

§ 453.2

problem or to constitute an administrative interpretation or practice.

(c) *Earlier interpretations superseded.* To the extent that prior opinions and interpretations under the Act, relating to the bonding of certain officials, representatives, and employees of labor organizations and of trusts in which labor organizations are interested, are inconsistent or in conflict with the principles stated in this part, they are hereby rescinded and withdrawn.

[28 FR 14394, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985]

CRITERIA FOR DETERMINING WHO MUST BE BONDED

§ 453.2 Provisions of the statute.

(a) Section 502(a) requires that:

Every officer, agent, shop steward, or other representative or employee of any labor organization (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on his part directly or through connivance with others.

(b) This section sets forth, in the above language and in its further provisions, the minimum requirements regarding the bonding of the specified personnel. There is no provision in the Act which precludes the bonding of such personnel in amounts exceeding those specified in section 502(a). Similarly, the Act contains no provision precluding the bonding of such personnel as are not required to be bonded by this section. Such excess coverage may be in any amount and in any form otherwise lawful and acceptable to the parties to such bonds.

[28 FR 14394, Dec. 27, 1963, as amended at 30 FR 14925, Dec. 2, 1965]

§ 453.3 Labor organizations within the coverage of section 502(a).

Any labor organization as defined in sections 3(i) and 3(j) of the Act³ is a labor organization within the coverage of section 502(a) unless its property and annual financial receipts do not exceed \$5,000 in value. The determination as to

³See part 451 of this chapter.

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whether a particular labor organization is excepted from the application of section 502(a) is to be made at the beginning of each of its fiscal years on the basis of the total value of all its property at the beginning of, and its total financial receipts during, the preceding fiscal year of the organization.

§ 453.4 Trusts (in which a labor organization is interested) within the coverage of section 502(a).

Section 3(1) of the Act defines a *trust in which a labor organization is interested* as:

* * * a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

Both the language and the legislative history⁴ make it clear that this definition covers pension funds, health and welfare funds, profit sharing funds, vacation funds, apprenticeship and training funds, and funds or trusts of a similar nature which exist for the purpose of, or have as a primary purpose, the providing of the benefits specified in the definition. This is so regardless of whether these trusts, funds, or organizations are administered solely by labor organizations, or jointly by labor organizations and employers, or by a corporate trustee, unless they were neither created or established by a labor organization nor have any trustee or member of the governing body who was selected or appointed by a labor organization.

§ 453.5 Officers, agents, shop stewards, or other representatives or employees of a labor organization.

With respect to labor organizations, the term "officer, agent, shop steward, or other representative" is defined in section 3(q) of the Act to include "elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads

⁴Daily Cong. Rec., pp. 5858-59, Senate, April 23, 1959.