

107TH CONGRESS
1ST SESSION

H. R. 1090

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2001

Mr. TOM DAVIS of Virginia (for himself, Mr. MORAN of Virginia, Mr. WOLF, and Mrs. MORELLA) introduced the following bill; which was referred to the Committee on Government Reform

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 2001”.

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 (UNRELATED TO RETIREMENT) TO REMAIN UN-
12 CHANGED.—

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

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

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

9 (1) is first appointed as an assistant United
10 States attorney before the effective date of this Act;
11 and

12 (2) is serving as an assistant United States at-
13 torney on the effective date of this Act.

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

20 (c) ELECTION AVAILABLE TO INCUMBENTS.—

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

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

1 (B) to be treated as if this Act had never
2 been enacted.

3 Failure to make a timely election under this sub-
4 section shall be treated in the same way as an elec-
5 tion under subparagraph (A), made on the last day
6 allowable under paragraph (2).

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

13 (d) LIMITED RETROACTIVE EFFECT.—

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

19 (A) to the extent performed on or after the
20 effective date of that election, be treated in ac-
21 cordance with applicable provisions of sub-
22 chapter III of chapter 83 or chapter 84 of title
23 5, United States Code, as amended by this Act;
24 and

1 (B) to the extent performed before the ef-
2 fective date of that election, be treated in ac-
3 cordance with applicable provisions of sub-
4 chapter III of chapter 83 or chapter 84 of such
5 title, as if the amendments made by this Act
6 had then been in effect.

7 (2) NO OTHER RETROACTIVE EFFECT.—Noth-
8 ing in this Act or any amendment made by this Act
9 shall affect any of the terms or conditions of an indi-
10 vidual's employment (apart from those governed by
11 subchapter III of chapter 83 or chapter 84 of title
12 5, United States Code) with respect to any period of
13 service preceding the date on which such individual's
14 election under subsection (c) is made (or is deemed
15 to have been made).

16 (e) MAKEUP CONTRIBUTIONS.—

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

21 (A) the Department of Justice shall remit
22 to the Office of Personnel Management, in such
23 time, form, and manner as the Office may re-
24 quire, the amount described in paragraph (2);
25 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 (c)), 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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