DETROIT REVOLUTIONARY MOVEMENT RECORDS

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FOLDER 4

UNEMPLOYMENT RESEARCH MATERIAL CETA

Intergovernmental relations under the new manpower act

Definition of a 'prime sponsor' and public service employment provisions of the Comprehensive Employment and Training Act of 1973 set new administrative relationships among Federal, State, and local governments

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THE COMPREHENSIVE Employment and Training Act of 1973, culminating almost 5 years of manpower reform efforts by the Congress and Administration, largely eliminates the specific Federal manpower programs authorized under earlier legislation. In an attempt to avoid the inefficiency of separate project administration and to provide greater responsiveness to local needs, the Secretary of Labor now will make block grants to about 500 local and State governments to plan and operate manpower programs. The unique feature of the new law, compared with earlier reform efforts, is its careful specification of the administrative roles of Federal, State, and local governments and local interest groups in providing manpower services. The article focuses on these new intergovernmental relationships and also discusses some related issues treated in the act, especially the future of public service employment programs and the formulas to be used to distribute manpower funds.

The new manpower act is a major legislative achievement, but a brief look at the background of the act is necessary to put that achievement in perspective. The history of manpower legislation from its infancy in the training provisions of the Area Redevelopment Act through the enactment of the Manpower Development and Training Act in 1962, the Economic Opportunity Act in 1964, and the frequent amendments of those acts in response to their felt deficiences has been chronicled at length,[1] and that history will not be repeated here. But it is significant to recapture the flavor of the last amendments to these statutes in order to put into focus the legislative situation in 1969 when the drive for comprehensive reform began.

Strange as it may sound today, amendments to the Economic Opportunity Act in 1967 and to the Manpower Development and Training Act in 1968, were designed to "decategorize" the numerous manpower programs that had been established under these laws for specific categories of workers (such as high school dropouts). The amendments also contained provisions to decentralize the detailed process of approval for individual projects from the Federal Government to the State and community levels. The 1967 amendments, in the words of the Senate Labor and Public Welfare Committee report, provided "two major mechanisms . . . to achieve coordination. First, drawing on the experience of the concentrated employment program, funds will be channeled to the communities through a prime sponsor. . . . Second, the prime sponsor is required to develop and implement a comprehensive work and training program . . ."[2] The 1968 amendments gave the State authority to approve all manpower projects funded by the Federal Government under that act (subject to Federal disapproval within 30 days) if they conformed to an approved State plan.[3] In short, before the drive for comprehensive reform began, Federal legislation had made major strides towards decategorization and decentralization—but the rhetoric of the reformers (of all parties and points of view) sounded as though the 1967 and 1968 amendments had never been enacted.

Yet that rhetoric—the constant harping on the need for decentralizing and decategorizing manpower programs—was right in fact, if not in law, because the 1967 and 1968 amendments were never implemented. The reason is not far to seek: though all agreed on the need to decentralize, not all agreed on who would gain control under decentralization. The 1967 amendments had, in effect, given control to the community action agencies and the 1968 amendments to the employment security agencies and State vocational education agencies. These agencies had powerful enemies, and the Labor Department continued (under the Johnson and Nixon administrations) to operate categorical, centralized manpower programs despite the statutory language, but with the

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implied consent of the Congress, which regularly passed appropriation acts based on categorical funding.

The major achievement of the Comprehensive Employment and Training Act, therefore, is not decentralization and decategorization, which appeared in manpower legislation long before the drive for comprehensive manpower reform officially began in 1969. Rather, the achievement is the definition of the relationship between Federal, State, and local levels of government and between governments and community action agencies in a decentralized, decategorized manpower system. (Major provisions of the new law are given in the appendix.)

State and local government roles

The law's "solutions" to intergovernmental conflicts and rivalries are contained not only in its definition of a "prime sponsor" for manpower programs, but also in a series of provisions defining the relationship of the local prime sponsor to the State, including the use of State-provided services.

Eligibility for funding under Title I (Comprehensive Manpower Services) is limited to prime sponsors, thus the definition of prime sponsor plays a crucial part in determining the roles that the State and local governments play in direct administration of manpower programs. The contending bills for the last several years have defined local prime sponsors by population size and have made the State government the sponsor for areas which do not meet the minimum population criteria. Thus, the higher the population requirement for a local prime sponsor, the greater the role of the State. The new law defines a local prime sponsor as any unit of general local government (that is, a city or county) with a population of 100,000 or more—which means that approximately two-thirds of the population will be included in jurisdictions served by cities and counties, and one-third in areas served by the State. The proportion of funds going to the State in its prime sponsor capacity, at least in the early years of the act, will probably not be very different.

The State's share in the administration of manpower funds may be reduced by two other provisions in the definition of prime sponsor. First, the act provides incentives for units of local government to combine to form a "prime sponsor consortium," although it specifies that such a consortium can only be formed if one of the units joined together has the requisite population. Thus, cities and counties with at least 100,000 residents could affiliate with smaller areas that otherwise would have to look to the State for manpower services. There is another provision which permits the Secretary of Labor to designate units of government as prime sponsors regardless of population, but the legislative history makes plain that this authority is to be given only limited use.

The decision on the minimum population for local prime sponsors left unsettled several questions about the relative roles of the States and the city and county governments—questions which were among the major items of controversy both in reaching agreement within the House and in reconciling House and Senate bills.

The first question on State-local relationships was the use of State-provided services by the local sponsor. The decision here is a very clear one—the local prime sponsor has to use the State services only to the extent the local sponsor deems appropriate. There is *no* Federal standard or control on the use of the Employment Service or the vocational educational system by the locality. Although there is no requirement that the locality use the State services, there is a requirement that the State cooperate in implementing the local plan.

There are, nonetheless, inducements in the act to encourage local prime sponsors to use State services. First, to the extent that such services are available without cost, the prime sponsor can make the maximum use of its funds if it does not duplicate State activities. Second, the act provides two special funding mechanisms which are designed to promote cooperation between local sponsors and State agencies: (1) 5 percent of the funds available for Title I (or $65,950,000, based on the President's budget request for fiscal 1975) are available only for vocational education to be provided pursuant to an agreement between the State Board for Vocational Education and the prime sponsor; and (2) 4 percent of the Title I funds (or $52,760,000) are available for the State to provide certain manpower services, which include vocational education and employment services, in areas served by local prime sponsors.

A similar approach—that of giving the State influence rather than power—was used in resolving the other major question in regard to the State role. That question was whether the State should have a substantive role in the review and coordination of local plans. The act gives the State no substantive authority over local plans, but it does establish State Man-

power Services Councils, each with a staff appointed by the Governor, to review and make recommendations concerning prime sponsor plans and to review the operation of programs. The act also provides for the State to establish mechanisms to promote the coordination of State and local plans.

The role of local organizations

The resolution of the allocation of roles between the State and the locality can be seen in a variety of provisions of the act; the resolution of the role of the community action agencies can be seen in the almost complete absence of provisions. From the presumptive prime sponsorship role that these agencies achieved in the 1967 legislation, they have been reduced to membership on local planning councils, which the prime sponsors must appoint and staff by law. The councils, which will recommend plans and procedures, monitor, and evaluate local manpower programs, will represent the client community, local organizations, the employment service, education and training agencies, and local businesses and labor groups.

Thus, the long conflict between the state employment services and the community action agencies as presumptive prime sponsors of manpower programs was lost by both; they are recognized as only two of the kinds of organizations that may conduct manpower programs. The mayor, the county commissioners, and the Governor head the only agencies with statutory rights—all other agencies compete for their role in the program.

The Federal role

Manpower training is, of course, not only a matter of relationships between State and local governments; even more important is the relationship between the Federal Government and the sponsors of the program, be they State or local. The degree of Federal supervision that should accompany a block grant program has been a major topic of national debate for many years; in the last 3 years that debate has tended to focus on the advantages and disadvantages of "special revenue sharing." Any argument about whether the new manpower act is "really" revenue sharing is, of course, predetermined by who chooses the meaning—it was Humpty Dumpty who said "when I use a word, it means just what I choose it to mean, neither more nor less." President Nixon has distinguished the term "special revenue sharing" from the block grant by three basic characteristics: no requirement for matching of funds, no requirement for "maintenance of effort," and no need for Federal approval before funding.[3] By that definition, the new law meets the first characteristic, does not meet the third, and the second can be argued either way.

Under the new act, State or local prime sponsors must draw up comprehensive plans for providing manpower services, but the Federal Government must approve a plan before funding a prime sponsor, and the requirements for approval are not *pro forma*. The plan must meet the objectives of Title I, and it must ensure that manpower services are provided to those most in need of them. The substantive purposes of manpower programs and the definition of the clientele are federally defined and federally enforceable—and the responsibility for ensuring that the Federal dollar is spent in accordance with the requirements of the legislation is vested in the U.S. Department of Labor. The Federal supervisory role is provided both in prior approval of the plan and in subsequent monitoring to ensure that actual performance complies with the plan and the statutory requirements. The Federal supervisory role, however, is limited to the achievement of broad objectives and not to the details of program design—in fact, the act specifically prohibits the disapproval of a plan because of the percentage of funds devoted to any particular activity. Other Federal responsibilities under the act include providing manpower services for "target groups" such as American Indians, maintaining Job Corps programs, and establishing a National Commission for Manpower Policy.

Public service employment

The prime sponsor's discretion to allocate funds to any permissible activity without Federal intervention raises an interesting question: how does the act resolve the long-standing controversy over the place of public service employment in a comprehensive manpower bill? The public service employment provisions of the 1970 bill were one of the main reasons for the President's veto, and the funding for Title II (Public Employment Programs) was the only issue not resolved in the bipartisan bills that were introduced in the House in 1973. It should also be noted that the failure of the House of Representatives to pass an extension and expansion of the Emergency Employment Act was one of the key events leading

to the bipartisan compromise that resulted in the Comprehensive Employment and Training Act.

Is the act a victory for the advocates of public service employment? Or is it a defeat? Or have the battle lines become so blurred that it is difficult to distinguish one from the other? An examination of the statutory provisions is in order. Title II authorizes a public service employment program, *and* it provides fund reservations of $250 million for fiscal 1974 and $350 million for fiscal 1975 for this program. This question of a specific fund reservation for an employment program was one of the main points of contention in drafting the bill, and it would appear to have been resolved in favor of the advocates of public employment. But that appearance may be deceptive, because section 210 provides that funds available under Title II may, *at the option of the prime sponsor,* be used for any of the manpower services authorized under Title I. Thus, though there is categorical funding for public employment in Title II, that title is in fact not a categorical program.

It must be pointed out that Title I funds are also available, again at local option, for public employment programs. Thus, the potential funding for employment programs is not limited to the amounts appropriated under Title II—it includes all the funds available to prime sponsors for Title I. As a matter of law, Title I provides funds to prime sponsors for a manpower program which may include any combination of training and public service employment that the prime sponsor determines—and Title II does exactly the same thing.

In other words, both Title I and Title II provide funds which are available for the full range of manpower programs, and the distinction between Titles I and II is not in the activities authorized but *only* in the distribution formulas by which funds are allocated. The decision concerning the amount or percentage of funds to be used for public service employment is left entirely to the prime sponsor with no Federal guideline or supervision. The act does not have the separate categorical public service employment program so many have advocated, but neither does it have any restriction on the percentage of funds that can be used for such a program. The issue of "who won" cannot be resolved until we see how the funds are used.

The complete transferability of manpower funds raises a difficult policy question because it creates the possibility, or at least the temptation, that manpower funds may be used to finance the ordinary expansion of State and local government jobs, rather than to create "additional" jobs for the unemployed. The act contains some refinements of the "maintenance of effort" provisions of the Emergency Employment Act, but no really effective method of determining what a locality would have done without manpower funds has been devised. If public service employment takes up a greater share of manpower funds, the question of whether these funds are really creating new jobs or whether they are just reducing the burden on the local taxpayer will have to be squarely faced.

Distribution formulas

The development of the Comprehensive Employment and Training Act raised a host of issues, but the one that proved the most frustrating and probably the least satisfactorily resolved was that of a distribution formula. An examination of the frustrations implicit in devising a distribution formula raises some questions about the validity of the almost universally shared assumption that a distribution formula is a "good thing."

The purpose of a distribution formula is, I suppose, to put the money where the need is—so the first thing we have to do is define a measure of need for manpower services. This issue has been explored by many,[5] but whatever measure is used, the basic problem remains the same: fully adequate statistics by political subdivisions are not available. Unemployment counts alone are considered insufficient by many. It is easy—and correct—to say that not all the unemployed are potential users of manpower services, and even if we could identify those unemployed who are, we do not know what percentage of them live within the jurisdiction of every prime sponsor. The same is true of statistics on the size of the low-income population. Furthermore, decennial census statistics are not enough because the rhetoric of formula distribution forbids allocation by the needs of 10 years ago.

So enters the first frustration—you must pick a measure for which statistics are available and that just about limits you to unemployment, despite its inadequacies. The conferees included a low-income factor only because the U.S. Department of Labor gave written assurance that it would be able to give annual updates of the census data on the number of low-income adults by State and local prime sponsor jurisdictions. They also required the Secretary to

develop both preliminary data for an annual statistical measure of "labor market related economic hardship" in the Nation as a whole and more statistically reliable data on unemployment in local areas.

Second frustration: A formula is designed to direct funds where the need is, but by its very nature it is unable to adjust funds to rapidly changing economic conditions because, at the very best, the data is a year old. A formula—unless it contains very substantial exceptions—is unable to respond to crises, yet the basic justification for the formula is that it responds to need.

Third, and perhaps most important, the idea of a formula is to provide equity—but where the funds are insignificant in terms of the need, it can at best provide equity between areas, not between people who are served and those who are not. If one person out of six is to get needed services, is it really significant that the same percentage of those who need them get them in every county? Shouldn't we also take into account the success of the program?

These reflections on the problems inherent in a formula distribution lead to a concluding remark. A formula suggests that there is some unity to the need for manpower services. Even though our manpower programs address different problems and different groups and have very different costs, the formulas we have developed assume that a boy in an in-school Neighborhood Youth Corps program and an older man in an Operation Mainstream program both count as "one." Of course if we don't distribute by formula, we distribute by some other way which is not so explicit, by political pressure, by greasing the squeaky wheel, by the persuasiveness or ability of the sponsor. The difficulties inherent in a formula distribution are real. They did not prevent its adoption because the Congress was familiar with the difficulties of not distributing by formula. □

——— *FOOTNOTES* ———

[1] For a review of the literature, see Garth Mangum, "Manpower Research and Manpower Policy," in *A Review of Industrial Relations Research*, Vol. 2 (Madison, Wis., Industrial Relations Research Association, 1971).

[2] S. Rept. 90–563, p. 28.

[3] Public Law 90–636, Sec. 10.

[4] "President's Message on Special Revenue Sharing for Law Enforcement," *Weekly Compilation of Presidential Documents*, Mar. 8, 1971, p. 413.

[5] For a recent discussion, see Sar A. Levitan and Robert Taggart, "Employment and Earnings Inadequacy: A measure of worker welfare," *Monthly Labor Review*, October 1973, pp. 19–27.

APPENDIX: A summary of the Comprehensive Employment and Training Act

Title I. Comprehensive Manpower Services

Eligibility for financial assistance. Only "prime sponsors" are eligible for financial assistance under this title. Prime sponsors are defined as (1) the State, but only with respect to areas not served by other prime sponsors; (2) units of general local government with populations of 100,000 or more; (3) any combination of units of general local government, as long as one member of the combination has a population of 100,000 or more; (4) any unit or combination of units of general local government which (a) *either* serves a substantial part of a labor market *or* a rural area with high unemployment, *and* (b) demonstrates both a capability to carry out the program as efficiently as the State and that there are special needs for services in the area; and (5) a limited number of rural Concentrated Employment Program grantees.

Eligible activities. Funds under the title may be used to finance "the development and creation of job opportunities and the training, education, and other services to enable individuals to secure and retain employment at their maximum potential." This includes programs and activities that have been financed under previous manpower legislation such as outreach, counseling and testing, referral, basic education, institutional and on-the-job training, supportive services, and subsidized employment programs with public and not-for-profit employers. These eligible activities may be carried on by the prime sponsor directly or may be contracted to other organizations, and the prime sponsor is required to give due consideration to the continued funding of programs of demonstrated effectiveness that are currently being operated in its area. The determination of the appropriate mix of services and programs is at the prime sponsor's discretion.

Conditions for receipt of financial assistance. In order to receive financial assistance for any fiscal year, the prime sponsor must submit an approvable plan to the Secretary of Labor. The plan must set forth a comprehensive manpower program meeting the objectives of the act and providing assurances that manpower services will be provided to those most in need of them; provide for the participation of community-based groups in the development of the plan; and provide for appropriate utilization of manpower services available from State agencies and community action agencies. In addition, every prime sponsor must set up a planning council representing local interests to serve in an advisory capacity.

Special provisions relating to States. States are given certain duties and responsibilities which are not applicable to local prime sponsors. The State must establish a State manpower services council to review the plans of prime sponsors and of State agencies providing manpower and related services and to make recommendations for coordination. The State plan must also provide for the cooperation of State agencies in the implementation of local plans and for the establishment of a mechanism to promote the coordination of all manpower plans in the State. Special grants to Governors are also provided that may be used only to provide vocational education pursuant to agreements between the State Board of Vocational Education and the prime sponsor.

Procedural provisions. The Secretary of Labor may not disapprove a plan without affording the prime sponsor an opportunity for a hearing, and final disapprovals are subject to judicial review. The Secretary may withhold funds, under the same procedural safeguards, if he determines that a prime sponsor is not complying with the approved plan or any requirement of the act. Where there is no approved plan or where funds are being withheld, the Secretary is authorized to provide manpower services directly or by contract.

Fund distribution. Eighty percent of the funds available for this title are apportioned among States and areas within States in accordance with a three-part formula: 50 percent of the funds are distributed in accordance with the ratio that the manpower funds received by the area in the previous year bear to the total manpower funds distributed under this title (or in the case of 1973, under previous legislation); 37.5 percent are distributed in accordance with the ratio that the number of unemployed in the area bears to the total unemployed; and 12.5 percent are distributed in the ratio that the number of adults in families with annual incomes below $7,000 (updated by the Consumer Price Index) bears to all such adults. However, the act also provides limits on the amount of gain or loss that may occur as the result of the application of the formula. Up to 1 percent of the money distributed among the States by this formula is available for State manpower services councils.

The 20 percent of funds that are not subject to the apportionment formula is distributed as follows: 5 percent are available only for special grants for vocational education; 4 percent are available for State provided manpower services; and up to 5 percent are available to the Secretary to promote voluntary combinations of prime sponsors. The remainder is available at the Secretary's discretion, which is to be exercised first to bring all areas up to 90 percent of last year's funding level and second to take into account the need for continued funding of programs of demonstrated effectiveness.

Title II. Public Employment Programs

Eligibility for financial assistance. Any unit of government qualified as a prime sponsor under Title I (or, for fiscal year 1974 only, eligible to qualify), and an Indian tribe on a Federal or State reservation qualifies for financial assistance if it contains an area of substantial unemployment which has an unemployment rate of 6.5 percent or more for 3 consecutive months. An area must be of sufficient size to maintain a public employment program, but may be smaller than an entire political jurisdiction. Any unit of general government which contains an area of substantial unemployment and which has a population of between 50,000 and 100,000 is entitled to become a "program agent" for the public employment program affecting the area of substantial unemployment within its boundaries.

Eligible activities. Financial assistance is available for the funding of programs to provide transitional employment to unemployed and underemployed persons in jobs providing needed public services and necessary manpower services which are not otherwise available. At least 90 percent of the funds used

for a public service employment program must be used for wages and employment benefits. Funds available for the public employment program may, at the discretion of the recipient of the financial assistance, be used for any manpower service or program authorized under Title I and Part A of Title III.

Conditions for financial assistance. Among the conditions a public employment program must meet to be eligible for funding are: only residents of the area of substantial unemployment may be hired; special consideration in hiring shall be given to those persons who have been unemployed the longest and whose prospects for finding other employment are poorest; and special consideration in hiring shall be given to veterans who served in Korea or Indochina.

Fund distribution. Eighty percent of the funds available for the title are distributed among eligible areas in the ratio that the number of unemployed within the area bears to the total number of unemployed in all eligible areas. The remainder of the funds are to be distributed at the Secretary's discretion, taking into account the severity of unemployment in the area.

Title III. Special Federal Responsibilities

The Secretary of Labor is given responsibility to operate manpower programs for the following special groups and areas: (1) Special manpower target groups defined as including youth, various "offenders" as defined in the law, persons of limited English-speaking ability, older workers, and other workers that he determines have particular disadvantages in the labor market; (2) American Indians. A fund set aside equal to 3.2 percent of the funds available for Title I is provided for Indian manpower programs; (3) Migrant and seasonal farmworkers. A fund set aside equal to 4 percent of the funds available for Title I is provided for migrant and seasonal farmworker programs; and (4) Urban and rural areas with large concentrations of low-income, unemployed persons and rural areas with substantial out-migration. Programs within this category include in-school, out-of-school, and summer Neighborhood Youth Corps programs, Operation Mainstream, New Careers, needed special services for middle-aged and older workers, and other manpower programs operated by community-based organizations.

The Secretary is also given responsibility for research and evaluation of experimental and demonstration manpower programs and for labor market information and job-bank programs. In addition to the monthly national unemployment statistics, the Secretary is directed to develop reliable statistical methods, including the use of selected sample surveys, to produce more accurate data on unemployment, underemployment, and labor demand by State, local, and poverty areas. The Secretary is also required to develop preliminary data for an annual national measure of economic hardship related to labor market activity.

Title IV. Job Corps

This title provides for the continuation of Job Corps programs, by incorporating the provisions of the Economic Opportunity Act of 1964, which established the Job Corps.

Title V. National Commission For Manpower Policy

This title establishes a 17-member commission consisting of the Secretaries of Labor; Health, Education, and Welfare; Defense; Commerce; and Agriculture; the Administrator of the Veterans Administration; and 11 "public" members appointed by the President, including representatives of groups and interests involved in manpower policy. The Commission is given a broad mandate to study and evaluate manpower programs and is required to make annual reports beginning September 1, 1974.

Title VI. General Provisions

This title contains provisions applicable to all programs such as definitions, conditions governing work and training, and prohibitions against discrimination and political activities. □