H. R. 1002

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2005

Mr. Filner (for himself and Mr. McHugh) introduced the following bill; which was referred to the Committee on Government Reform

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Law Enforcement Officers Equity Act”.

SEC. 2. AMENDMENTS.

(a) Federal Employees’ Retirement System.—
(1) IN GENERAL.—Paragraph (17) of section 8401 of title 5, United States Code, is amended by striking “and” at the end of subparagraph (C), and by adding at the end the following:

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

“(i) the duties of whose position include the investigation or apprehension of individuals suspected or convicted of offenses against the criminal laws of the United States; and

“(ii) who is authorized to carry a firearm; and

“(F) an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns;”.

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

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by inserting after “position.” (in the matter before subparagraph (A)) the following: “For the purpose
of this paragraph, the employees described in the pre-
ceeding provision of this paragraph (in the matter before
‘including’) shall be considered to include an employee, not
otherwise covered by this paragraph, who satisfies clauses
(i)–(ii) of section 8401(17)(E) and an employee of the In-
ternal Revenue Service the duties of whose position are
as described in section 8401(17)(F).”.

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

SEC. 3. TREATMENT OF SERVICE PERFORMED BY INCUM-
BENTS.

(a) LAW ENFORCEMENT OFFICER AND SERVICE DE-
scribed.—

(1) LAW ENFORCEMENT OFFICER.—Any ref-
ference to a law enforcement officer described in this
subsection refers to an individual who satisfies the
requirements of section 8331(20) or 8401(17) of
title 5, United States Code (relating to the definition
of a law enforcement officer) by virtue of the amend-
ments made by section 2.
(2) SERVICE.—Any reference to service de-
scribed in this subsection refers to service performed
as a law enforcement officer (as described in this
subsection).

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

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

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

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

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

(2) RETIREMENT.—Service described in sub-
section (a) which is performed by an incumbent be-
fore, on, or after the date of the enactment of this
Act shall, for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, be treated as service performed as a law enforcement officer (within the meaning of such section 8331(20) or 8401(17), as appropriate), but only if an appropriate written election is submitted to the Office of Personnel Management within 5 years after the date of the enactment of this Act or before separation from Government service, whichever is earlier.

(d) Individual Contributions for Prior Service.—

(1) In General.—An individual who makes an election under subsection (c)(2) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by section 2 had then been in effect.

(2) Effect of Not Contributing.—If no part of or less than the full amount required under paragraph (1) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be re-
duced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

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

(e) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

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

(2) AMOUNT REQUIRED.—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and
Disability Fund (above those actually paid) that would have been required if the amendments made by section 2 had then been in effect.

(3) Contributions to be made ratably.—

Government contributions under this subsection on behalf of an incumbent shall be made by the agency ratably (on at least an annual basis) over the 10-year period beginning on the date referred to in subsection (d)(3).

(f) Exemption From Mandatory Separation.—

Nothing in section 8335(b) or 8425(b) of title 5, United States Code, shall cause the involuntary separation of a law enforcement officer (as described in subsection (a)) before the end of the 3-year period beginning on the date of the enactment of this Act.

(g) Regulations.—The Office shall prescribe regulations to carry out this Act, including—

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

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

(A) any individual who—
(i) satisfies paragraph (1) (but not paragraph (2)) of subsection (b); and

(ii) serves as a law enforcement officer (as described in subsection (a)) after the date of the enactment of this Act; and

(B) any individual entitled to a survivor annuity (based on the service of an incumbent, or of an individual under subparagraph (A), who dies before making an election under subsection (c)(2)), to the extent of any rights that would then be available to the decedent (if still living).

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply in the case of a reemployed annuitant.