

108TH CONGRESS  
1ST SESSION

# H. R. 2260

To amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include assistant United States attorneys within the definition of a law enforcement officer, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Ms. ROS-LEHTINEN (for herself, Mr. BOUCHER, Ms. CORRINE BROWN of Florida, Mr. CONYERS, Mr. LINCOLN DIAZ-BALART of Florida, Mrs. JONES of Ohio, Mr. LATOURETTE, Mr. LYNCH, Mr. MATHESON, Mr. MEEK of Florida, Mrs. NAPOLITANO, Mr. POMEROY, Mr. SESSIONS, Mr. WELLER, Mr. WEXLER, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Government Reform

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## A BILL

To amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include assistant United States attorneys within the definition of a law enforcement officer, 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 “Assistant United  
5 States Attorneys Retirement Benefit Equity Act of 2003”.

1 **SEC. 2. INCLUSION OF ASSISTANT UNITED STATES ATTOR-**  
2 **NEYS IN THE DEFINITION OF A LAW EN-**  
3 **FORCEMENT OFFICER.**

4 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

5 (1) IN GENERAL.—Paragraph (20) of section  
6 8331 of title 5, United States Code, is amended by  
7 striking “position.” and inserting “position and an  
8 assistant United States attorney.”.

9 (2) ASSISTANT UNITED STATES ATTORNEY DE-  
10 FINED.—Section 8331 of title 5, United States  
11 Code, is amended by striking “and” at the end of  
12 paragraph (27), by striking the period at the end of  
13 paragraph (28) and inserting “; and”, and by add-  
14 ing at the end the following:

15 “(29) ‘assistant United States attorney’ means  
16 an assistant United States attorney under section  
17 542 of title 28.”.

18 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

19 (1) IN GENERAL.—Paragraph (17) of section  
20 8401 of title 5, United States Code, is amended by  
21 striking “and” at the end of subparagraph (C), by  
22 adding “and” after the semicolon at the end of sub-  
23 paragraph (D), and by adding at the end the fol-  
24 lowing:

25 “(E) an assistant United States attor-  
26 ney;”.

1           (2) ASSISTANT UNITED STATES ATTORNEY DE-  
2           FINED.—Section 8401 of title 5, United States  
3           Code, is amended by striking “and” at the end of  
4           paragraph (33), by striking the period at the end of  
5           paragraph (34) and inserting “; and”, and by add-  
6           ing at the end the following:

7           “(35) ‘assistant United States attorney’ means  
8           an assistant United States attorney under section  
9           542 of title 28.”.

10          (c) TREATMENT UNDER CERTAIN PROVISIONS OF  
11          LAW TO REMAIN UNCHANGED.—

12           (1) ORIGINAL APPOINTMENTS.—Subsections (d)  
13           and (e) of section 3307 of title 5, United States  
14           Code, are amended by adding at the end of each the  
15           following: “The preceding sentence shall not apply in  
16           the case of an original appointment under section  
17           542 of title 28 (relating to assistant United States  
18           attorneys).”.

19           (2) MANDATORY SEPARATION.—Sections  
20           8335(b) and 8425(b) of title 5, United States Code,  
21           are amended by adding at the end of each the fol-  
22           lowing: “The preceding provisions of this subsection  
23           shall not apply in the case of an assistant United  
24           States attorney.”.

1 (d) EFFECTIVE DATE.—This section and the amend-  
2 ments made by this section shall take effect on the first  
3 day of the first applicable pay period beginning after the  
4 end of the 90-day period beginning on the date of the en-  
5 actment of this Act.

6 **SEC. 3. PROVISIONS RELATING TO INCUMBENTS.**

7 (a) INCUMBENT DEFINED.—For purposes of this sec-  
8 tion, the term “incumbent” means an individual who is  
9 serving as an assistant United States attorney on the date  
10 as of which the amendments made by this Act take effect.

11 (b) NOTICE REQUIREMENT.—Not later than 9  
12 months after the date of the enactment of this Act, the  
13 Department of Justice shall take measures reasonably de-  
14 signed to provide notice to incumbents as to their election  
15 rights under this Act, and the effects of making or not  
16 making a timely election under this Act.

17 (c) ELECTION AVAILABLE TO INCUMBENTS.—

18 (1) IN GENERAL.—An incumbent may elect, for  
19 all purposes, either—

20 (A) to be treated in accordance with the  
21 amendments made by this Act; or

22 (B) to be treated as if this Act had never  
23 been enacted.

24 Failure to make a timely election under this sub-  
25 section shall be treated in the same way as an elec-

1       tion under subparagraph (A), made on the last day  
2       allowable under paragraph (2).

3           (2) DEADLINE.—An election under this sub-  
4       section shall not be effective unless it is made before  
5       the 90th day after the date on which the notice  
6       under subsection (b) is provided or the date on  
7       which the incumbent involved separates from service,  
8       whichever is earlier.

9       (d) LIMITED RETROACTIVE EFFECT.—

10           (1) EFFECT ON RETIREMENT.—In the case of  
11       an incumbent who elects (or is deemed to have elect-  
12       ed) the option under subsection (c)(1)(A), all service  
13       performed by that individual as an assistant United  
14       States attorney shall—

15           (A) to the extent performed on or after the  
16       effective date of that election, be treated in ac-  
17       cordance with applicable provisions of sub-  
18       chapter III of chapter 83 or chapter 84 of title  
19       5, United States Code, as amended by this Act;  
20       and

21           (B) to the extent performed before the ef-  
22       fective date of that election, be treated in ac-  
23       cordance with applicable provisions of sub-  
24       chapter III of chapter 83 or chapter 84 of such

1 title, as if the amendments made by this Act  
2 had then been in effect.

3 (2) NO OTHER RETROACTIVE EFFECT.—Noth-  
4 ing in this Act or any amendment made by this Act  
5 shall affect any of the terms or conditions of an indi-  
6 vidual’s employment (apart from those governed by  
7 subchapter III of chapter 83 or chapter 84 of title  
8 5, United States Code) with respect to any period of  
9 service preceding the date on which such individual’s  
10 election under subsection (c) is made (or is deemed  
11 to have been made).

12 (e) MAKEUP CONTRIBUTIONS.—

13 (1) IN GENERAL.—In addition to any other  
14 payment that it is required to make under sub-  
15 chapter III of chapter 83 or chapter 84 of title 5,  
16 United States Code—

17 (A) the Department of Justice shall remit  
18 to the Office of Personnel Management the  
19 amount described in paragraph (2)—

20 (i) in 30 equal annual installments,  
21 with the first payment thereof due by the  
22 end of the fiscal year in which the amend-  
23 ments made by this Act take effect; and

24 (ii) in such form and manner as the  
25 Office may require; and

1           (B) any amount so remitted shall be de-  
2           posited in the Treasury of the United States to  
3           the credit of the Civil Service Retirement and  
4           Disability Fund.

5           (2) AMOUNT TO BE REMITTED.—The amount  
6           described in this paragraph is the total amount of  
7           additional individual and Government contributions  
8           to the Civil Service Retirement and Disability Fund  
9           that would have been required (for all incumbents  
10          described in subsection (d), for all service performed  
11          by them as an assistant United States attorney be-  
12          fore the effective date of their election under sub-  
13          section (e)), if the amendments made by this Act  
14          had then been in effect, plus interest.

15          (3) NO INDIVIDUAL LIABILITY.—Nothing in  
16          this Act or in subchapter III of chapter 83 or chap-  
17          ter 84 of title 5, United States Code (as amended  
18          by this Act) shall be considered to create any indi-  
19          vidual liability for any shortfall in any contributions  
20          required to be made up in the manner provided for  
21          under this subsection.

22          (f) REGULATIONS.—The Office of Personnel Manage-  
23          ment shall prescribe any regulations necessary to carry out  
24          this Act, including provisions under which any interest due

1 on the amount described in subsection (e) shall be deter-  
2 mined.

3 (g) DEFINITION.—For purposes of this section, the  
4 term “assistant United States attorney” means an assist-  
5 ant United States attorney under section 542 of title 28,  
6 United States Code.

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