

108TH CONGRESS
2D SESSION

H. R. 4657

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2004

Received

AN ACT

To amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “District of Columbia
3 Retirement Protection Improvement Act of 2004”.

4 **SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA FED-**
5 **ERAL PENSION FUND FOR PAYMENT OF FED-**
6 **ERAL BENEFIT PAYMENTS TO DISTRICT OF**
7 **COLUMBIA TEACHERS, POLICE OFFICERS,**
8 **AND FIRE FIGHTERS.**

9 (a) IN GENERAL.—Subtitle A of title XI of the Bal-
10 anced Budget Act of 1997 (sec. 1—801.01 et seq., D.C.
11 Official Code) is amended—

12 (1) by redesignating chapter 9 as chapter 10;

13 (2) by redesignating sections 11081 through
14 11087 as sections 11091 through 11097; and

15 (3) by inserting after chapter 8 the following
16 new chapter:

17 **“CHAPTER 9—DISTRICT OF COLUMBIA**
18 **FEDERAL PENSION FUND**

19 **“SEC. 11081. CREATION OF FUND.**

20 “(a) ESTABLISHMENT.—There is established on the
21 books of the Treasury the District of Columbia Teachers,
22 Police Officers, and Firefighters Federal Pension Fund
23 (hereafter referred to as the ‘D.C. Federal Pension
24 Fund’), consisting of the following:

25 “(1) The assets transferred pursuant to section
26 11083.

1 “(2) The annual Federal payments deposited
2 pursuant to section 11084.

3 “(3) Any amounts otherwise appropriated to
4 such Fund.

5 “(4) Any income earned on the investment of
6 the assets of such Fund pursuant to subsection (b).

7 “(b) INVESTMENT OF ASSETS.—The Secretary shall
8 invest such portion of the assets of the D.C. Federal Pen-
9 sion Fund as is not in the judgment of the Secretary re-
10 quired to meet current withdrawals. Such investments
11 shall be in public debt securities with maturities suitable
12 to the needs of the D.C. Federal Pension Fund, as deter-
13 mined by the Secretary, and bearing interest at rates de-
14 termined by the Secretary, taking into consideration cur-
15 rent market yields on outstanding marketable obligations
16 of the United States of comparable maturities.

17 “(c) RECORDKEEPING FOR ACTUARIAL STATUS.—
18 The Secretary shall provide for the keeping of such
19 records as are necessary for determining the actuarial sta-
20 tus of the D.C. Federal Pension Fund.

21 **“SEC. 11082. USES OF AMOUNTS IN FUND.**

22 “(a) IN GENERAL.—Amounts in the D.C. Federal
23 Pension Fund shall be used—

24 “(1) to make Federal benefit payments under
25 this subtitle;

1 “(2) subject to subsection (b), to cover the rea-
 2 sonable and necessary administrative expenses in-
 3 curred by any person in administering the D.C. Fed-
 4 eral Pension Fund and carrying out this chapter;

5 “(3) for the accumulation of funds in order to
 6 finance obligations of the Federal Government for
 7 future benefits; and

8 “(4) for such other purposes as are specified in
 9 this subtitle.

10 “(b) BUDGETING, CERTIFICATION, AND APPROVAL
 11 OF ADMINISTRATIVE EXPENSES.—The administrative ex-
 12 penses of the D.C. Federal Pension Fund shall be paid
 13 in accordance with an annual budget set forth by the Pen-
 14 sion Fund Trustee which shall be subject to certification
 15 and approval by the Secretary.

16 **“SEC. 11083. TRANSFER OF ASSETS AND OBLIGATIONS OF**
 17 **TRUST FUND AND FEDERAL SUPPLEMENTAL**
 18 **FUND.**

19 “(a) TRANSFER OF OBLIGATIONS.—Effective Octo-
 20 ber 1, 2004, all obligations to make Federal benefit pay-
 21 ments shall be transferred from the Trust Fund to the
 22 D.C. Federal Pension Fund.

23 “(b) TRANSFER OF ASSETS.—Effective October 1,
 24 2004, all assets of the Trust Fund and all assets of the

1 Federal Supplemental Fund as of such date shall be trans-
2 ferred to the D.C. Federal Pension Fund.

3 **“SEC. 11084. DETERMINATION OF ANNUAL FEDERAL PAY-**
4 **MENTS INTO D.C. FEDERAL PENSION FUND.**

5 “(a) ANNUAL AMORTIZATION AMOUNT.—

6 “(1) IN GENERAL.—At the end of each fiscal
7 year (beginning with fiscal year 2005), the Secretary
8 shall promptly pay into the D.C. Federal Pension
9 Fund from the general fund of the Treasury an
10 amount equal to the annual amortization amount for
11 the year (which may not be less than zero).

12 “(2) DETERMINATION OF AMOUNT.—For pur-
13 poses of paragraph (1)—

14 “(A) the ‘original unfunded liability’ is the
15 present value as of the effective date of this Act
16 of expected future benefits payable from the
17 Federal Supplemental Fund; and

18 “(B) the ‘annual amortization amount’
19 means the amount determined by the enrolled
20 actuary to be necessary to amortize in equal an-
21 nual installments (until fully amortized)—

22 “(i) the original unfunded liability
23 over a 30-year period,

24 “(ii) a net experience gain or loss over
25 a 10-year period, and

1 “(iii) any other changes in actuarial
2 liability over a 20-year period.

3 “(3) SCHEDULE FOR AMORTIZATION.—In deter-
4 mining the annual amortization amount under para-
5 graph (2)(B), the enrolled actuary shall include
6 amounts necessary to complete the amortization
7 schedules used for determining the annual amortiza-
8 tion amount for payments into the Federal Supple-
9 mental Fund under section 11053 (as in effect prior
10 to the enactment of this chapter).

11 “(b) ADMINISTRATIVE EXPENSES.—During each fis-
12 cal year (beginning with fiscal year 2009), the Secretary
13 shall pay into the D.C. Federal Pension Fund from the
14 general fund of the Treasury the amounts necessary to
15 pay the reasonable and necessary administrative expenses
16 described in section 11082(a)(2) for the year.

17 **“SEC. 11085. ADMINISTRATION THROUGH PENSION FUND**
18 **TRUSTEE.**

19 “(a) IN GENERAL.—The Secretary shall select a Pen-
20 sion Fund Trustee to carry out the responsibilities and
21 duties specified in this subtitle in accordance with the con-
22 tract described in subsection (b).

23 “(b) CONTRACT.—The Secretary shall enter into a
24 contract with the Pension Fund Trustee to provide for the
25 auditing of D.C. Federal Pension Fund assets, the making

1 of Federal benefit payments under this subtitle from the
2 D.C. Federal Pension Fund, and such other matters as
3 the Secretary deems appropriate. The Secretary shall en-
4 force the provisions of the contract and otherwise monitor
5 the administration of the D.C. Federal Pension Fund.

6 “(c) SUBCONTRACTS.—Notwithstanding any provi-
7 sion of a District Retirement Program or any other law,
8 rule, or regulation, the Pension Fund Trustee may, with
9 the approval of the Secretary, enter into one or more sub-
10 contracts with the District Government or any person to
11 provide services to the Pension Fund Trustee in connec-
12 tion with its performance of the contract. The Pension
13 Fund Trustee shall monitor the performance of any such
14 subcontract and enforce its provisions.

15 “(d) DETERMINATION BY THE SECRETARY.—Not-
16 withstanding subsection (b) or any other provision of this
17 subtitle, the Secretary may determine, with respect to any
18 function otherwise to be performed by the Pension Fund
19 Trustee, that in the interest of economy and efficiency
20 such function shall be performed by the Secretary rather
21 than the Pension Fund Trustee.

22 “(e) REPORTS.—The Pension Fund Trustee shall re-
23 port to the Secretary, in a form and manner and at such
24 intervals as the Secretary may prescribe, on any matters

1 under the responsibility of the Pension Fund Trustee as
2 the Secretary may prescribe.

3 **“SEC. 11086. APPLICABILITY OF OTHER PROVISIONS TO D.C.**
4 **FEDERAL PENSION FUND.**

5 “The following provisions of this subtitle shall apply
6 with respect to the D.C. Federal Pension Fund in the
7 same manner as such provisions applied with respect to
8 the Trust Fund prior to October 1, 2004:

9 “(1) Section 11023(b) (relating to the repay-
10 ment by the District Government of costs attrib-
11 utable to errors or omissions in transferred records).

12 “(2) Section 11034 (relating to the treatment
13 of the Trust Fund under certain laws).

14 “(3) Section 11061 (relating to annual valu-
15 ations and reports by the enrolled actuary), except
16 that in applying section 11061(b) to the D.C. Fed-
17 eral Pension Fund, the annual report required under
18 such section shall include a determination of the an-
19 nual payment to the D.C. Federal Pension Fund
20 under section 11084.

21 “(4) Section 11062 (relating to reports by the
22 Comptroller General).

23 “(5) Section 11071 (relating to judicial review).

1 “(6) Section 11074 (relating to the treatment
2 of misappropriation of Trust Fund amounts as a
3 Federal crime).”.

4 (b) TERMINATION OF CURRENT FUNDS.—

5 (1) DISTRICT OF COLUMBIA FEDERAL PENSION
6 LIABILITY TRUST FUND.—Chapter 4 of subtitle A of
7 title XI of such Act (sec. 1—807.01 et seq., D.C.
8 Official Code) is amended by adding at the end the
9 following new section:

10 **“SEC. 11036. TERMINATION OF TRUST FUND.**

11 “Effective upon the transfer of the obligations and
12 assets of the Trust Fund to the D.C. Federal Pension
13 Fund under section 11083—

14 “(1) the Trust Fund shall terminate; and

15 “(2) the obligation to make Federal benefit
16 payments from the Trust Fund, and any duty im-
17 posed on any person with respect to the Trust Fund,
18 shall terminate.”.

19 (2) FEDERAL SUPPLEMENTAL DISTRICT OF CO-
20 LUMBIA PENSION FUND.—Chapter 6 of subtitle A of
21 title XI of such Act (sec. 1—811.01 et seq., D.C.
22 Official Code) is amended by adding at the end the
23 following new section:

1 **“SEC. 11056. TERMINATION OF FEDERAL SUPPLEMENTAL**
2 **FUND.**

3 “Effective upon the transfer of the assets of the Fed-
4 eral Supplemental Fund to the D.C. Federal Pension
5 Fund under section 11083—

6 “(1) the Federal Supplemental Fund shall ter-
7minate; and

8 “(2) any duty imposed on any person with re-
9spect to the Federal Supplemental fund shall termi-
10nate.”.

11 (c) CONFORMING DEFINITIONS.—

12 (1) TRUSTEE.—Section 11003(16) of such Act
13 (sec. 1—801.02(16), D.C. Official Code) is amended
14 by striking the period at the end and inserting the
15 following: “, or, beginning October 1, 2004, the Pen-
16sion Fund Trustee selected by the Secretary under
17section 11085.”.

18 (2) D.C. FEDERAL PENSION FUND.—Section
19 11003 of such Act (sec. 1—801.02, D.C. Official
20 Code) is amended—

21 (A) by redesignating paragraphs (3)
22 through (16) as paragraphs (4) through (17);
23 and

24 (B) by inserting after paragraph (2) the
25 following new paragraph:

1 “(3) The term ‘D.C. Federal Pension Fund’
 2 means the District of Columbia Teachers, Police Of-
 3 ficers, and Firefighters Federal Pension Fund estab-
 4 lished under section 11081.”.

5 (d) OTHER CONFORMING AMENDMENT.—Section
 6 11041(b) of such Act (sec. 1—809.01(b), D.C. Official
 7 Code) is amended in the heading by striking “FROM
 8 TRUST FUND”.

9 (e) CLERICAL AMENDMENTS.—The table of contents
 10 of subtitle A of title XI of such Act is amended—

11 (1) by adding at the end of the items relating
 12 to chapter 4 the following:

“Sec. 11036. Termination of Trust Fund.”;

13 (2) by adding at the end of the items relating
 14 to chapter 6 the following:

“Sec. 11056. Termination of Federal Supplemental Fund.”;

15 (3) by redesignating the item relating to chap-
 16 ter 9 as relating to chapter 10;

17 (4) by redesignating the items relating to sec-
 18 tions 11081 through 11087 as relating to sections
 19 11091 through 11097; and

20 (5) by inserting after the items relating to
 21 chapter 8 the following:

“CHAPTER 9—DISTRICT OF COLUMBIA FEDERAL PENSION FUND

“Sec. 11081. Creation of Fund.

“Sec. 11082. Uses of Amounts in Fund.

“Sec. 11083. Transfer of Assets and Obligations of Trust Fund and Federal Supplemental Fund.

“Sec. 11084. Determination of Annual Federal Payment Into D.C. Federal Pension Fund.

“Sec. 11085. Administration Through Pension Fund Trustee.

“Sec. 11086. Applicability of Other Provisions to D.C. Federal Pension Fund.”.

1 **SEC. 3. ADMINISTRATION OF DISTRICT OF COLUMBIA JUDI-**
 2 **CIAL RETIREMENT AND SURVIVORS ANNUITY**
 3 **FUND.**

4 (a) PROCEDURES FOR RESOLVING DENIED BENEFIT
 5 CLAIMS.—

6 (1) IN GENERAL.—Section 11—1570(c), D.C.
 7 Official Code, is amended by adding at the end the
 8 following new paragraph:

9 “(3)(A) In accordance with procedures ap-
 10 proved by the Secretary, the Secretary shall provide
 11 to any individual whose claim for a benefit under
 12 this subchapter has been denied in whole or in
 13 part—

14 “(i) adequate written notice of such denial,
 15 setting forth the specific reasons for the denial
 16 in a manner calculated to be understood by the
 17 average participant in the program of benefits
 18 under this subchapter; and

19 “(ii) a reasonable opportunity for a full
 20 and fair review of the decision denying such
 21 claim.

1 “(B) Any factual determination made by the
2 Secretary pursuant to this paragraph shall be pre-
3 sumed correct unless rebutted by clear and con-
4 vincing evidence. The Secretary’s interpretation and
5 construction of the benefit provisions of this sub-
6 chapter shall be entitled to great deference.”.

7 (2) EFFECTIVE DATE.—The amendment made
8 by paragraph (1) shall apply with respect to claims
9 for benefits which are made after the date of the en-
10 actment of this Act.

11 (b) TREATMENT OF MISAPPROPRIATION OF FUND
12 AMOUNTS AS FEDERAL CRIME.—

13 (1) IN GENERAL.—Section 11—1570, D.C. Of-
14 ficial Code, is amended by adding at the end the fol-
15 lowing new subsection:

16 “(l) The provisions of section 664 of title 18, United
17 States Code (relating to theft or embezzlement from em-
18 ployee benefit plans), shall apply to the Fund.”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect on the date of the
21 enactment of this Act.

1 **SEC. 4. ADMINISTRATION OF RETIREMENT PROGRAM FOR**
2 **POLICE OFFICERS, FIRE FIGHTERS, AND**
3 **TEACHERS BY OTHER THAN CHIEF FINAN-**
4 **CIAL OFFICER.**

5 (a) IN GENERAL.—Section 424(c)(21) of the District
6 of Columbia Home Rule Act (sec. 1—204.24c(21), D.C.
7 Official Code) is amended by striking “systems” and in-
8 serting the following: “systems (other than the retirement
9 system for police officers, fire fighters, and teachers)”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply with respect to fiscal year 2005
12 and each succeeding fiscal year.

Passed the House of Representatives September 28,
2004.

Attest:

JEFF TRANDAHL,

Clerk.