

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 history<sup>4</sup> 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 of departments or major units, and or-

ganizers who exercise substantial independent authority)". Other individuals employed by a labor organization, including salaried non-supervisory professional staff, stenographic, and service personnel are "employees" and must be bonded if they handle<sup>5</sup> funds or other property of the labor organization.

**§ 453.6 Officers, agents, shop stewards or other representatives or employees of a trust in which a labor organization is interested.**

(a) *Officers, agents, shop stewards or other representatives.* While the definition of the collective term "Officer, agent, shop steward, or other representative" in section 3(q) of the Act is expressly applicable only "when used with respect to a labor organization," the use of this term in connection with trusts in which a labor organization is interested makes it clear that, in that connection, it refers to personnel of such trusts in positions similar to those enumerated in the definition. Thus, the term covers trustees and key administrative personnel of trusts, such as the administrator of a trust, heads of departments or major units, and persons in similar positions. It covers such personnel, including trustees, regardless of whether they are representatives of or selected by labor organizations, or representatives of or selected by employers,<sup>6</sup> and such personnel must be bonded if they handle

<sup>5</sup>For discussion of "handle", see § 453.8.

<sup>6</sup>See the contrast between section 308 of S. 1555 as passed by the Senate ("All officers, agents, representatives, and employees of any labor organization engaged in an industry affecting commerce who handle funds of such organization or of a trust in which such organization is interested shall be bonded \* \* \*") and section 502 of the Act as finally enacted. The change between the two versions originated in the House Committee on Education and Labor. Prior to the reporting of the bill (H.R. 8342) by that Committee, a joint subcommittee of that Committee held extensive hearings, during the course of which witnesses including President Meany of the AFL-CIO criticized the bonding provision of the Senate bill on the ground that it required only union personnel of joint employer-union trusts to be bonded. (See Record of Hearings before a Joint Subcommittee of the Committee on Education

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<sup>4</sup>Daily Cong. Rec., pp. 5858-59, Senate, April 23, 1959.