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H. R. 633

IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, OCTOBER 2), 1998

Received

AN ACT

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. SHORT TITLE.**

4 This Act may be cited as the “Department of State
5 Special Agents Retirement Act of 1998”.

6 **SEC. 2. AMENDMENTS RELATING TO THE FOREIGN SERV-**
7 **ICE RETIREMENT AND DISABILITY SYSTEM.**

8 (a) DEFINITION OF A SPECIAL AGENT.—

9 (1) IN GENERAL.—Section 804 of the Foreign
10 Service Act of 1980 (22 U.S.C. 4044) is amended—

11 (A) by striking “and” at the end of para-
12 graph (13);

13 (B) by striking the period at the end of
14 paragraph (14) and inserting “; and”; and

15 (C) by adding at the end the following:

16 “(15) ‘special agent’ means an employee of the
17 Department of State with a primary skill code of
18 2501—

19 “(A) the duties of whose position—

20 “(i) are primarily—

21 “(I) the investigation, apprehen-
22 sion, or detention of individuals sus-
23 pected or convicted of offenses against
24 the criminal laws of the United
25 States, or

1 “(II) the protection of persons
2 pursuant to section 2709(a)(3) of title
3 22, United States Code, against
4 threats to personal safety; and

5 “(ii) are sufficiently rigorous that em-
6 ployment opportunities should be limited to
7 young and physically vigorous individuals,
8 as determined by the Secretary of State
9 pursuant to section 4823 of title 22,
10 United States Code;

11 “(B) performing duties described in sub-
12 paragraph (A) before, on, or after the date of
13 the enactment of this paragraph; or

14 “(C) transferred directly to a position
15 which is supervisory or administrative in nature
16 after performing duties described in subpara-
17 graph (A) for at least 3 years.”.

18 (2) CONFORMING AMENDMENT.—Section 852
19 of such Act (22 U.S.C. 4071a) is amended—

20 (A) by striking “and” at the end of para-
21 graph (7);

22 (B) by striking the period at the end of
23 paragraph (8) and inserting “; and”; and

24 (C) 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.—Section 805(a) of such Act
5 (22 U.S.C. 4045(a)) is amended by adding at the
6 end the following:

7 “(3) For service as a special agent, paragraph (1)
8 shall be applied by substituting for ‘7 percent’ the percent-
9 age that applies to law enforcement officers under section
10 8334(a)(1) of title 5, United States Code.”.

11 (2) CONFORMING AMENDMENT.—Section
12 805(a)(1) (22 U.S.C. 4045(a)(1)) of such Act is
13 amended by striking “Except as provided in sub-
14 section (h),” and inserting “Except as otherwise
15 provided in this section,”.

16 (c) SPECIAL CONTRIBUTION FOR PRIOR NON-
17 DEPOSIT SERVICE.—Section 805(d) of such Act (22
18 U.S.C. 4045(d)) is amended by adding at the end the fol-
19 lowing:

20 “(6) Subject to paragraph (4) and subsection (h), for
21 purposes of applying this subsection with respect to prior
22 service as a special agent, the percentages of basic pay
23 set forth in section 8334(c) of title 5, United States Code,
24 with respect to a law enforcement officer, shall apply in-
25 stead of the percentages set forth in paragraph (1).”.

1 (d) COMPUTATION OF ANNUITIES.—

2 (1) IN GENERAL.—Section 806(a) of such Act
3 (22 U.S.C. 4046(a)) is amended—

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

6 (B) by inserting after paragraph (5) the
7 following:

8 “(6)(A) The annuity of a special agent under this
9 subchapter shall be computed under paragraph (1) except
10 that, in the case of a special agent described in subpara-
11 graph (B), paragraph (1) shall be applied by substituting
12 for ‘2 percent’—

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

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

21 “(B) A special agent described in this subparagraph
22 is any such agent or former agent who—

23 “(i)(I) retires voluntarily or involuntarily under
24 section 607, 608, 611, 811, 812, or 813, under con-
25 ditions authorizing an immediate annuity, other

1 than for cause on charges of misconduct or delin-
2 quency, or retires for disability under section 808;
3 and

4 “(II) at the time of retirement—

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

8 “(bb) if involuntary or disability, has com-
9 pleted at least 20 years of service as a special
10 agent; or

11 “(ii) dies in Service after completing at least 20
12 years of service as a special agent, when an annuity
13 is payable under section 809.

14 “(C) For purposes of subparagraph (B), included
15 with the years of service performed by an individual as
16 a special agent shall be any service performed by such in-
17 dividual as a law enforcement officer (within the meaning
18 of section 8331(20) or section 8401(17) of title 5, United
19 States Code), or a member of the Capitol Police.”.

20 (2) SPECIAL RULE FOR SPECIAL AGENTS WITH
21 PRIOR SERVICE UNDER THE FOREIGN SERVICE RE-
22 TIREMENT AND DISABILITY SYSTEM OR THE CIVIL
23 SERVICE RETIREMENT SYSTEM.—Section 806(a) of
24 such Act (22 U.S.C. 4046(a)), as amended by para-
25 graph (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 a special agent who becomes
7 or became subject to subchapter II—

8 “(A) for purposes of paragraph (6)(B),
9 any service performed by the individual as a
10 special agent (whether under this subchapter or
11 under subchapter II), as a law enforcement offi-
12 cer (within the meaning of section 8331(20) or
13 section 8401(17) of title 5, United States
14 Code), or as a member of the Capitol Police
15 shall be creditable; and

16 “(B) if the individual satisfies paragraph
17 6(B), the portion of such individual’s annuity
18 which is attributable to service under the For-
19 eign Service Retirement and Disability System
20 or the Civil Service Retirement System shall be
21 computed in conformance with paragraph (6).”.

22 (3) TECHNICAL AND CONFORMING AMEND-
23 MENTS.—

24 (A) Paragraph (8) of section 806(a) of
25 such Act (22 U.S.C. 4046(a)), as so redesign-

1 nated by paragraph (2)(A), is amended by
 2 striking “and (4)” and inserting “(4), and (6)”.

3 (B) Paragraphs (1) and (3) of section
 4 855(b) of such Act (22 U.S.C. 4071d(b)) are
 5 each amended by inserting “611,” after “608,”.

6 **SEC. 3. MANDATORY SEPARATION OF SPECIAL AGENTS.**

7 The first sentence of section 812(a)(2) of the Foreign
 8 Service Act of 1980 (22 U.S.C. 4052(a)(2)) is amended
 9 to read as follows: “Notwithstanding paragraph (1)—

10 “(A) an individual described in section 4(a)(2)
 11 of the Department of State Special Agents Retirement
 12 Act of 1998 who is otherwise eligible for immediate
 13 retirement under this chapter, or

14 “(B) a Foreign Service criminal investigator/in-
 15 spector of the Office of Inspector General of the
 16 Agency for International Development who would
 17 have been eligible for retirement pursuant to either
 18 section 8336(c) or 8412(d) of title 5, United States
 19 Code, as applicable, had the employee remained in
 20 civil service,

21 shall be separated from the Service on the last day of the
 22 month in which such individual under subparagraph (A)
 23 or such Foreign Service criminal investigator/inspector
 24 under subparagraph (B) attains 57 years of age or com-
 25 pletes 20 years of service if then over that age.”.

1 **SEC. 4. EFFECTIVE DATE; APPLICABILITY.**

2 (a) IN GENERAL.—Except as provided in subsection

3 (b), this Act and the amendments made by this Act—

4 (1) shall take effect on the date of the enact-
5 ment of this Act; and

6 (2) shall apply with respect to—

7 (A) any individual first appointed on or
8 after that date as a special agent who will have
9 any portion of such individual's annuity com-
10 puted in conformance with section 806(a)(6) of
11 the Foreign Service Act; and

12 (B) any individual making an election
13 under subsection (b), subject to the provisions
14 of such subsection.

15 (b) ELECTION FOR CURRENT PARTICIPANTS.—

16 (1) ELIGIBILITY.—An election under this sub-
17 section may be made by any currently employed par-
18 ticipant under chapter 8 of the Foreign Service Act
19 of 1980 who is serving or has served as a special
20 agent, or by a survivor of a special agent who was
21 eligible to make an election under this section.

22 (2) EFFECT OF AN ELECTION.—

23 (A) IN GENERAL.—If an individual makes
24 an election under this subsection, the amend-
25 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, after making the election
6 under this subsection, make a special con-
7 tribution up to the full amount of the dif-
8 ference between the contributions actually
9 deducted from pay for prior service and
10 the deductions that would have been re-
11 quired if the amendments made by this Act
12 had then been in effect. Any special con-
13 tributions under this clause shall be com-
14 puted under regulations based on section
15 805(d) of the Foreign Service Act of 1980
16 (as amended by section 2), including provi-
17 sions relating to the computation of inter-
18 est.

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) REGULATIONS AND NOTICE.—Not later than 6
11 months after the date of the enactment of this Act, the
12 Secretary of State—

13 (1) shall promulgate such regulations as may be
14 necessary to carry out this Act; and

15 (2) shall take measures reasonably designed to
16 provide notice to participants as to any rights they
17 might have under this Act.

18 (d) ELECTION DEADLINE.—An election under sub-
19 section (b) must be made not later than 90 days after
20 the date on which the relevant notice under subsection
21 (c)(2) is provided.

22 (e) DEFINITION.—For purposes of this section, the
23 term “special agent” has the meaning given such term

1 under section 804(15) of the Foreign Service Act of 1980
2 (22 U.S.C. 4044(15)), as amended by section 2(a).

Passed the House of Representatives October 5,
1998.

Attest:

ROBIN H. CARLE,
Clerk.