

105TH CONGRESS
1ST SESSION

H. R. 633

To amend the Foreign Service Act of 1980 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1997

Mr. DAVIS of Virginia introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Foreign Service Act of 1980 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENTS RELATING TO THE FOREIGN**
4 **SERVICE RETIREMENT AND DISABILITY SYS-**
5 **TEM.**

6 (a) DEFINITION OF A SPECIAL AGENT.—

1 (1) IN GENERAL.—Section 804 of the Foreign
2 Service Act of 1980 (22 U.S.C. 4044) is amended by
3 striking “and” at the end of paragraph (13), by
4 striking the period at the end of paragraph (14) and
5 inserting “; and”, and by adding at the end the fol-
6 lowing:

7 “(15) ‘special agent’ means an employee of the
8 Bureau of Diplomatic Security, Department of
9 State, who occupies a position that is classified as
10 a foreign service specialist, 2501 series or skill code,
11 including—

12 “(A) any position so classified before, on,
13 or after the date of the enactment of this para-
14 graph (including any position which would have
15 been so classified but for any series or skill code
16 redesignation effected after December 31,
17 1996); and

18 “(B) any such position which is super-
19 visory or administrative in nature.”.

20 (2) CONFORMING AMENDMENT.—Section 852
21 of such Act (22 U.S.C. 4071a) is amended by strik-
22 ing “and” at the end of paragraph (7), by striking
23 the period at the end of paragraph (8) and inserting
24 “; and”, and by adding at the end the following:

1 “(9) the term ‘special agent’ has the same
2 meaning given in section 804(15).”.

3 (b) CONTRIBUTIONS.—

4 (1) IN GENERAL.—Subsection (a) of section
5 805 of such Act (22 U.S.C. 4045(a)) is amended by
6 adding at the end the following:

7 “(3) In the case of a special agent, paragraph (1)
8 shall be applied by substituting for ‘7 percent’ the percent-
9 age which would apply under section 8334(c) of title 5,
10 United States Code, with respect to the period of service
11 involved, if that service had been performed as a law en-
12 forcement officer (as defined by section 8331(20) of such
13 title).”.

14 (2) CONFORMING AMENDMENT.—Paragraph (1)
15 of section 805(a) of such Act is amended by striking
16 “Except as provided in subsection (h),” and insert-
17 ing “Except as otherwise provided in this section,”.

18 (c) SPECIAL CONTRIBUTION FOR PRIOR NON-
19 DEPOSIT SERVICE.—Subsection (d) of section 805 of such
20 Act (22 U.S.C. 4045(d)) is amended by adding at the end
21 the following:

22 “(6) Subject to paragraph (4) and subsection (h), for
23 purposes of applying this subsection with respect to prior
24 service as a special agent, the percentages of basic pay
25 set forth in section 8334(c) of title 5, United States Code,

1 with respect to a law enforcement officer, shall apply in-
 2 stead of the percentages set forth in paragraph (1).”.

3 (d) COMPUTATION OF ANNUITIES.—

4 (1) IN GENERAL.—Subsection (a) of section
 5 806 of such Act (22 U.S.C. 4046(a)) is amended—

6 (A) by redesignating paragraph (6) as
 7 paragraph (7); and

8 (B) by inserting after paragraph (5) the
 9 following:

10 “(6)(A) The annuity of a special agent retiring under
 11 this subchapter shall be computed under paragraph (1)
 12 except that, in the case of a special agent described in
 13 subparagraph (B), paragraph (1) shall be applied by sub-
 14 stituting for ‘2 percent’—

15 “(i) the percentage under subparagraph (A) of
 16 section 8339(d)(1) of title 5, United States Code, for
 17 so much of the participant’s total service as is speci-
 18 fied thereunder; and

19 “(ii) the percentage under subparagraph (B) of
 20 section 8339(d)(1) of title 5, United States Code, for
 21 so much of the participant’s total service as is speci-
 22 fied thereunder.

23 “(B) A special agent described in this subparagraph
 24 is any such agent who—

1 “(i) retires voluntarily or involuntarily under
2 section 607, 608, 611, 811, 812, or 813, under con-
3 ditions authorizing an immediate annuity, other
4 than for cause on charges of misconduct or delin-
5 quency; and

6 “(ii) at the time of retirement—

7 “(I) if voluntary, is at least 50 years of
8 age and has completed at least 20 years of serv-
9 ice as a special agent; or

10 “(II) if involuntary, has completed at least
11 20 years of service as a special agent.

12 “(C) For purposes of clause (ii) of subparagraph (B),
13 included with the years of service performed by an individ-
14 ual as a special agent shall be any service performed by
15 such individual as a law enforcement officer (within the
16 meaning of section 8331(20) or section 8401(17) of title
17 5, United States Code), a member of the Metropolitan Po-
18 lice of the District of Columbia, or a member of the Cap-
19 itol Police.”.

20 (2) SPECIAL RULE FOR THOSE WHO EXERCISED
21 ELECTION RIGHTS UNDER SECTION 860.—Subsection
22 (a) of section 806 of such Act (22 U.S.C. 4046(a)),
23 as amended by paragraph (1), is further amended—

1 (A) by redesignating paragraph (7) (as so
2 redesignated by paragraph (1)) as paragraph
3 (8); and

4 (B) by inserting after paragraph (6) (as
5 added by paragraph (1)) the following:

6 “(7) In the case of special agent who becomes or be-
7 came subject to subchapter II pursuant to an election
8 under section 860—

9 “(A) for purposes of clause (ii) of paragraph
10 (6)(B), any service performed by the individual as a
11 special agent (whether under this subchapter or
12 under subchapter II) shall be creditable; and

13 “(B) if the individual satisfies paragraph
14 (6)(B), the portion of such individual’s annuity
15 which is attributable to service preceding the effec-
16 tive date of such election shall be computed in con-
17 formance with paragraph (6).”.

18 (3) TECHNICAL AND CONFORMING AMEND-
19 MENTS.—(A) Paragraph (7) of section 806(a) of
20 such Act (22 U.S.C. 4046(a)), as so designated by
21 paragraph (1), is amended by striking “and (4)”
22 and inserting “(4), and (6)”.

23 (B) Paragraphs (1) and (3) of section 855(b) of
24 such Act (22 U.S.C. 4071d(b)) are amended by in-
25 serting “611,” after “608,”.

1 (e) TREATMENT OF SERVICE IF PARTICIPANT
2 TRANSFERS.—

3 (1) TO CSRS.—Section 811 of such Act (22
4 U.S.C. 4051) is amended by adding at the end the
5 following: “For purposes of any annuity under the
6 Civil Service Retirement System to which a partici-
7 pant becomes entitled under the preceding sentence,
8 service performed by such participant as a special
9 agent shall be treated in the same way as if it had
10 been performed as a law enforcement officer (within
11 the meaning of section 8331(20) of such title 5).”.

12 (2) TO FERS.—Section 859 of such Act (22
13 U.S.C. 4071h) is amended by adding at the end the
14 following:

15 “(d) For purposes of any annuity to which a partici-
16 pant becomes entitled under the Federal Employees’ Re-
17 tirement System, any service performed by such partici-
18 pant as a special agent under this subchapter shall (if or
19 to the extent that it becomes creditable under that system)
20 be treated in the same way as if it had been performed
21 as a law enforcement officer (within the meaning of sec-
22 tion 8401(17) of title 5, United States Code).”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply with respect to any an-
25 nuity under chapter 83 or 84 of title 5, United

1 States Code, commencing on or after the date of the
2 enactment of this Act.

3 **SEC. 2. EFFECTIVE DATE; APPLICABILITY.**

4 (a) IN GENERAL.—Except as provided in section
5 1(e)(3), this Act and the amendments made by this Act—

6 (1) shall take effect as of the first day of the
7 first month beginning after the end of the 6-month
8 period which begins on the date of the enactment of
9 this Act; and

10 (2) shall apply with respect to—

11 (A) any individual first appointed on or
12 after that date as a special agent; and

13 (B) any individual making an election
14 under subsection (b) or (c), subject to the provi-
15 sions of such subsection.

16 (b) ELECTION FOR CURRENT PARTICIPANTS.—

17 (1) ELIGIBILITY.—An election under this sub-
18 section may be made by any individual who is serv-
19 ing as a special agent at the time of making such
20 election.

21 (2) EFFECT OF AN ELECTION.—

22 (A) IN GENERAL.—If an individual makes
23 an election under this subsection, the amend-
24 ments made by this Act shall become applicable

1 with respect to such individual, subject to sub-
2 paragraph (B).

3 (B) TREATMENT OF PRIOR SERVICE.—

4 (i) SPECIAL CONTRIBUTION.—An in-
5 dividual may, at the time of making the
6 election under this subsection, make a spe-
7 cial contribution up to the full amount of
8 the difference between the contributions
9 actually deducted from pay for prior serv-
10 ice and the deductions that would have
11 been required if the amendments made by
12 this Act had then been in effect. Any spe-
13 cial contribution under this clause shall be
14 computed under regulations based on sec-
15 tion 805(d) of the Foreign Service Act of
16 1980 (as amended by section 1), including
17 provisions relating to the computation of
18 interest.

19 (ii) ACTUARIAL REDUCTION.—

20 (I) RULE IF THE SPECIAL CON-
21 TRIBUTION IS PAID.—If the full
22 amount of the special contribution
23 under clause (i) is paid, no reduction
24 under this clause shall apply.

1 (II) RULE IF LESS THAN THE
2 ENTIRE AMOUNT IS PAID.—If no spe-
3 cial contribution under clause (i) is
4 paid, or if less than the entire amount
5 of such special contribution is paid,
6 the recomputed annuity shall be re-
7 duced by an amount sufficient to
8 make up the actuarial present value of
9 the shortfall.

10 (c) ELECTION FOR CERTAIN RETIREES.—

11 (1) ELIGIBILITY.—An election under this sub-
12 section may be made by any individual who—

13 (A) separates from service, as a special
14 agent, on or after January 1, 1997;

15 (B) as of the date of such election, is enti-
16 tled to an immediate annuity under chapter 8
17 of the Foreign Service Act of 1980; and

18 (C) would have satisfied the age and serv-
19 ice requirements for an annuity under section
20 806(a)(6) of the Foreign Service Act of 1980 if
21 the amendments made by this Act had been ap-
22 plied with respect to such individual since the
23 time such individual commenced service as a
24 special agent.

1 (2) EFFECT OF AN ELECTION.—An individual
2 who makes an election under this subsection is enti-
3 tled to a recomputed annuity, determined as if the
4 amendments made by this Act had been applied with
5 respect to such individual since the time such indi-
6 vidual commenced service as a special agent. The
7 provisions of subsection (b)(2)(B) shall apply with
8 respect to any recomputed annuity under this sub-
9 section.

10 (3) EARLIER PAYMENTS.—Any change in an
11 annuity resulting from a recomputation under para-
12 graph (2) shall be effective with respect to payments
13 accruing since the commencement date of the annu-
14 ity. However, the amount payable to make up for
15 any shortfall in payments for periods preceding the
16 effective date of any such recomputation shall be de-
17 termined without interest.

18 (d) REGULATIONS AND NOTICE.—Not later than 6
19 months after the date of the enactment of this Act, the
20 Secretary of State—

21 (1) shall promulgate such regulations as may be
22 necessary to carry out this Act, including provisions
23 under which an election under this section may be
24 made by a survivor; and

1 (2) shall take measures reasonably designed to
2 provide notice to participants and former partici-
3 pants as to any rights they might have under this
4 Act, including provisions for determining the date as
5 of which such notice shall be considered for purposes
6 of subsection (e) to have been provided.

7 (e) ELECTION DEADLINE.—An election under sub-
8 section (b) or (c) shall not be effective unless it is made
9 within 90 days after the date on which the relevant notice
10 under subsection (d)(2) is provided.

11 (f) DEFINITION.—For purposes of this section, the
12 term “special agent” has the meaning given such term
13 under section 804(15) of the Foreign Service Act of 1980
14 (22 U.S.C. 4044(15)), as amended by section 1(a).

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