expenses range anywhere from \$3,000 to \$5,000 annually for someone in through freight service
 - For a 40 year old with a worklife expectancy of 18.1 years, this yields a downward loss adjustment of approximately \$60,000

Projecting Future Earnings (continued)



- **Railroader Benefits**
 - These really are not all that different from those typically received by other unionized workers -- basically:
 - **Family Medical (with employee contribution)**
 - **Social Security (Tier 1)**
 - **Private Pension (Tier 2 and supplemental)**
 - The tricky part is knowing the details

Projecting Future Earnings (continued)



- **Railroader Benefits (continued)**
 - **Medical Benefits**
 - The railroad medical/dental plan is a good one but is not out of line with those offered by other large employers
 - Like other employers, the railroad industry has been aggressively moving to control costs
 - The plan has moved to a preferred provider format

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Medical Benefits (continued)
 - For those under an indemnity plan, high co-pays, annual out-of-pocket and tighter monitoring are the norm
 - Workers share in the cost escalation through up to 50% reductions in contract cost of living allowance lump sum payments

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 1 Retirement Benefits
 - Tier 1 is Social Security with a few wrinkles, nothing more
 - Tier 1 benefits are calculated based on past earnings
 - Only earnings up to each year's Tier 1 earnings limit are subject to Tier 1 taxes and factor into the calculation of Tier 1 retirement benefits

Projecting Future Earnings (continued)



- **Railroader Benefits (continued)**
 - **Tier 1 Retirement Benefits (continued)**
 - The current Tier 1 earnings limit is \$90,000
 - Tier 1 retirement benefit amounts are calculated in the same way Social Security retirement benefit amounts are calculated; both are based on the highest 35 years of past earnings (up to the limit) indexed for average wage growth up to age 60

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 1 Retirement Benefits (continued)
 - Tier 1 (Social Security) is not actuarially “fair” in that Tier 1 benefit amounts do not vary directly with Tier 1 taxes paid; Tier 1 effects a wealth transfer
 - For this reason, future Tier 1 benefits net of employee-paid Tier 1 taxes, not total Tier 1 taxes paid, is the correct measure of the value of this benefit to an employee

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 1 Retirement Benefits (continued)
 - Tier 1 retirement benefit amounts are adjusted each year for inflation based on changes in the Consumer Price Index (CPI)
 - Since a disabled worker receives an inflation-indexed Tier 1 disability benefit which then converts to a retirement benefit at full retirement age, injury causes little or no loss of Tier 1 if a worker does not go back to work

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 1 Retirement Benefits (continued)
 - When a railroad worker later works outside of railroading, his Tier 1 rolls into Social Security
 - If an injured worker goes back to work but at a lesser paying job, his Tier 1 retirement benefit post-injury will be less -- but typically not much less, due to the wealth transfer effect

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 1 Retirement Benefits (continued)
 - Workers with 20 or more years of service or who are age 60 or over with at least 10 years of service are eligible to receive **occupational disability**; this benefit is the same as disability generally except that one need not be actually disabled to receive it -- merely being unable to work in your **regular** railroad job is sufficient to qualify

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits
 - Tier 2 is the railroad equivalent of a private pension plan
 - Tier 2 tax rates are set each year based on the program's **Average Account Benefit Ratio (AABR)**; the **AABR** is the ten year average of the ratio of the program's fair market value of assets to total benefits

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits
 - Combined Tier 2 tax rates for railroads and railroad workers can range anywhere from 8.2% to 27% depending on the level of the **AABR**
 - Railroad workers currently pay 4.4% of their earnings up to the maximum in Tier 2 taxes; railroads, on the other hand, pay 12.6%

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits
 - The current Tier 2 earnings limit is \$66,900; this means that employee and employer contributions to Tier 2 are presently capped at \$2943.60 and \$8429.40 per year per employee, respectively
 - Most of the 12.6% railroads pay into Tier 2 goes to fund payments to today's retirees, not future retirement benefits

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits (continued)
 - Of the 12.6% railroads currently pay in Tier 2 taxes, only about 1.01% actually goes toward funding future retirement; the remaining 11.59% funds benefit payments to current retirees
 - Like Tier 1, Tier 2 benefit amounts are based on past earnings
 - Unlike Tier 1, past earnings are not indexed

Projecting Future Earnings (continued)



- **Railroader Benefits (continued)**
 - **Tier 2 Retirement Benefits (continued)**
 - Also unlike Tier 1, Tier 2 benefit amounts are calculated using only the highest 60 months of past earnings (up to the limit)
 - In addition to past earnings, Tier 2 benefit amounts are based on the employee's years of service with the railroad
 - An employee earns one service credit each month he works (to any extent) for a railroad

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits (continued)
 - Tier 2 monthly benefits are calculated using the following formula:
$$.007 * \text{Average Monthly Compensation} * \text{Years of Service}$$
where “Average Monthly Compensation” is the average of the worker’s highest 60 months of earnings up to the Tier 2 maximum

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits (continued)
 - To receive Tier 2 benefits, an employee must have at least 60 months of service credit
 - Unlike Tier 1, Tier 2 benefit amounts are not fully indexed for inflation; their annual inflation adjustment is only 32.5% of the change in the Consumer Price Index (CPI)

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits (continued)
 - Like Tier 1, Tier 2 benefit amounts do not vary directly with Tier 2 taxes paid; for this reason, Tier 2 benefits net of employee-paid Tier 2 taxes is the correct measure of the value of this benefit to an employee
 - Disabled workers with at least 60 months of service receive Tier 2 as well as Tier 1 disability benefits

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits (continued)
 - Base Tier 2 disability benefit amounts are calculated just like Tier 2 retirement benefits but are based only on the worker's years of service and highest 60 months of earnings as of the date of disability
 - Once a disabled worker reaches full retirement age, Tier 2 disability benefits convert to Tier 2 retirement benefits

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Tier 2 Retirement Benefits (continued)
 - Inflation adjustments to base Tier 2 benefit amounts during disability are not lost when the disability benefit converts to a retirement benefit at full retirement age

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Supplemental Annuity
 - Workers hired before October 1981 also qualify for a supplemental annuity
 - For most workers who qualify, this supplemental annuity pays approximately \$43 per month upon retirement
 - Unlike Tier 1 and Tier 2 benefit amounts, this supplemental annuity payment is not indexed for inflation

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Taxation of Retirement Benefits
 - Tier 1 retirement benefits are taxed just like Social Security benefits; they are generally non-taxable but can become taxable in part if the retiree's income plus half their Tier 1 retirement benefit exceeds certain income thresholds
 - Tier 2 retirement benefits are partially taxable

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Taxation (continued)
 - A retiree's lifetime contributions to Tier 2 are amortized over a period ranging from 17.5 to 34.17 years, depending on the combined age of the retiree and spouse
 - Based on this amortization, a portion of each Tier 2 benefit payment is deemed a repayment of past contributions; only the remainder is taxable

Projecting Future Earnings (continued)



- Railroader Benefits (continued)
 - Taxation (continued)
 - The amortization period for a worker's past Tier 2 contributions typically exceeds their life expectancy at retirement; this overhang increases the taxable portion of Tier 2 retirement benefits since workers are unlikely to receive the entirety of their non-taxable amortized past contributions repayment while they live

Projecting Future Earnings (continued)



- **Railroad Retirement Age**
 - If railroad workers have 30 years of service, they can retire early at age 60 and still receive full retirement benefits
 - If railroad workers have less than 30 years of service, the retirement age at which they can receive full retirement benefits is the same as that for Social Security

Projecting Future Earnings (continued)



- **Railroad Retirement Age (continued)**
 - Railroad workers with less than 30 years of service can still opt to retire early, but both their Tier 1 and Tier 2 benefit amounts will be reduced if they do
 - We typically assume that railroaders will retire as soon as they qualify to receive full retirement benefits

Projecting Future Earnings (continued)



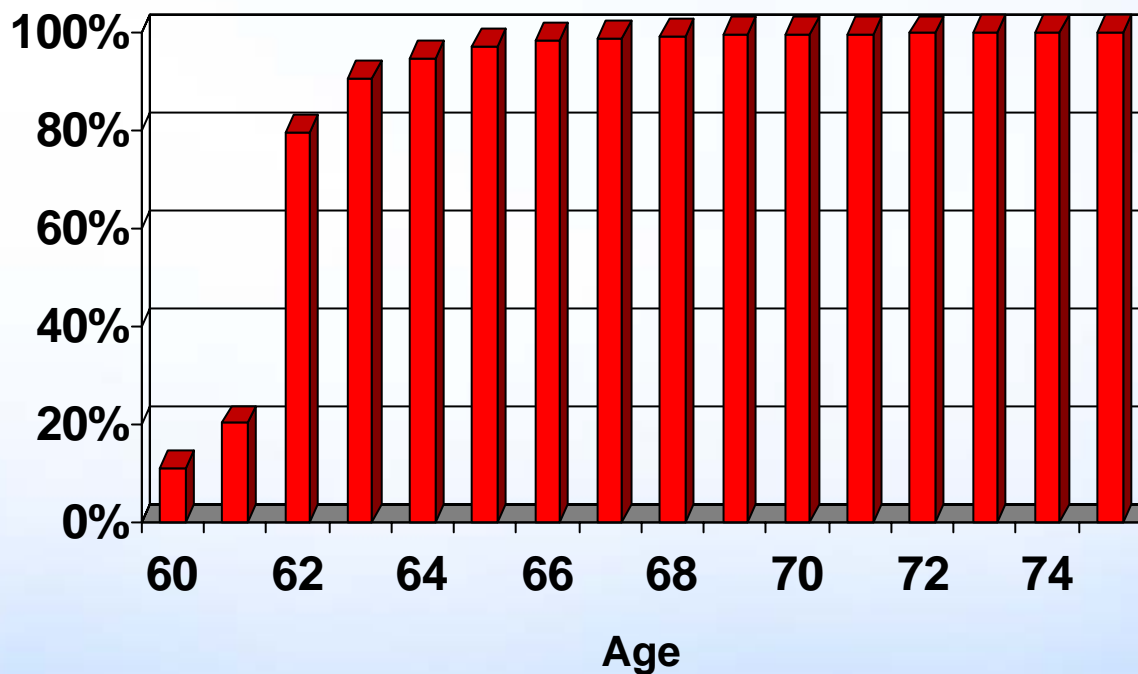
- **Railroad Retirement Age (continued)**
 - This assumption is consistent with data reported by the Actuarial Valuations of the U.S. Railroad Retirement Board; specifically, in the period from 1998 through 2000, when the age at which railroaders with 30 or more years of service could retire with full benefits was 62, not 60, most retired by age 62, as the following graphic illustrates:

Projecting Future Earnings (continued)



- **Railroad Retirement Age (continued)**

■ **Probability Retired, By Age, 1998-2000 (30+ Years Service)**





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