

111TH CONGRESS
1ST SESSION

H. R. 3857

To amend subchapter III of chapter 83 of title 5, United States Code, to make service performed as an employee of a nonappropriated fund instrumentality after 1965 and before 1987 creditable for retirement purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2009

Mr. CONNOLLY of Virginia (for himself, Mr. WOLF, Ms. NORTON, and Mr. REYES) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend subchapter III of chapter 83 of title 5, United States Code, to make service performed as an employee of a nonappropriated fund instrumentality after 1965 and before 1987 creditable for retirement 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 “Nonappropriated Fund
5 Equity Act”.

1 **SEC. 2. CREDITABILITY OF SERVICE.**

2 (a) IN GENERAL.—Section 8332 of title 5, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 “(p)(1) Subject to paragraph (2), upon application
6 to the Office of Personnel Management, any individual
7 who is an employee or Member on the date of the enact-
8 ment of this subsection, and who has on such date 5 or
9 more years of creditable civilian service under this section
10 (exclusive of service for which credit is allowed under this
11 subsection) shall be allowed credit for service performed,
12 after December 31, 1965, and before January 1, 1987,
13 as an employee described in section 2105(c).

14 “(2)(A) An employee or Member may, with respect
15 to any period of service for which such employee or Mem-
16 ber is allowed credit under this subsection, deposit to the
17 credit of the Fund an amount equal to the deductions
18 from basic pay which would have been required under sec-
19 tion 8334(a) if such service were service as an employee.

20 “(B) An employee or Member who makes the deposit
21 described in subparagraph (A) shall be allowed full retire-
22 ment credit for the period of service involved.

23 “(C) If an employee or Member does not make the
24 deposit or makes less than the full amount of the deposit
25 described in subparagraph (A), retirement credit shall be
26 allowed, but the resulting annuity shall be reduced in a

1 manner similar to the method provided under section
2 8339(j)(3) to make up the amount of any deposit de-
3 scribed in the second sentence thereof. In no event shall
4 the application of this subparagraph cause an annuity to
5 be less than it would have been if this subsection had not
6 been enacted.

7 “(D) For the purpose of survivor annuities, any de-
8 posit authorized by subparagraph (A) may also be made
9 by a survivor of an employee or Member.

10 “(3) The Office shall accept the certification of the
11 appropriate Secretary or his designee concerning the serv-
12 ice of, and the amount of compensation received by, an
13 employee or Member with respect to which credit is sought
14 under this subsection. For purposes of the preceding sen-
15 tence, the ‘appropriate Secretary’ is—

16 “(A) the Secretary of Defense, to the extent
17 that service in or under the Department of Defense
18 is involved; and

19 “(B) the Secretary of Transportation, to the ex-
20 tent that service in or under the Coast Guard is in-
21 volved.

22 “(4) An individual receiving credit for service for any
23 period under this subsection shall not be granted credit
24 for such service under any retirement system for employ-
25 ees of a nonappropriated fund instrumentality.

1 “(5) An application for retirement credit under this
 2 subsection may be submitted no later than 2 years after
 3 the effective date of the regulations prescribed by the Of-
 4 fice to carry out this subsection.”.

5 (b) REGULATIONS.—The Office of Personnel Man-
 6 agement shall prescribe regulations to carry out this Act
 7 and the amendment made by subsection (a). Such regula-
 8 tions—

9 (1) shall take effect not later than 12 months
 10 after the date of the enactment of this Act; and

11 (2) shall include provisions to provide for the
 12 application of such amendment in the case of—

13 (A) any employee or Member (as defined
 14 by the following sentence) who, upon separation
 15 (at the time described in paragraph (1) or (2)
 16 of subsection (c)), would otherwise be entitled
 17 to an annuity under chapter 84 of title 5,
 18 United States Code, that is partially computed
 19 under subchapter III of chapter 83 of such
 20 title; and

21 (B) any survivor of an employee or Mem-
 22 ber described in subparagraph (A).

23 For purposes of this subsection, the terms “employee”,
 24 “Member”, and “survivor” have the meanings set forth
 25 in section 8401 of such title 5.

1 (c) APPLICABILITY.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendment made by subsection (a)
4 shall apply only in the case of any annuity entitle-
5 ment which is based on a separation from service oc-
6 ccurring on or after the effective date of the regula-
7 tions prescribed under subsection (b).

8 (2) LIMITED EXCEPTION FOR ANNUITIES
9 BASED ON SEPARATIONS OCCURRING AFTER DATE
10 OF ENACTMENT AND BEFORE EFFECTIVE DATE OF
11 IMPLEMENTING REGULATIONS.—

12 (A) RECOMPUTATION REQUIREMENT.—In
13 the case of any individual—

14 (i) who is entitled to an annuity enti-
15 tlement to which is based on a separation
16 from service occurring after the date of the
17 enactment of this Act and before the effec-
18 tive date of the regulations prescribed
19 under subsection (b), and

20 (ii) whose annuity would be increased
21 by the application of section 8332(p) of
22 title 5, United States Code (as amended by
23 subsection (a)),

24 the Office of Personnel Management shall, upon re-
25 ceipt of an appropriate application submitted before

1 the deadline specified in section 8332(p)(5) of such
 2 title 5 (as so amended), recompute the amount of
 3 such annuity so as to take such section 8332(p) into
 4 account. In carrying out the preceding sentence, any
 5 deposit timely made shall be treated as if it had
 6 been made before the commencement date of the an-
 7 nuity involved.

8 (B) NO PAYMENT FOR ANY EARLIER PERI-
 9 ODS.—Any change in an annuity resulting from
 10 a recomputation under subparagraph (A) shall
 11 be payable only with respect to amounts accru-
 12 ing for months beginning after the date on
 13 which the application (referred to in subpara-
 14 graph (A)) is received.

15 **SEC. 3. NOTIFICATION AND ASSISTANCE.**

16 (a) NOTIFICATION.—The Office of Personnel Man-
 17 agement shall take such measures as it considers appro-
 18 priate to inform individuals entitled to have any service
 19 credited under section 8332(p) of title 5, United States
 20 Code (as amended by section 2(a)), or to have any
 21 amounts recomputed under section 2(c)(2), of their enti-
 22 tlement to such credit or recomputation.

23 (b) ASSISTANCE FROM THE OFFICE OF PERSONNEL
 24 MANAGEMENT.—The Office of Personnel Management
 25 shall, on request, assist any individual referred to in sub-

1 section (a) in obtaining from any department, agency, or
2 other instrumentality of the United States such informa-
3 tion in the possession of such instrumentality as may be
4 necessary to verify the entitlement of such individual to
5 have any service credited under section 8332(p) of title
6 5, United States Code (as amended by section 2(a)) or
7 to have any amounts recomputed under section 2(c)(2).

8 (c) ASSISTANCE FROM OTHER AGENCIES.—Any de-
9 partment, agency, or other instrumentality of the United
10 States which possesses any information with respect to
11 any service of an individual described in section 8332(p)
12 of title 5, United States Code (as amended by section
13 2(a)) shall—

14 (1) at the request of such individual (or an ap-
15 propriate survivor), furnish such information to that
16 individual (or survivor); and

17 (2) at the request of the Office of Personnel
18 Management, furnish such information to the Office.

○