

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3944

To amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2010

Ms. MIKULSKI introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

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 “Law Enforcement Offi-  
5       cers Retirement Equity Act of 2010”.

6       **SEC. 2. AMENDMENTS.**

7       (a) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—

1           (1) IN GENERAL.—Paragraph (17) of section  
2           8401 of title 5, United States Code, is amended by  
3           striking “and” at the end of subparagraph (C), and  
4           by adding at the end the following:

5                   “(E) an employee (not otherwise covered  
6                   by this paragraph)—

7                           “(i) the duties of whose position in-  
8                           clude the investigation or apprehension of  
9                           individuals suspected or convicted of of-  
10                          fenses against the criminal laws of the  
11                          United States; and

12                           “(ii) who is authorized to carry a fire-  
13                          arm; and

14                          “(F) an employee of the Internal Revenue  
15                          Service, the duties of whose position are pri-  
16                          marily the collection of delinquent taxes and the  
17                          securing of delinquent returns;”.

18           (2) CONFORMING AMENDMENT.—Section  
19           8401(17)(C) of title 5, United States Code, is  
20           amended by striking “(A) and (B)” and inserting  
21           “(A), (B), (E), and (F)”.

22           (b) CIVIL SERVICE RETIREMENT SYSTEM.—Para-  
23           graph (20) of section 8331 of title 5, United States Code,  
24           is amended in the matter before subparagraph (A) by in-  
25           serting after “position.” the following: “For the purpose

1 of this paragraph, the employees described in the pre-  
 2 ceding provision of this paragraph (in the matter before  
 3 ‘including’) shall be considered to include an employee  
 4 (not otherwise covered by this paragraph) who satisfies  
 5 clauses (i) and (ii) of section 8401(17)(E) and an em-  
 6 ployee of the Internal Revenue Service the duties of whose  
 7 position are as described in section 8401(17)(F).”.

8 (c) EFFECTIVE DATE.—Except as provided in section  
 9 3, the amendments made by this section shall take effect  
 10 on the date of enactment of this Act, and shall apply only  
 11 in the case of any individual first appointed (or seeking  
 12 to be first appointed) as a law enforcement officer (within  
 13 the meaning of those amendments) on or after such date.

14 **SEC. 3. TREATMENT OF SERVICE PERFORMED BY INCUM-**  
 15 **BENTS.**

16 (a) LAW ENFORCEMENT OFFICER AND SERVICE DE-  
 17 SCRIBED.—

18 (1) LAW ENFORCEMENT OFFICER.—Any ref-  
 19 erence to a law enforcement officer described in this  
 20 subsection refers to an individual who satisfies the  
 21 requirements of section 8331(20) or 8401(17) of  
 22 title 5, United States Code (relating to the definition  
 23 of a law enforcement officer) by virtue of the amend-  
 24 ments made by section 2.

1           (2) SERVICE.—Any reference to service de-  
2           scribed in this subsection refers to service performed  
3           as a law enforcement officer (as described in this  
4           subsection).

5           (b) INCUMBENT DEFINED.—For purposes of this sec-  
6           tion, the term “incumbent” means an individual who—

7           (1) is first appointed as a law enforcement offi-  
8           cer (as described in subsection (a)) before the date  
9           of enactment of this Act; and

10          (2) is serving as such a law enforcement officer  
11          on such date.

12          (c) TREATMENT OF SERVICE PERFORMED BY INCUM-  
13          BENTS.—

14          (1) IN GENERAL.—Service described in sub-  
15          section (a) which is performed by an incumbent on  
16          or after the date of enactment of this Act shall, for  
17          all purposes (other than those to which paragraph  
18          (2) pertains), be treated as service performed as a  
19          law enforcement officer (within the meaning of sec-  
20          tion 8331(20) or 8401(17) of title 5, United States  
21          Code, as appropriate), irrespective of how such serv-  
22          ice is treated under paragraph (2).

23          (2) RETIREMENT.—Service described in sub-  
24          section (a) which is performed by an incumbent be-  
25          fore, on, or after the date of enactment of this Act

1 shall, for purposes of subchapter III of chapter 83  
2 and chapter 84 of title 5, United States Code, be  
3 treated as service performed as a law enforcement  
4 officer (within the meaning of such section 8331(20)  
5 or 8401(17), as appropriate), but only if an appro-  
6 priate written election is submitted to the Office of  
7 Personnel Management within 5 years after the date  
8 of enactment of this Act or before separation from  
9 Government service, whichever is earlier.

10 (d) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-  
11 ICE.—

12 (1) IN GENERAL.—An individual who makes an  
13 election under subsection (c)(2) may, with respect to  
14 prior service performed by such individual, con-  
15 tribute to the Civil Service Retirement and Disability  
16 Fund the difference between the individual contribu-  
17 tions that were actually made for such service and  
18 the individual contributions that should have been  
19 made for such service if the amendments made by  
20 section 2 had then been in effect.

21 (2) EFFECT OF NOT CONTRIBUTING.—If no  
22 part of or less than the full amount required under  
23 paragraph (1) is paid, all prior service of the incum-  
24 bent shall remain fully creditable as law enforcement  
25 officer service, but the resulting annuity shall be re-

1       duced in a manner similar to that described in sec-  
2       tion 8334(d)(2) of title 5, United States Code, to  
3       the extent necessary to make up the amount unpaid.

4           (3) PRIOR SERVICE DEFINED.—For purposes of  
5       this section, the term “prior service” means, with re-  
6       spect to any individual who makes an election under  
7       subsection (c)(2), service (described in subsection  
8       (a)) performed by such individual before the date as  
9       of which appropriate retirement deductions begin to  
10      be made in accordance with such election.

11      (e) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERV-  
12      ICE.—

13           (1) IN GENERAL.—If an incumbent makes an  
14      election under subsection (c)(2), the agency in or  
15      under which that individual was serving at the time  
16      of any prior service (referred to in subsection (d))  
17      shall remit to the Office of Personnel Management,  
18      for deposit in the Treasury of the United States to  
19      the credit of the Civil Service Retirement and Dis-  
20      ability Fund, the amount required under paragraph  
21      (2) with respect to such service.

22           (2) AMOUNT REQUIRED.—The amount an agen-  
23      cy is required to remit is, with respect to any prior  
24      service, the total amount of additional Government  
25      contributions to the Civil Service Retirement and

1       Disability Fund (above those actually paid) that  
2       would have been required if the amendments made  
3       by section 2 had then been in effect.

4               (3) CONTRIBUTIONS TO BE MADE RATABLY.—  
5       Government contributions under this subsection on  
6       behalf of an incumbent shall be made by the agency  
7       ratably (on at least an annual basis) over the 10-  
8       year period beginning on the date referred to in sub-  
9       section (d)(3).

10              (f) EXEMPTION FROM MANDATORY SEPARATION.—  
11       Nothing in section 8335(b) or 8425(b) of title 5, United  
12       States Code, shall cause the involuntary separation of a  
13       law enforcement officer (as described in subsection (a))  
14       before the end of the 3-year period beginning on the date  
15       of enactment of this Act.

16              (g) REGULATIONS.—The Office of Personnel Man-  
17       agement shall prescribe regulations to carry out this Act,  
18       including—

19                      (1) provisions in accordance with which interest  
20       on any amount under subsection (d) or (e) shall be  
21       computed, based on section 8334(e) of title 5,  
22       United States Code; and

23                      (2) provisions for the application of this section  
24       in the case of—

25                              (A) any individual who—

1 (i) satisfies paragraph (1) (but not  
2 paragraph (2)) of subsection (b); and

3 (ii) serves as a law enforcement offi-  
4 cer (as described in subsection (a)) after  
5 the date of enactment of this Act; and

6 (B) any individual entitled to a survivor  
7 annuity (based on the service of an incumbent,  
8 or of an individual under subparagraph (A),  
9 who dies before making an election under sub-  
10 section (c)(2)), to the extent of any rights that  
11 would then be available to the decedent (if still  
12 living).

13 (h) RULE OF CONSTRUCTION.—Nothing in this sec-  
14 tion shall be considered to apply in the case of a reem-  
15 ployed annuitant.

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