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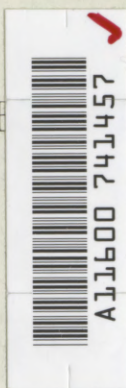
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31/24 RETIREMENT ANNUITIES FOR BOTANIC
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HEARING

BEFORE THE

SUBCOMMITTEE ON RETIREMENT, INSURANCE,
AND HEALTH BENEFITS

OF THE

COMMITTEE ON
OFFICE AND CIVIL SERVICE

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 6686 and Similar Bills

A BILL TO AMEND THE CIVIL SERVICE RETIREMENT ACT
IN ORDER TO CORRECT AN INEQUITY IN THE APPLICA-
TION OF SUCH ACT WITH RESPECT TO THE UNITED
STATES BOTANIC GARDEN, AND FOR OTHER PURPOSES

MAY 4, 1965

Printed for the use of the
Committee on Post Office and Civil Service



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1965

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RETIREMENT ANNUITIES FOR BOTANIC GARDEN EMPLOYEES

TUESDAY, MAY 4, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RETIREMENT, INSURANCE,
AND HEALTH BENEFITS OF THE COMMITTEE
ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 219, Cannon House Office Building, Hon. Dominick V. Daniels (chairman of the subcommittee) presiding.

Mr. DANIELS. The subcommittee will be in order.

The Subcommittee on Retirement, Insurance, and Health Benefits is meeting this morning to receive testimony on H.R. 1536, H.R. 5562, H.R. 6686, and H.R. 6943, identical bills to correct an inequity in the application of Civil Service Retirement Act with respect to employees of the U.S. Botanic Garden.

The purpose of the bills, in brief, is to extend the congressional employees' retirement program to some 52 employees of the Botanic Garden.

The special retirement compensation formula applicable to Members of Congress presently applies also to employees of the Senate, the House of Representatives, and the Office of the Architect of the Capitol for a maximum of 15 years of their congressional employee service. However, the formula has not been applied with respect to employees of the Botanic Garden—largely due to a misunderstanding as to their status. When the special formula was extended to employees of the Office of the Architect of the Capitol, I believe the members of our committee thought that Botanic Garden employees would be included, because it was our understanding that their program and activities are administered by the Architect of the Capitol. It was later discovered that an 1873 law placed them under direction of the Joint Committee on the Library. That Joint Committee in 1934 appointed the Architect of the Capitol as Acting Director of the Botanic Garden.

To correct this situation, the Chair has introduced H.R. 1536. Identical bills have been sponsored by Representatives Silvio O. Conte (H.R. 5562); Hervey G. Machen (H.R. 6686); and Joe Skubitz (H.R. 6943).

(The bill H.R. 6686 follows:)

[H.R. 6686, 89th Cong., 1st sess.]

A BILL To amend the Civil Service Retirement Act in order to correct an inequity in the application of such Act with respect to the United States Botanic Garden, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1(c) of the Civil Service Retirement Act, as amended (5 U.S.C. 2251(c)), is amended by inserting "an officer or employee of the United States Botanic Garden," immediately following "the Architect of the Capitol and the employees of the Architect of the Capitol,".

(b) Section 2(c) of such Act, as amended (5 U.S.C. 2252(c)), is amended by inserting "and officers and employees of the United States Botanic Garden" immediately following "the employees of the Architect of the Capitol".

(c) Section 2(f) of such Act, as amended (5 U.S.C. 2252(f)), is amended by striking out "; and the Architect of the Capitol and the Librarian of Congress are authorized to exclude from the operation of this Act any employees under the office of the Architect of the Capitol and the Library of Congress, respectively, whose tenure of employment is temporary or of uncertain duration." and inserting in lieu thereof "; and the Architect of the Capitol, the Librarian of Congress, and the Director or Acting Director of the United States Botanic Garden are authorized to exclude from the operation of this Act any employees under the office of the Architect of the Capitol, the Library of Congress, and the United States Botanic Garden, respectively, whose tenure of employment is temporary or of uncertain duration."

SEC. 2. The provisions under the heading "CIVIL SERVICE RETIREMENT AND DISABILITY FUND" in title I of the Independent Offices Appropriation Act, 1959 (72 Stat. 1064; Public Law 85-844), shall not apply with respect to benefits resulting from the enactment of this Act.

SEC. 3. The amendments made by the first section of this Act shall not apply in the case of officers and employees retired or otherwise separated prior to the date of enactment of this Act. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

Mr. DANIELS. We have as our first witness the Honorable Hervey G. Machen, author of H.R. 6686, Member of Congress from Maryland.

STATEMENT OF REPRESENTATIVE HERVEY G. MACHEN OF MARYLAND

Mr. MACHEN. I wish to express my gratitude to Congressman Daniels and members of the subcommittee for allowing me to appear on behalf of my bill, H.R. 6686.

Briefly, the intent of my bill is to allow the 52 employees of the Botanic Garden to enjoy the same retirement benefits as do the 7,000 other congressional employees. These fine, dedicated career workers are devoted to beauty and conservation—two words which are fast becoming bywords in the Nation's Capital.

Not long ago I received 22 letters from Botanic Garden employees who live in my district in nearby suburban Maryland, asking me to introduce a bill identical to H.R. 1536 which Mr. Daniels introduced on January 5, 1965.

They made me aware of the inequity that resulted when the Civil Service Retirement Act was amended in the 88th Congress, and the Botanic Garden employees were accidentally excluded from coverage. It was my pleasure to introduce a bill to give these 52 employees the same benefits accorded to other congressional employees. I might state additionally that the Architect of the Capitol, George Stewart, has recommended favorable action on this bill and similar ones.

I therefore request that the members of this subcommittee take these matters into consideration and act favorably on H.R. 6686.

Thank you for your kind attention.

Mr. DANIELS. Thank you, Mr. Machen. Our next witness is Mr. Charles A. Henlock, Administrative Officer, Office of the Architect of the Capitol, accompanied by Mr. Philip L. Roof, Executive Assistant to the Architect of the Capitol.

STATEMENT OF CHARLES A. HENLOCK, ADMINISTRATIVE OFFICER, OFFICE OF THE ARCHITECT OF THE CAPITOL

Mr. HENLOCK. Mr. Chairman.

Mr. Stewart, the Architect of the Capitol, who serves as Acting Director of the U.S. Botanic Garden, made a report to this committee on April 14, 1965, and I will read portions of that report:

The purpose of these bills is to accord the employees of the U.S. Botanic Garden the same retirement benefits as accorded employees of the U.S. Senate, House of Representatives, and the Office of the Architect of the Capitol.

The regular year-round force of the U.S. Botanic Garden totals 52 employees, 47 of whom are compensated under the wage-board system and 5 under the Classification Act. By law (40 U.S.C. 216), employees of the U.S. Botanic Garden are under the control of the Joint Committee on the Library and have been continuously under such control since 1873. This provision of law provides, as follows:

"There shall be a superintendent and assistants in the Botanic Garden and greenhouses, who shall be under the direction of the Joint Committee on the Library."

On July 3, 1934, the Joint Committee on the Library appointed the Architect of the Capitol as Acting Director of the U.S. Botanic Garden and the Architect of the Capitol has continued to serve in this capacity since that date. The Architect of the Capitol performs his duties as Acting Director of the U.S. Botanic Garden under the direction of the Joint Committee on the Library, as provided in 40 U.S.C. 216.

None of the employees of the Botanic Garden is subject to the congressional employees benefits of the Civil Service Retirement Act. Since 1920, they have been subject only to the same benefits as employees of the executive branch.

Whereas it is true that many of these employees enjoy long tenure of office, yet this is also true of many employees of the Senate, the House, and the Office of the Architect of the Capitol. Like the employees of the Senate, House, and Architect of the Capitol, these employees do not have civil service or other protective status.

Although the Architect of the Capitol has been serving as Acting Director of the Botanic Garden for the past 31 years, the employees of the Botanic Garden have not, by law, been made employees of the Office of the Architect of the Capitol. The Botanic Garden has continued to operate as a separate unit under the Joint Committee on the Library.

Since these employees are employees of the legislative branch under the control of a Joint Committee of Congress, no reason is perceived why they should not be accorded the same retirement benefits as employees of the Senate, the House, and the Architect of the Capitol, who are now covered by the congressional benefits provisions of the Civil Service Retirement Act.

It is the recommendation of the Architect of the Capitol that existing law be amended to include the employees of the U.S. Botanic Garden under the congressional benefits of the retirement act, so that all employees of the Congress may receive like benefits, as proposed in H.R. 1536, H.R. 5562, H.R. 6686, and H.R. 6943.

Mr. DANIELS. Mr. Henlock, does your associate, Mr. Roof, desire to make a statement?

Mr. ROOF. No, sir. We will be glad to answer questions.

Mr. DANIELS. Can you gentlemen tell me what benefits in addition to civil service these employees do not have?

Mr. HENLOCK. They are not appointed by civil service. They do not have the protection that employees of the executive branch of the Government do. They are compensated under the wage-board system and the Classification Act. They do receive the normal fringe benefits, leave, health benefits, and insurance, the same as the rest of the employees, both in the legislative and executive branch.

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Mr. DANIELS. All right. Are you familiar as to what additional cost this will be to bring them in under the civil service; the amount it will require to give them the same protection?

Mr. HENLOCK. Mr. Chairman, we have no actuarial figures available, but I am sure with 52 employees the cost would be very, very slight.

Mr. DANIELS. It has been estimated at \$16,800 a year.

Mr. HENLOCK. We do not have any information on that cost. That cost would normally be developed by the Civil Service Commission.

Mr. DANIELS. This information was furnished to us by the Civil Service Commission.

Mr. HENLOCK. Yes, sir; thank you.

Mr. DANIELS. Mr. Matsunaga, do you have any questions?

Mr. MATSUNAGA. Mr. Chairman.

How are the employees hired to begin with? Are they required to undergo competitive examinations?

Mr. HENLOCK. No, sir. Ordinarily we do bring in personnel temporarily, as we need them, to help out in the gardens, and when we find they are proficient and look as though they will be desirable additions to the organization and show an aptitude for training in gardening work, we then appoint them on the permanent roll when vacancies occur. The turnover is very, very slight, usually resulting from retirement or death.

Mr. MATSUNAGA. They are not required to undergo competitive examinations?

Mr. HENLOCK. That is correct, sir.

Mr. MATSUNAGA. What is the average length of service of the 52 you now have?

Mr. HENLOCK. At least 15 years I think is a safe statement.

Mr. MATSUNAGA. What is the range of service?

Mr. HENLOCK. We do not have that figure with us but we can furnish it. [The average length of service is 17 years.]

Mr. DANIELS. Please submit that.

Mr. MATSUNAGA. What is the range of ages?

Mr. HENLOCK. From men in their twenties to men in their sixties.

Mr. MATSUNAGA. And the hiring and firing is done by whom?

Mr. HENLOCK. The Architect of the Capitol.

Mr. MATSUNAGA. No further questions.

Mr. DANIELS. He may fire them at the present time?

Mr. HENLOCK. Yes, sir.

Mr. ROOF. Mr. Chairman, recommendations for employment of personnel are made to Mr. Stewart, normally by the landscape architect for the Capitol Grounds, who is an employee of the Architect, but acts as Mr. Stewart's representative in running the Botanic Gardens. He is a qualified landscape architect, and he passes on their qualifications.

Mr. DANIELS. Therefore Mr. Stewart through the landscape architect may hire or discharge any employee at any time he sees fit. They have no civil service protection regardless of the number of years of service. By bringing them in with civil service status they receive protection the same as all other Federal employees in civil service;

Mr. ROOF. I don't believe it is proposed to bring them into full——

Mr. MATSUNAGA. This bill does not.

Mr. DANIELS. I stand corrected.

Mr. ROOF. They will remain under the Architect of the Capitol just like the other employees.

Mr. DANIELS. Mr. Hanley.

Mr. HANLEY. Mr. Henlock, with respect to the status of these employees other than the areas mentioned here this morning, are there other differences with respect to their status as opposed to other Departments under jurisdiction——

Mr. HENLOCK. No, sir. I would say they are otherwise treated the same as employees of the Office of the Architect of the Capitol and the same standards apply.

Mr. HANLEY. Thank you, Mr. Henlock. No further questions.

Mr. DANIELS. The Chair has in its possession a report from the Architect of the Capitol, dated April 14, 1965, which will be inserted in the record at this point.

(The report follows:)

ARCHITECT OF THE CAPITOL,
Washington, D.C., April 14, 1965.

Hon. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.*

MY DEAR MR. CHAIRMAN: In response to your several communications, I have the following report to make on H.R. 1536, H.R. 5562, H.R. 6686, and H.R. 6943, all identical bills amending the Civil Service Retirement Act in order to correct an inequity in the application of such act with respect to the U.S. Botanic Garden.

The purpose of these bills is to accord the employees of the U.S. Botanic Garden the same retirement benefits as accorded employees of the U.S. Senate, House of Representatives, and the Office of the Architect of the Capitol.

The regular year-around force of the U.S. Botanic Garden totals 52 employees, 47 of whom are compensated under the wage-board system and 5 under the Classification Act. By law (40 U.S.C. 216), employees of the U.S. Botanic Garden are under the control of the Joint Committee on the Library and have been continuously under such control since 1873. This provision of law provides, as follows:

"There shall be a superintendent and assistants in the Botanic Garden and greenhouses, who shall be under the direction of the Joint Committee on the Library."

On July 3, 1934, the Joint Committee on the Library appointed the Architect of the Capitol as Acting Director of the U.S. Botanic Garden and the Architect of the Capitol has continued to serve in this capacity since that date. The Architect of the Capitol performs his duties as Acting Director of the U.S. Botanic Garden under the direction of the Joint Committee on the Library, as provided in 40 U.S.C. 216.

None of the employees of the Botanic Garden is subject to the congressional employees benefits of the Civil Service Retirement Act. Since 1920, they have been subject only to the same benefits as employees of the executive branch.

Whereas it is true that many of these employees enjoy long tenure of office, yet this is also true of many employees of the Senate, the House, and the Office of the Architect of the Capitol. Like the employees of the Senate, House, and Architect of the Capitol, these employees do not have civil service or other protective status.

Although the Architect of the Capitol has been serving as Acting Director of the Botanic Garden for the past 31 years, the employees of the Botanic Garden have not, by law, been made employees of the Office of the Architect of the Capitol. The Botanic Garden has continued to operate as a separate unit under the Joint Committee on the Library.

Since these employees are employees of the legislative branch under the control of a Joint Committee of Congress, no reason is perceived why they should not be accorded the same retirement benefits as employees of the Senate, the House, and the Architect of the Capitol, who are now covered by the congressional benefits provisions of the Civil Service Retirement Act.

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As Architect of the Capitol, it is my recommendation that existing law be amended to include the employees of the U.S. Botanic Garden under the congressional benefits of the Retirement Act, so that all employees of the Congress may receive like benefits, as proposed in H.R. 1536, H.R. 5562, H.R. 6686, and H.R. 6943.

Yours very truly,

J. GEORGE STEWART,
*Architect of the Capitol,
Acting Director, U.S. Botanic Garden.*

Mr. DANIELS. Gentlemen, thank you.

Mr. HENLOCK. Thank you, Mr. Chairman.

Mr. DANIELS. There has been submitted a statement of Hon. Silvio O. Conte, author of H.R. 5562, Member of Congress from Massachusetts.

(The statement follows:)

STATEMENT OF HON. SILVIO O. CONTE, FIRST DISTRICT, MASSACHUSETTS

Mr. Chairman, I would like to take this opportunity to thank you and the members of this subcommittee for the opportunity you have afforded me today to appear before you in support of my bill, H.R. 5562, which I introduced on March 1, 1965. My bill is similar to one introduced by your chairman, Mr. Daniels, Mr. Machen, of Maryland, and Mr. Skubitz, of Kansas.

The bill is designed to correct what I sincerely believe to be an inequity in the application of the Civil Service Retirement Act to employees of that fine institution, the U.S. Botanic Garden. The bill would accord the employees of the Botanic Garden the same retirement benefits as those accorded employees of the U.S. Senate, the House of Representatives, and the Office of the Architect of the Capitol.

By law, the employees of the Botanic Garden are under the control of the Joint Committee on the Library and have been under the control and direction of that committee, or its predecessor, since 1873. In 1934, the Joint Committee on the Library appointed the Architect of the Capitol as Acting Director of the Botanic Garden, and he has served as such since that date.

Unlike our own employees, these employees of the U.S. Botanic Garden do not have civil service status, but serve under the Joint Committee on the Library. In this respect we may liken them to other committee staffs.

I am certain that all of us are acquainted with the work these employees do. Many of your constituents are surely also aware of their work. During the year these employees work diligently to give Washington, D.C., and the many visitors who come to this city splendid flower shows.

The year begins at the Botanic Garden with the azalea show, followed by the magnificent Easter flowers. They then place before us the dahlia and the rose. In the fall and winter we are treated to beautiful arrays of chrysanthemums, then wonderful arrangements of Christmas greens—and last, but not least—is the poinsettia show, which begins around the middle of December. All of these, so warmly received by the public, are but a facet of their work.

I believe that the success of their efforts is best reflected in the growing numbers of people who have visited the Botanic Garden in recent years.

These employees of the Botanic Garden, Mr. Chairman, are in a very real sense employees of the legislative branch, although their function is not legislative. To continue to deny them the same benefits which we accord to our other employees, and which we accord to the other employees of the Office of the Architect, who is their Acting Director, is, in my mind, grossly unfair.

I strongly urge that the members of this committee give favorable consideration to my bill which would remove the inequities now affecting a total of 52 employees of this Congress.

We have passed this year legislation that will spend millions of dollars on tar and asphalt. Certainly we can pass legislation that would directly benefit so few employees who have shown their dedication to this Congress for so many years.

Thank you, Mr. Chairman.

(A letter from Hon. Santiago Polanco-Abreu, Resident Commissioner of Puerto Rico, was also submitted as follows:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 6, 1965.

Hon. TOM MURRAY,
*Chairman, House Committee on Post Office and Civil Service,
213 Cannon House Office Building, Washington, D.C.*

DEAR COLLEAGUE: I take the liberty of writing you in the interest of our good friends at the Botanic Garden to express my support of H.R. 1536, now pending before your Committee on Post Office and Civil Service, which would extend the civil service retirement program to include the employees of the U.S. Botanic Garden.

I understand that many of these employees have devoted a considerable portion of their lives, and in the case of some of them, the greater portion of their lives, in the interest of beautifying Federal areas, of propagating and raising flora for U.S. Government official functions in the Nation's Capital, and often times the fruits of their labor are enjoyed by the individual offices of the Congress, by ourselves, by our constituents, and by the public at large, which comes to see us.

This work demands a high degree of skill and professional dedication to achieve the perfect results desired.

It would seem only right and proper that these Federal servants be granted the same security and retirement rights under the Federal civil service system, as other Federal employees.

I hope that your committee may see fit to report H.R. 1536 with favorable recommendations and that the full committee may accede to the recommendations of the subcommittee which handled the bill.

I should appreciate it if you would make this letter a part of the record on the bill.

Sincerely,

SANTIAGO POLANCO-ABREU,
Resident Commissioner of the Commonwealth of Puerto Rico.

Mr. DANIELS. The subcommittee is now adjourned.
(Whereupon Tuesday, May 4, 1965, the subcommittee adjourned.)



As letter from the Committee on Finance, House of Representatives, dated July 1, 1933, is now submitted as follows:

Committee on Finance, House of Representatives,
Washington, D.C. May 2, 1933.

Dear Mr. [Name]:

The Committee on Finance, House of Representatives, has the honor to acknowledge the receipt of your letter of April 1, 1933, in which you requested that the Committee should take action on the bill (H.R. 1000) for the purpose of providing for the retirement of notary publics.

The Committee has the honor to inform you that it has taken action on the bill (H.R. 1000) and has passed it on to the Senate. The bill is now pending in the Senate. The Committee has also taken action on the bill (H.R. 1001) for the purpose of providing for the retirement of notary publics, and has passed it on to the Senate. The bill is now pending in the Senate.

The Committee has the honor to inform you that it has taken action on the bill (H.R. 1002) for the purpose of providing for the retirement of notary publics, and has passed it on to the Senate. The bill is now pending in the Senate.

Very respectfully,
[Signature]

Committee on Finance, House of Representatives,
Washington, D.C.

The bill (H.R. 1000) is now pending in the Senate.

The bill (H.R. 1001) is now pending in the Senate.

The bill (H.R. 1002) is now pending in the Senate.