

112TH CONGRESS
2D SESSION

H. R. 4363

To amend title 5, United States Code, to allow Federal employees to continue their public service while partially retired.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2012

Mr. ISSA (for himself, Mr. ROSS of Florida, and Mr. LYNCH) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend title 5, United States Code, to allow Federal employees to continue their public service while partially retired.

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 “Federal Employee
5 Phased Retirement Act”.

6 **SEC. 2. PHASED RETIREMENT AUTHORITY.**

7 (a) CSRS.—Chapter 83 of title 5, United States
8 Code, is amended—

9 (1) in section 8331—

1 (A) in paragraph (30) by striking “and” at
2 the end;

3 (B) in paragraph (31) by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(32) ‘Director’ means the Director of the Of-
7 fice of Personnel Management.”;

8 (2) by inserting after section 8336 the fol-
9 lowing:

10 **“§ 8336a. Phased retirement**

11 “(a) For the purposes of this section—

12 “(1) the term ‘composite retirement annuity’
13 means the annuity computed when a phased retiree
14 attains full retirement status;

15 “(2) the term ‘full retirement status’ means
16 that a phased retiree has ceased employment and is
17 entitled, upon application, to a composite retirement
18 annuity;

19 “(3) the term ‘phased employment’ means the
20 less-than-full-time employment of a phased retiree;

21 “(4) the term ‘phased retiree’ means a retiree-
22 ment-eligible employee who—

23 “(A) makes an election under subsection
24 (b); and

1 “(B) has not entered full retirement sta-
2 tus;

3 “(5) the term ‘phased retirement annuity’
4 means the annuity payable under this section before
5 full retirement;

6 “(6) the term ‘phased retirement percentage’
7 means the percentage which, when added to the
8 working percentage for a phased retiree, produces a
9 sum of 100 percent;

10 “(7) the term ‘phased retirement period’ means
11 the period beginning on the date on which an indi-
12 vidual becomes entitled to receive a phased retire-
13 ment annuity and ending on the date on which the
14 individual dies or separates from phased employ-
15 ment;

16 “(8) the term ‘phased retirement status’ means
17 that a phased retiree is concurrently employed in
18 phased employment and eligible to receive a phased
19 retirement annuity;

20 “(9) the term ‘retirement-eligible employee’—

21 “(A) means an individual who, if the indi-
22 vidual separated from the service, would meet
23 the requirements for retirement under sub-
24 section (a) or (b) of section 8336; but

1 “(B) does not include an employee, de-
2 scribed in section 8335, after the date as of
3 which such employee is required to be separated
4 from the service by reason of such section; and

5 “(10) the term ‘working percentage’ means the
6 percentage of full-time employment equal the
7 quotient obtained by dividing—

8 “(A) the number of hours per pay period
9 to be worked by a phased retiree as scheduled
10 in accordance with subsection (b)(2); by

11 “(B) the number of hours per pay period
12 to be worked by an employee serving in a com-
13 parable position on a full-time basis.

14 “(b)(1) With the concurrence of the head of the em-
15 ploying agency, and under regulations promulgated by the
16 Director, a retirement-eligible employee who has been em-
17 ployed on a full-time basis for not less than the 3-year
18 period ending on the date on which the retirement-eligible
19 employee makes an election under this subsection may
20 elect to enter phased retirement status.

21 “(2)(A) Subject to subparagraph (B), at the time of
22 entering phased retirement status, a phased retiree shall
23 be appointed to a position for which the working percent-
24 age is 50 percent.

1 “(B) The Director may, by regulation, provide for
2 working percentages different from the percentage speci-
3 fied under subparagraph (A), which shall be not less than
4 20 percent and not more than 80 percent.

5 “(C) The working percentage for a phased retiree
6 may not be changed during the phased retiree’s phased
7 retirement period.

8 “(D)(i) Not less than 20 percent of the hours to be
9 worked by a phased retiree shall consist of mentoring.

10 “(ii) The Director may, by regulation, provide for ex-
11 ceptions to the requirement under clause (i).

12 “(iii) Clause (i) shall not apply to a phased retiree
13 serving in the United States Postal Service. Nothing in
14 this clause shall prevent the application of clause (i) or
15 (ii) with respect to a phased retiree serving in the Postal
16 Regulatory Commission.

17 “(3) A phased retiree—

18 “(A) may not be employed in more than one po-
19 sition at any time; and

20 “(B) may transfer to another position in the
21 same or a different agency, if the transfer does not
22 result in a change in the working percentage.

23 “(4) A retirement-eligible employee may make only
24 one election under this subsection during the retirement-
25 eligible employee’s lifetime.

1 “(5) A retirement-eligible employee who makes an
2 election under this subsection may not make an election
3 under section 8343a.

4 “(c)(1) Except as otherwise provided under this sub-
5 section, the phased retirement annuity for a phased retiree
6 is the product obtained by multiplying—

7 “(A) the amount of an annuity computed under
8 section 8339 that would have been payable to the
9 phased retiree if, on the date on which the phased
10 retiree enters phased retirement status, the phased
11 retiree had separated from service and retired under
12 section 8336 (a) or (b); by

13 “(B) the phased retirement percentage for the
14 phased retiree.

15 “(2) A phased retirement annuity shall be paid in ad-
16 dition to the basic pay for the position to which a phased
17 retiree is appointed during phased employment.

18 “(3) A phased retirement annuity shall be adjusted
19 in accordance with section 8340.

20 “(4)(A) A phased retirement annuity shall not be
21 subject to reduction for any form of survivor annuity, shall
22 not serve as the basis of the computation of any survivor
23 annuity, and shall not be subject to any court order requir-
24 ing a survivor annuity to be provided to any individual.

1 “(B) A phased retirement annuity shall be subject to
2 a court order providing for division, allotment, assign-
3 ment, execution, levy, attachment, garnishment, or other
4 legal process on the same basis as other annuities.

5 “(5) Any reduction of a phased retirement annuity
6 based on an election under section 8334(d)(2) shall be ap-
7 plied to the phased retirement annuity after computation
8 under paragraph (1).

9 “(6)(A) Any deposit, or election of an actuarial annu-
10 ity reduction in lieu of a deposit, for military service or
11 for creditable civilian service for which retirement deduc-
12 tions were not made or refunded shall be made by a retire-
13 ment-eligible employee at or before the time the retire-
14 ment-eligible employee enters phased retirement status.
15 No such deposit may be made, or actuarial adjustment
16 in lieu thereof elected, at the time a phased retiree enters
17 full retirement status.

18 “(B) Notwithstanding subparagraph (A), if a phased
19 retiree does not make such a deposit and dies in service
20 as a phased retiree, a survivor of the phased retiree shall
21 have the same right to make such deposit as would have
22 been available had the employee not entered phased retire-
23 ment status and died in service.

24 “(C) If a phased retiree makes an election for an ac-
25 tuarial annuity reduction under section 8334(d)(2) and

1 dies in service as a phased retiree, the amount of any de-
2 posit upon which such actuarial reduction shall have been
3 based shall be deemed to have been fully paid.

4 “(7) A phased retirement annuity shall commence on
5 the date on which a phased retiree enters phased employ-
6 ment.

7 “(8) No unused sick leave credit may be used in the
8 computation of the phased retirement annuity.

9 “(d) All basic pay not in excess of the full-time rate
10 of pay for the position to which a phased retiree is ap-
11 pointed shall be deemed to be basic pay for purposes of
12 section 8334.

13 “(e) Under such procedures as the Director may pre-
14 scribe, a phased retiree may elect to enter full retirement
15 status at any time. Upon making such an election, a
16 phased retiree shall be entitled to a composite retirement
17 annuity.

18 “(f)(1) Except as provided otherwise under this sub-
19 section, a composite retirement annuity is a single annuity
20 computed under regulations prescribed by the Director,
21 equal to the sum of—

22 “(A) the amount of the phased retirement an-
23 nuity as of the date of full retirement, before any re-
24 duction based on an election under section

1 8334(d)(2), and including any adjustments made
2 under section 8340; and

3 “(B) the product obtained by multiplying—

4 “(i) the amount of an annuity computed
5 under section 8339 that would have been pay-
6 able at the time of full retirement if the indi-
7 vidual had not elected a phased retirement and
8 as if the individual was employed on a full-time
9 basis in the position occupied during the phased
10 retirement period and before any reduction for
11 survivor annuity or reduction based on an elec-
12 tion under section 8334(d)(2); by

13 “(ii) the working percentage.

14 “(2) After computing a composite retirement annuity
15 under paragraph (1), the Director shall adjust the amount
16 of the annuity for any applicable reductions for a survivor
17 annuity and any previously elected actuarial reduction
18 under section 8334(d)(2).

19 “(3) A composite retirement annuity shall be ad-
20 justed in accordance with section 8340, except that sub-
21 section (c)(1) of that section shall not apply.

22 “(4) In computing a composite retirement annuity
23 under paragraph (1)(B)(i), the unused sick leave to the
24 credit of a phased retiree at the time of entry into full

1 retirement status shall be adjusted by dividing the number
2 of hours of unused sick leave by the working percentage.

3 “(g)(1) Under such procedures and conditions as the
4 Director may provide, and with the concurrence of the
5 head of the employing agency, a phased retiree may elect
6 to terminate phased retirement status and return to a full-
7 time work schedule.

8 “(2) Upon entering a full-time work schedule based
9 upon an election under paragraph (1), the phased retire-
10 ment annuity of a phased retiree shall terminate.

11 “(3) After the termination of a phased retirement an-
12 nuity under this subsection, the individual’s rights under
13 this subchapter shall be determined based on the law in
14 effect at the time of any subsequent separation from serv-
15 ice. For purposes of this subchapter or chapter 84, at time
16 of the subsequent separation from service, the phased re-
17 tirement period shall be treated as if it had been a period
18 of part-time employment with the work schedule described
19 in subsection (b)(2).

20 “(h) For purposes of section 8341—

21 “(1) the death of a phased retiree shall be
22 deemed to be the death in service of an employee;
23 and

24 “(2) the phased retirement period shall be
25 deemed to have been a period of part-time employ-

1 ment with the work schedule described in subsection
2 (b)(2).

3 “(i) Employment of a phased retiree shall not be
4 deemed to be part-time career employment, as defined in
5 section 3401(2).

6 “(j) A phased retiree is not eligible to apply for an
7 annuity under section 8337.

8 “(k) For purposes of section 8341(h)(4), retirement
9 shall be deemed to occur on the date on which a phased
10 retiree enters into full retirement status.

11 “(l) For purposes of sections 8343 and 8351, and
12 subchapter III of chapter 84, a phased retiree shall be
13 deemed to be an employee.

14 “(m) A phased retiree is not subject to section 8344.

15 “(n) For purposes of chapter 87, a phased retiree
16 shall be deemed to be receiving basic pay at the rate of
17 a full-time employee in the position to which the phased
18 retiree is appointed.”; and

19 (3) in the table of sections by inserting after
20 the item relating to section 8336 the following:

“8336a. Phased retirement.”.

21 (b) **FERS.**—Chapter 84 of title 5, United States
22 Code, is amended—

23 (1) by inserting after section 8412 the following
24 new section:

1 **“§ 8412a. Phased retirement**

2 “(a) For the purposes of this section—

3 “(1) the term ‘composite retirement annuity’
4 means the annuity computed when a phased retiree
5 attains full retirement status;

6 “(2) the term ‘full retirement status’ means
7 that a phased retiree has ceased employment and is
8 entitled, upon application, to a composite retirement
9 annuity;

10 “(3) the term ‘phased employment’ means the
11 less-than-full-time employment of a phased retiree;

12 “(4) the term ‘phased retiree’ means a retire-
13 ment-eligible employee who—

14 “(A) makes an election under subsection
15 (b); and

16 “(B) has not entered full retirement sta-
17 tus;

18 “(5) the term ‘phased retirement annuity’
19 means the annuity payable under this section before
20 full retirement;

21 “(6) the term ‘phased retirement percentage’
22 means the percentage which, when added to the
23 working percentage for a phased retiree, produces a
24 sum of 100 percent;

25 “(7) the term ‘phased retirement period’ means
26 the period beginning on the date on which an indi-

1 vidual becomes entitled to receive a phased retire-
2 ment annuity and ending on the date on which the
3 individual dies or separates from phased employ-
4 ment;

5 “(8) the term ‘phased retirement status’ means
6 that a phased retiree is concurrently employed in
7 phased employment and eligible to receive a phased
8 retirement annuity;

9 “(9) the term ‘retirement-eligible employee’—

10 “(A) means an individual who, if the indi-
11 vidual separated from the service, would meet
12 the requirements for retirement under sub-
13 section (a) or (b) of section 8412; and

14 “(B) does not include—

15 “(i) an individual who, if the indi-
16 vidual separated from the service, would
17 meet the requirements for retirement
18 under subsection (d) or (e) of section
19 8412; but

20 “(ii) does not include an employee, de-
21 scribed in section 8425, after the date as
22 of which such employee is required to be
23 separated from the service by reason of
24 such section; and

1 “(10) the term ‘working percentage’ means the
2 percentage of full-time employment equal to the
3 quotient obtained by dividing—

4 “(A) the number of hours per pay period
5 to be worked by a phased retiree as scheduled
6 in accordance with subsection (b)(2); by

7 “(B) the number of hours per pay period
8 to be worked by an employee serving in a com-
9 parable position on a full-time basis.

10 “(b)(1) With the concurrence of the head of the em-
11 ploying agency, and under regulations promulgated by the
12 Director, a retirement-eligible employee who has been em-
13 ployed on a full-time basis for not less than the 3-year
14 period ending on the date on which the retirement-eligible
15 employee makes an election under this subsection may
16 elect to enter phased retirement status.

17 “(2)(A) Subject to subparagraph (B), at the time of
18 entering phased retirement status, a phased retiree shall
19 be appointed to a position for which the working percent-
20 age is 50 percent.

21 “(B) The Director may, by regulation, provide for
22 working percentages different from the percentage speci-
23 fied under subparagraph (A), which shall be not less than
24 20 percent and not more than 80 percent.

1 “(C) The working percentage for a phased retiree
2 may not be changed during the phased retiree’s phased
3 retirement period.

4 “(D)(i) Not less than 20 percent of the hours to be
5 worked by a phased retiree shall consist of mentoring.

6 “(ii) The Director may, by regulation, provide for ex-
7 ceptions to the requirement under clause (i).

8 “(iii) Clause (i) shall not apply to a phased retiree
9 serving in the United States Postal Service. Nothing in
10 this clause shall prevent the application of clause (i) or
11 (ii) with respect to a phased retiree serving in the Postal
12 Regulatory Commission.

13 “(3) A phased retiree—

14 “(A) may not be employed in more than one po-
15 sition at any time; and

16 “(B) may transfer to another position in the
17 same or a different agency, if the transfer does not
18 result in a change in the working percentage.

19 “(4) A retirement-eligible employee may make only
20 one election under this subsection during the retirement-
21 eligible employee’s lifetime.

22 “(5) A retirement-eligible employee who makes an
23 election under this subsection may not make an election
24 under section 8420a.

1 “(c)(1) Except as otherwise provided under this sub-
2 section, the phased retirement annuity for a phased retiree
3 is the product obtained by multiplying—

4 “(A) the amount of an annuity computed under
5 section 8415 that would have been payable to the
6 phased retiree if, on the date on which the phased
7 retiree enters phased retirement status, the phased
8 retiree had separated from service and retired under
9 section 8412 (a) or (b); by

10 “(B) the phased retirement percentage for the
11 phased retiree.

12 “(2) A phased retirement annuity shall be paid in ad-
13 dition to the basic pay for the position to which a phased
14 retiree is appointed during the phased employment.

15 “(3) A phased retirement annuity shall be adjusted
16 in accordance with section 8462.

17 “(4)(A) A phased retirement annuity shall not be
18 subject to reduction for any form of survivor annuity, shall
19 not serve as the basis of the computation of any survivor
20 annuity, and shall not be subject to any court order requir-
21 ing a survivor annuity to be provided to any individual.

22 “(B) A phased retirement annuity shall be subject to
23 a court order providing for division, allotment, assign-
24 ment, execution, levy, attachment, garnishment, or other
25 legal process on the same basis as other annuities.

1 “(5)(A) Any deposit, or election of an actuarial annu-
2 ity reduction in lieu of a deposit, for military service or
3 for creditable civilian service for which retirement deduc-
4 tions were not made or refunded, shall be made by a re-
5 tirement-eligible employee at or before the time the retire-
6 ment-eligible employee enters phased retirement status.
7 No such deposit may be made, or actuarial adjustment
8 in lieu thereof elected, at the time a phased retiree enters
9 full retirement status.

10 “(B) Notwithstanding subparagraph (A), if a phased
11 retiree does not make such a deposit and dies in service
12 as a phased retiree, a survivor of the phased retiree shall
13 have the same right to make such deposit as would have
14 been available had the employee not entered phased retire-
15 ment status and died in service.

16 “(6) A phased retirement annuity shall commence on
17 the date on which a phased retiree enters phased employ-
18 ment.

19 “(7) No unused sick leave credit may be used in the
20 computation of the phased retirement annuity.

21 “(d) All basic pay not in excess of the full-time rate
22 of pay for the position to which a phased retiree is ap-
23 pointed shall be deemed to be basic pay for purposes of
24 sections 8422 and 8423.

1 “(e) Under such procedures as the Director may pre-
2 scribe, a phased retiree may elect to enter full retirement
3 status at any time. Upon making such an election, a
4 phased retiree shall be entitled to a composite retirement
5 annuity.

6 “(f)(1) Except as provided otherwise under this sub-
7 section, a composite retirement annuity is a single annuity
8 computed under regulations prescribed by the Director,
9 equal to the sum of—

10 “(A) the amount of the phased retirement an-
11 nuity as of the date of full retirement, including any
12 adjustments made under section 8462; and

13 “(B) the product obtained by multiplying—

14 “(i) the amount of an annuity computed
15 under section 8412 that would have been pay-
16 able at the time of full retirement if the indi-
17 vidual had not elected a phased retirement and
18 as if the individual was employed on a full-time
19 basis in the position occupied during the phased
20 retirement period and before any adjustment to
21 provide for a survivor annuity; by

22 “(ii) the working percentage.

23 “(2) After computing a composite retirement annuity
24 under paragraph (1), the Director shall adjust the amount

1 of the annuity for any applicable reductions for a survivor
2 annuity.

3 “(3) A composite retirement annuity shall be ad-
4 justed in accordance with section 8462, except that sub-
5 section (c)(1) of that section shall not apply.

6 “(4) In computing a composite retirement annuity
7 under paragraph (1)(B)(i), the unused sick leave to the
8 credit of a phased retiree at the time of entry into full
9 retirement status shall be adjusted by dividing the number
10 of hours of unused sick leave by the working percentage.

11 “(g)(1) Under such procedures and conditions as the
12 Director may provide, and with the concurrence of the
13 head of employing agency, a phased retiree may elect to
14 terminate phased retirement status and return to a full-
15 time work schedule.

16 “(2) Upon entering a full-time work schedule based
17 on an election under paragraph (1), the phased retirement
18 annuity of a phased retiree shall terminate.

19 “(3) After termination of the phased retirement an-
20 nuity under this subsection, the individual’s rights under
21 this chapter shall be determined based on the law in effect
22 at the time of any subsequent separation from service. For
23 purposes of this chapter, at the time of the subsequent
24 separation from service, the phased retirement period shall
25 be treated as if it had been a period of part-time employ-

1 ment with the work schedule described in subsection
2 (b)(2).

3 “(h) For purposes of subchapter IV—

4 “(1) the death of a phased retiree shall be
5 deemed to be the death in service of an employee;

6 “(2) except for purposes of section
7 8442(b)(1)(A)(i), the phased retirement period shall
8 be deemed to have been a period of part-time em-
9 ployment with the work schedule described in sub-
10 section (b)(2) of this section; and

11 “(3) for purposes of section 8442(b)(1)(A)(i),
12 the phased retiree shall be deemed to have been at
13 the full-time rate of pay for the position occupied.

14 “(i) Employment of a phased retiree shall not be
15 deemed to be part-time career employment, as defined in
16 section 3401(2).

17 “(j) A phased retiree is not eligible to receive an an-
18 nuity supplement under section 8421.

19 “(k) For purposes of subchapter III, a phased retiree
20 shall be deemed to be an employee.

21 “(l) For purposes of section 8445(d), retirement shall
22 be deemed to occur on the date on which a phased retiree
23 enters into full retirement status.

24 “(m) A phased retiree is not eligible to apply for an
25 annuity under subchapter V.

1 “(n) A phased retiree is not subject to section 8468.

2 “(o) For purposes of chapter 87, a phased retiree
3 shall be deemed to be receiving basic pay at the rate of
4 a full-time employee in the position to which the phased
5 retiree is appointed.”; and

6 (2) in the table of sections by inserting after
7 the item relating to section 8412 the following:

“8412a. Phased retirement.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the effective date of the
10 implementing regulations issued by the Director of the Of-
11 fice of Personnel Management.

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