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94-46 REINSTATEMENT OF SURVIVOR ANNUITIES FOR
CERTAIN WIDOWS AND WIDOWERS

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HEARINGS
BEFORE THE
SUBCOMMITTEE ON
RETIRED AND EMPLOYEE BENEFITS
OF THE
COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS

FIRST SESSION
ON

H.R. 2516

A BILL TO AMEND TITLE 5, UNITED STATES CODE, TO PRO-
VIDE FOR THE REINSTATEMENT OF CIVIL SERVICE RE-
TIREMENT SURVIVOR ANNUITIES FOR CERTAIN WIDOWS
AND WIDOWERS WHOSE REMARRIAGES OCCURRED BE-
FORE JULY 18, 1966, AND FOR OTHER PURPOSES

OCTOBER 7 AND 9, 1975

Serial No. 94-46

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Committee on Post Office and Civil Service



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RECOMMENDATIONS

Mr. John F. McClelland, president, National Association of Retired Federal Employees:

(1) The provision requiring termination of an annuity upon remarriage before 60 years of age should be eliminated.

(2) Eligibility to participate in the Federal employees' health benefits program should be restored when survivor annuities are restored.

(3) The subcommittee should consider and take positive action on H.R. 6141, a bill to provide survivor annuities to subsequent spouses of certain deceased annuitants who died after making available survivor annuities for previous spouses at the time of retirement.

Mr. Thomas A. Tinsley, Director, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission:

(1) The reinstatement of a survivor annuity should be accompanied by a restoration of health benefits under the Federal employees' health benefits program.

Dr. Lawrence G. Derthick, member, National Retired Teachers' Association and the American Association of Retired Persons:

(1) A clean bill should be prepared which would, without any question whatsoever, restore, in the case of survivors who remarried after age 60 but prior to July 18, 1966, their former survivor annuities and, in the case of survivors who remarried before age 60 and before July 18, 1966, and whose marriages were subsequently dissolved, the option of taking the survivor annuities they formerly received.

(2) If the subcommittee undertakes to develop legislation to deal with the survivor in the restoration issue, there should also be legislation to allow for the restoration of eligibility to participate in the Federal employees' health benefit plans, as well.

REINSTATEMENT OF SURVIVOR ANNUITIES FOR CERTAIN WIDOWS AND WIDOWERS

TUESDAY, OCTOBER 7, 1975

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS
OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 9 a.m. in room 304, Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

Mr. WHITE. The subcommittee will come to order.

We are convened this morning to commence hearings on H.R. 2516, a bill introduced by Congressman William Lehman of Florida.

Section 1 of H.R. 2516 would amend the United States Code so that section 8341 of title 5 would be deemed to provide a survivor annuity for a widow or widower—

(1) of an employee who died, retired or was otherwise separated from employment at any time;

(2) who remarried at any time, before, on or after the enactment of this bill; and

(3) who immediately before her or his remarriage was receiving an annuity from the Civil Service retirement and disability fund.

Any annuity payment to be made by reason of enactment of this bill would be prospective only.

Section 2 of the bill would amend section 8341(g) of title 5 to provide for the restoration of a survivor annuity terminated before, on or after July 18, 1966, because of remarriage before becoming 60 years of age upon the dissolution of such remarriage by death, divorce, or annulment.

I would like to note that a bill similar to this bill, H.R. 6542, has been introduced by Congressman Paul Simon of Illinois. The scope of the two bills is not identical and it may be that we will want to combine the provisions of these bills in some fashion after our hearings have been held.

On Thursday, October 9, 1975, when we continue our hearings on H.R. 2516, both Mr. Lehman and Mr. Simon will be present to discuss the provisions of their respective bills.

At this time we will call on Mr. John F. McClelland who is accompanied by Ms. Judy Park.

(1)

STATEMENT OF THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES BY JOHN F. McCLELLAND, PRESIDENT, ACCOMPANIED BY MS. JUDY PARK

Mr. McCLELLAND. Thank you, Mr. Chairman.

Mr. Chairman, I am John F. McClelland, president of the National Association of Retired Federal Employees, representing directly 225,000 former Federal employees, their spouses, and survivors. Although our membership records do not specify whether a member is a retiree, a spouse, or a survivor, I would estimate that approximately 40 percent of our membership is composed of current and potential survivor annuitants. Thus, their financial welfare is of great importance to us.

It is because of these survivor annuitants that I am pleased to appear before you this morning, to urge positive subcommittee action on H.R. 2516 and similar legislation such as H.R. 6542. H.R. 2516 was introduced by Representative William Lehman a Democrat from Florida and H.R. 6542 by Representative Paul Simon a Democrat from Illinois both members of the full Post Office and Civil Service Committee.

This legislation, if enacted, would restore survivor annuity retention rights to survivors who remarried before July 18, 1966, granting these survivors the same benefits now enjoyed by the widows and widowers of Federal retirees who remarried after the so-called "magic" date. Enactment of this measure would correct a gross inequity in the Civil Service Retirement Law, an inequity which has already existed far too long and has already deprived a certain group of survivors considerable financial benefits.

On July 18, 1966, Public Law 89-504 was enacted. Among its provisions was continuation of survivor annuities to survivors who remarried after age 60 and restoration of survivor benefits to those who remarried before age 60 if the remarriage subsequently was dissolved by death, divorce, or annulment. This liberalization of survivor benefits, however, applied only to survivors of persons who retired from or died in service after the law's enactment date.

Three years later, with enactment of Public Law 91-93, the law was further liberalized to permit continuation or right to restoration of survivor benefits to survivors without regard to the date of the annuitant's death or retirement. The new law, however, continued the inequity by stipulating that the date of remarriage would become the governing factor, and the date of remarriage would have to be on or after July 18, 1966.

When hearings were being held on the legislation which resulted in Public Law 91-93, NARFE strongly opposed the denial of these liberalized benefits to persons who remarried before July 18, 1966, and we have continued to oppose it as a discriminatory requirement since that time. We hope that, now, 9 years after the original law, and 6 years after the original liberalization, the committee and the Congress will see fit to eliminate the July 18, 1966 limiting date from section 8341 of the law.

Mr. Chairman, there is no logical way to explain to a survivor who remarried after age 60 but before July 18, 1966, why she had her survivor annuity stopped upon remarriage, when perhaps her neighbor

or friend who remarried after age 60 but several days after July 18, 1966 has been able to continue receiving her survivor benefits. The only explanation, and certainly not a very comforting or even rational one, is that in the eyes of Congress she remarried "too soon."

That is also the only explanation to the survivor who remarried before age 60 and before the magic date and later had the second marriage dissolved. Under similar circumstances, her counterpart who remarried after the July 18, 1966 date is eligible for restoration of her original survivor benefits, but she is not. The obvious question is, "Why?"

The annuitant spouse of the survivor who remarried before July 18, 1966 and lost all rights to her survivor annuity, and the annuitant spouse of the survivor who remarried after that date, both made provision for survivor benefits when they retired and both suffered reductions in their own annuities to pay for these benefits. In many instances the spouse of the survivor who remarried "too soon" paid a greater percentage of his annuity for survivor benefits, since he was an earlier retiree and retired when as much as 25 percent was withheld for survivor benefits. Why should the survivor's rights to retention of survivor benefits differ because of the date of remarriage? There is no just reason.

The U.S. Civil Service Commission tells us they have no way of determining the exact number of survivors who would benefit by enactment of H.R. 2516, but their closest estimate is 3,500. Using this figure they estimate a total cost of this legislation at \$8 million, which breaks down to a yearly amortization cost of \$500,000 for the next 30 years. Neither the number of potential beneficiaries, nor the cost to the retirement fund is large, and we firmly believe that the equity brought about by this long overdue change in law is well worth the small additional cost.

The Government has already saved a great deal of money in this instance, Mr. Chairman, by not paying these survivor annuities for as long as 9 years. It has also saved by not having these unpaid benefits increased further by cost-of-living increases which have occurred in the past. For the large number of effected beneficiaries, payment in the future will be limited, because if they were already at least age 60 when they remarried, the youngest would now be 69 years old. By virtue of age, the number effected will decrease each year, with proportionate payment decrease.

I would be surprised and disappointed if any Member of Congress would object to the social merits of this legislation or to its relatively low cost. It provides more than a benefit due; it provides a benefit overdue.

Our association further believes that the age 60 requirement should be eliminated from the law at this time. Originally it was felt that this age limitation was necessary to prevent so-called "death bed" marriages, or to prevent young women from marrying older retirees only to collect survivor benefits, and then remarry immediately, continuing to draw the survivor annuity until death. I believe this is an antiquated concept and one no longer valid in our society. The 60-year-age limit is the cause of moral duress to many survivors who wish to remarry yet cannot afford to forego their annuities. In some instances they

simply decide to live without marriage until they reach age 60 so as not to have their incomes cut.

We should also recommend that the proper amendment be made so that along with restoration of survivor annuity, allowance also be made for restoration of eligibility to participate in the Federal employees health benefits program. This eligibility ceased with the survivor annuity and should likewise be restored with it.

Mr. Chairman, there is yet another area of the law where discrimination between survivors exists. Second spouse survivors of annuitants who died before enactment of Public Law 91-658, on January 8, 1971, are denied the survivor benefits elected and paid for by their spouses, while second spouses of annuitants who died after that enactment date are granted survivor benefits.

Again, eligibility for and payment of survivor annuities is dependent upon a date. Legislation to eliminate the January 8, 1971, date from the second spouse law has been introduced in this Congress by Representative James Wright of Texas. We would urge the subcommittee's early consideration and positive action on H.R. 6141, the correcting bill.

Thank you for your attention to these areas of discrimination between survivors. I trust that the Congress will take early action to assure that all survivor annuitants are granted equal benefits under the law.

Mr. WHITE. Thank you, Mr. McClelland.

I guess I'm going to repeat what you said to simplify it. A man is married or an employee is married to an annuitant and dies. The survivor then remarries and loses her benefits at that point.

Mr. McCLELLAND. Under present law, she does not; except under age 60.

Mr. WHITE. Then second marriage then, Mr. McClelland, I assume means death or dissolution. The annuity can be restored if she is age 60 and has married after July 18, 1966?

Mr. McCLELLAND. Right.

Ms. PARK. She doesn't have to be age 60. Her age has no apparent meaning in the matter. As long as the second marriage is dissolved and the remarriage took place after July 18, 1966, her rights are restored.

Mr. WHITE. If the second marriage is dissolved, then her annuity is restored automatically?

Mr. McCLELLAND. Right.

Mr. WHITE. OK. Now, we're getting somewhere. Then, in other words, all we're talking about now is the situation where the survivor has remarried and that new marriage is in being.

Ms. PARK. No; we're also talking about the person who remarried after age 60 but before July 18, 1966.

Mr. WHITE. That's what I thought I said earlier.

We'll go back again. The second marriage is dissolved. All right. The annuity is restored automatically if she has married after July 18, 1966?

Mr. McCLELLAND. Right.

Ms. PARK. And before age 60.

Mr. WHITE. Before age 60. If they married before July 18, 1966, you're telling me that before the age of 60 or after age 60, both, she cannot get her annuity restored?

Ms. PARK. Either restored or continued.

Mr. WHITE. What we're talking about is people who married prior to July 18, 1966, whether they remarried or not.

Ms. PARK. When they remarry, before age 60 or after age 60?

Mr. WHITE. Regardless. This bill seeks to eliminate the July 18, 1966, provision as to those who reach 60.

Ms. PARK. And those who remarry before age 60.

Mr. WHITE. The Lehman bill does this?

Ms. PARK. Yes.

Mr. WHITE. Now, I thought you were stating in your testimony the additional suggestion that we eliminate the age 60 as a requisite for receiving annuities?

Mr. McCLELLAND. We do. I believe at age 60 the requirement should be eliminated in the law at this time. If anyone now has reached age 60 and remarries, they keep this survivor annuity.

Mr. WHITE. You're talking about to those who are still married?

Mr. McCLELLAND. If a person remarries at age 60, they now maintain the survivor annuity; if they are under age 60, they lose it.

Mr. WHITE. You are suggesting the elimination of age 60 even those who are under 60 and for those who may be only 30 years of age receiving an annuity who remarry, such person should still be able to retain her annuity even though she remarries?

Mr. McCLELLAND. That's right.

Mr. WHITE. A person cannot collect two annuities, can they?

Mr. McCLELLAND. No, sir. If the person is a survivor and remarried and married a retiree and that retiree would die, she could select one or the other. Of course, she would select the higher.

Mr. WHITE. Did you recognize any kind of an actuary date or age for the age of productivity? In other words, in my illustration I gave you earlier of someone who is 30 years of age and remarried, you are suggesting theoretically that that person be able to continue her annuity even though she remarries?

Now, do you recognize at all that that 30-year-old could go out and earn a living herself as opposed to someone 60 years of age?

Mr. McCLELLAND. I recognize that fact.

Mr. WHITE. Now, if she has small children, the children would continue to receive until they have reached a certain age or have finished their schooling. That's probably the way the law provides.

I don't know if sociologically that would be entirely fair or desirable. It would be difficult to compute the retirement program if it allowed someone to continue their annuity regardless of their age. Would that open the door for marriage of convenience?

Mr. McCLELLAND. I really don't think it would. We find very few cases, and that's the reason we make our statement like this.

Mr. WHITE. Why do you feel that the change should be made regardless of their age on remarriage? What sociological condition exists that sways you?

Mr. McCLELLAND. First of all, I think since the retirees' annuity is paid to take care of survivorship and when he enters into a marriage contract, that this person does have a right to believe that the spouse is to be taken care of under the condition of survivorship.

Mr. WHITE. You understand if this is the case, your contribution would have to be increased or your benefits would have to be lowered?

Mr. McCLELLAND. Mr. Chairman, from my own observation and discussion among many retirees, we feel that this is a small number of people involved.

Mr. WHITE. I'm not sure. It might have a great increase if this opportunity exists. The Government employees might be the most attractive people in the market.

Mr. McCLELLAND. What's wrong with that?

Mr. WHITE. Mr. Taylor?

Mr. TAYLOR. I apologize for being late, but I'll read the entire text of your statement. As I understand it, if an annuitant is 60 years old and remarries at the present time, they do go ahead and receive their annuity. What you're referring to is an annuitant who is less than 60 years old does not receive under the present law, if they remarry, is that correct?

Mr. McCLELLAND. That's the one particular item we were discussing right now.

Mr. TAYLOR. Do you have any idea how many of these people there are who remarry?

Mr. McCLELLAND. We have no idea how many there are. The only thing I saw in this is in visiting around the retirement community, we don't find many of them marrying younger spouses, younger men or younger women.

Mr. TAYLOR. I don't have anything further.

Mr. WHITE. I really believe that you are correct in the danger of persons living under less than moral circumstances under the present status of the law. May I pose one alternative? I'm making a hypothetical here.

Supposing the present law were changed so that the survivor of the first marriage, would take at age 60 or the date of retirement of the second or subsequent spouse at her option. I can see where a woman who enters a second marriage, could be 10 years younger than her spouse. Under those circumstances then she would not have her annuity restored until he retires and his income or combined income would be reduced considerably. In order to enjoy the intention of the annuity, she should retake at that moment when their incomes have been lowered.

I can't see that she should get the benefits of the retirement program if she is married to a productive man. There will be a time when his income is reduced. At that time, I think it would be proper for her to take, even if she hasn't reached the age 60.

What do you think of that option?

Ms. PARK. We had a suggestion that if the survivor annuity stopped before age 60 upon remarriage that it then commenced again when the survivor attained age 60. It is essentially along the same line.

Mr. WHITE. I'm talking about her age 60 or the retirement date of her spouse, because he's the breadwinner.

Ms. PARK. Yes.

Mr. WHITE. Then perhaps—

Ms. PARK. Setting it up later so you're not paying in the interim if she remarried at age 30.

Mr. WHITE. Because she is able to produce and I'm concerned about age 60 also. A woman is going to have a hard time producing, about the age 55 is when her production or opportunities for production and

reemployment are just about shot. It is awfully hard for a woman of 55 to get a job. She might do it at 50, but at 55, she will have a tough time.

Mr. TAYLOR. I would assume that the reduction in employee benefits, the reduction that an employee takes in benefits is actuarially computed to make the system sound under the present law and what I was wondering, Mr. Chairman, if we do change the law, would we need to restructure the system actuarially to take into account the changes that you ask?

I would assume that the Commission has structured the reduction in benefits that an employee takes in order to provide survivor benefits based upon present law. I think there is a need to obtain information figures and research by someone, either your association or the Civil Service Commission, to give the subcommittee the proper perspective as to what we might be doing to the civil service trust fund if we pass this particular measure into law.

Mr. WHITE. Counsel?

Mrs. DuVAL. If we were to eliminate that 60-year age requirement, would you be in favor of setting up some financial test? For example, if a 30-year-old woman marries a man of very little means, wouldn't you want her, in that case, to keep the annuity, whereas if she married someone who could support her quite well, you might not want her ever to collect.

Mr. McCLELLAND. If we find ourselves doing one thing with one person and one way or another with another person another way, we could never say we could support the proposition.

Mrs. DuVAL. Even though the plan is providing support for the individual who needs it?

Mr. McCLELLAND. It would be very difficult for us to defend that one.

Mr. WHITE. Thank you very much, Mr. McClelland.

Mr. McCLUSKEY. I would like to ask one question.

As you know, a single annuitant who provides for an insurable interest annuity takes a reduced annuity actuarially calculated to pay for his insurable interest.

What would you think about a woman under the age of 60 or under the age of 55, if she starts receiving an annuity at that age that the survivor annuity be reduced where actuarially it comes out that it is paid for?

Ms. PARK. Survivor annuity or the annuity?

Mr. McCLUSKEY. That the annuity itself be lots less than what she would have been receiving.

Mr. TAYLOR. In order to provide these benefits?

Mr. McCLUSKEY. Right.

Mr. McCLELLAND. If I understand you correctly, you're saying that the single person elects a survivor with insurable interest and takes a much larger reduction in order to provide for that person normally because they are a lower age.

It can run anywhere from 10 to 40 percent for that person. If the survivor was under age 60 to work out some type of formula so that the survivor annuity would be reduced, is that what you're saying?

Mr. McCLUSKEY. Right. It may not be possible, I'm just throwing that out as one of the suggestions.

Mr. McCLELLAND. I think it would create somewhat of an administrative nightmare. You get all of these different phases in this way, the way we're talking, everybody would be treated the same.

Mr. MCCLUSKEY. It would be based on the mathematical calculations?

Mr. McCLELLAND. Because of their age. It would create problems all right as far as we're concerned.

Mr. MCCLUSKEY. Thank you, Mr. Chairman.

Mr. WHITE. Thank you very much for coming today.

Mr. McCLELLAND. Thank you, Mr. Chairman.

Mr. WHITE. The subcommittee will now hear from Mr. Thomas Tinsley, Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission.

Mr. TINSLEY. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear today to present the views of the Civil Service Commission on this legislation to amend the civil service retirement law.

Public Law 89-504, allowed widows or widowers age 60 or over to remarry without losing the title to their survivor annuity. This law also allowed widows or widowers whose survivor annuities were terminated because of remarriage prior to age 60 to have their annuities restored upon the termination of the remarriage. However, these provisions only applied to widows and widowers of employees who had retired or died on or after July 18, 1966, the date of the law's enactment.

Public Law 91-93, which was enacted in 1969 expanded these provisions to apply to the widows and widowers of employees regardless of when the employee retired or died, provided the remarriage took place on or after July 18, 1966.

The Senate Post Office and Civil Service Committee in reporting out this legislation stated in part:

It has been the general policy of the committee to refrain from recommending legislation which has a retroactive effect upon civil service retirement; however, in this instance the equities of the situation are such that language permitting continuance of annuity in the case of a spouse whose survivor annuity is based on a death or retirement occurring prior to July 18, 1966, but whose remarriage occurred on or after the date of enactment of the 1966 act, should be approved.

H.R. 2516 proposes to extend these restoration rights to widows and widowers of former employees who were remarried prior to July 18, 1966. However, the restoration of annuity in the case of remarriages which have already been terminated would not be retroactive.

Over the years, the Commission has been consistent in opposing the retroactive application of retirement liberalizations. The Congress since 1948 has by its actions recognized the principle that liberalizing benefits for the future is occasionally necessary to help the retirement system in accomplishing a major function—helping attract and retain good Government personnel. However, this reason does not exist for liberalizing benefits to persons already retired or to their survivors.

Widows or widowers who remarried prior to July 18, 1966, lost their survivor annuities and, under the present law, are not eligible to have their survivor annuity restored if the remarriage is dissolved. We believe that H.R. 2516 would set an undesirable precedent which could

result in pressure to have other retirement liberalizations apply retroactively. Endorsing a policy of retroactivity would seriously impede the enactment of needed improvements in the retirement system. On the alternative, making liberalizations retroactive cannot be done without placing an intolerable financial burden on the Civil Service Retirement System and on the taxpayers. It should also be noted that every time a law liberalizing retirement benefits is enacted, some individuals miss out on the liberalizations by only a short period of time. However, any action, short of making each retirement liberalization retroactive to the effective date of the original 1920 Retirement Act, would exclude some persons.

Although the Commission does not know the exact number of former survivor annuitants whose remarriages have been dissolved and who would be affected by this bill, our best estimate is that there would be approximately 3,500 such persons and that enactment of H.R. 2516 would increase the unfunded liability of the retirement fund by about \$8 million. This sum would be amortized by 30 equal annual installments of \$500,000 each. Although this cost might be comparatively small, the impact on the cost of future legislation could be great. For these reasons, the Commission opposes enactment of H.R. 2516.

SUMMARY

Basically and briefly as our formal report to the committee on this proposed legislation states and as stated in my prepared testimony, we are somewhat sympathetic to the aims of this particular bill and recognize the problem that exists. We also recognize that in terms of the cost that is normally involved in retirement legislation the cost of this particular bill is relatively small, only \$8 million in unfunded liability when we're normally talking in the hundreds of millions or billions. However, our primary objection is the precedent that this would establish.

Congress and every administration in amending the retirement law has always opposed any retroactive provisions of the retirement law since the cost and expenditures are usually great and since the system is designed primarily as a staff retirement system.

Here we would be very definitely applying an amendment retroactively. The precedent it would establish, we believe, would be a bad one and constantly cited in the future for other retroactive applications and the consequences would be very undesirable and very costly.

That, basically, Mr. Chairman, is our position on this particular bill.

Mr. WHITE. Mr. Tinsley, let's resolve a philosophical analysis in this. In the national guard bill, for instance, that you have before you, was a bill in which we were reaching people that had been overlooked, but the eligibility pegged to a matter of working for the government or working in behalf of an agency that assisted the Government.

Am I correct on that?

Mr. TINSLEY. Yes; where the determination was made by the Congress that the Congress wanted to consider that service as Federal service as opposed to State service.

The retroactive application there, Mr. Chairman, I might point out was not completely retroactive. It indicated that only those in those positions as of a certain date would receive the credit for prior serv-

ice, and as a compromise at that time, the original legislation, instead of giving full credit for that service, pegged at 55 percent the amount of credit for that service.

A bill is presently before the Congress. I believe it has been amended by committee at least on the House side where it still would only apply and be applicable to those who are on the rolls as of a certain date and all that that bill purports to do is, instead of the 55 percent credit to give them the full credit for that service.

It really isn't a retroactive application.

Mr. WHITE. This particular bill addresses itself to a survivor of an annuitant who pays his or her money in to the fund. So whatever is done by the Government employee has been done, correct?

Mr. TINSLEY. Right.

Mr. WHITE. And there's no change of age as I understand the bill. What the bill seeks to do is to make eligible a person who committed an act external to the Government when she remarried, but which doesn't touch on the annuitant's service to the Government and doesn't touch on the amount of money that he contributed. Congress chose a date and said all right, those who are married after 1966 will therefore get the annuity.

You are suggesting that this was meant to apply to people in service at the time?

Mr. TINSLEY. Mr. Chairman, admittedly this is a rather difficult area from a standpoint of eligibility. Originally, in 1966 what Congress did was follow its usual procedure in this instance and say only those who retire after that date and their widows, if they remarried, would be entitled to benefits after age 60 in the event that they remarried. It was recognized after that that what you had done was tie eligibility to the retirement date of the employee and not the individual who was going to be receiving these benefits.

We are dealing here with survivor. So it left you in a situation where admittedly, how could you really justify the event of marriage if it happened to occur after a certain date and tie that back into retirement as of a certain date, 1966.

You had situations where two women who remarried on the same day where one would get benefits and one wouldn't. In 1969 Congress decided to resolve the dilemma without completely making the law retroactive to the beginning, this was to tie it to the date of this event and recognize the date of the remarriage or the dissolution of the remarriage. The date they chose was the 1966 date which was the original date that the provision was put into the law and controlled by date of retirement rather than by the date of the remarriage or the dissolution of the remarriage.

Mr. WHITE. Which would be more compelling if you were setting up retirement programs, the conception of a date of remarriage or the need of the person?

Mr. TINSLEY. It depends on what type of a system you're operating, Mr. Chairman. In my personal judgment in view of the fact that this is a staff retirement system, a system that in effect is a part of the pay system of the Federal Government; part of the conditions of the employment where an individual is entitled by virtue of the contributory system to certain benefits I would hate to see placed in

the system criteria where an amount of money that an individual earns subsequent to retirement or the amount of income that a widow might have suddenly determines the amount of retirement benefits that they will or will not receive.

I don't believe that a means test is appropriate.

Mr. WHITE. Isn't that really what an annuitant has in mind when he's setting up an estate or providing for the survivor?

Mr. TINSLEY. He certainly has in his mind providing for his survivor some type of support for the individual. That's true.

Mrs. DuVAL. It's my understanding that the survivor annuity system isn't self-supporting, is that correct?

Mr. TINSLEY. That's correct. The reduction in the employees' annuity to provide for the retirement benefit is not a straight actuarial reduction. If it were, it would be appreciably higher. In fact, if you recall the testimony on legislation to reduce the reduction it is almost meaningless.

It's 21½ percent on the first \$3,600 and then 10 percent above that. If you were to take and reduce that actuarially, it would be as high, if not higher than the situation that now exists in terms of insurable interest.

Mrs. DuVAL. In projecting the cost of this bill at \$8 million, did you take into account the "add-backs" that are provided for under section 8341(g) of title 5; for example, repayment of the lump sum paid when the annuity terminated and the requirement of choosing between two Government annuity plans?

Mr. TINSLEY. What I would have to do is check with our actuaries to determine what exactly went into this projection. This projection is not, in my judgment, a very solid one. We really don't know how many of these people exist and we're really not sure how many have remarried and subsequently had the marriage dissolved.

Rather than one of our firm actuarial estimates this I believe would be—I hate to call it a "guesstimate," our actuaries would feel very bad, but it's our best estimate. I would not bet my life on it.

Mrs. DuVAL. I realize the 3,500 individuals is also a "guesstimate." On what basis did you even come to that figure?

Mr. TINSLEY. Our chief actuary happens to be with me for another purpose. If you wish, I'll be very glad to bring him to the table to justify his estimate.

This is Mr. Ed Hustead. He is the Chief Actuary of the Civil Service Commission. He exercised the talent in arriving at this estimate and I'll ask him professionally to respond to your question.

Mr. HUSTEAD. It was very rough, we could identify about 2,500 widows who had been dropped from the rolls because they had remarried after age 60 and these, obviously, if they are still alive and remarried, would come back. So that's fairly solid.

There were in addition, I think, about 10,000 who had been dropped for remarriage before age 60 and before 1966. So the question was how many of those would now be over age 60 and unmarried and we just roughly guessed about 1,000 of those; that's how we got 3,500.

Being as the estimate was so rough, we didn't take into account minor considerations such as lump sum payments. It would be in that neighborhood, obviously, around 3,500.

Mrs. DuVAL. Thank you.

Mr. WHITE. Mr. Tinsley, let me go back to the philosophy a little bit. I think everybody in Congress generally wants to save money, but I'm not so sure that it is proper to perpetuate what would appear to be an inequity, only for this purpose of saving money. In other words, if there is a wrong and it proves to be a wrong, then I wonder if it isn't more important to right it.

I'm not trying to wave the flag, but in Vietnam we went through about 40,000 men because we considered it right. I'm sure that the money we spent there would have taken care of a lot of different programs. Let's examine this philosophy of right.

Suppose a lady who was married prior to July 18, 1966 wants to stay with her new spouse and then decides, "Well, I think we need that money and my neighbor over here married July 19, 1966 and she's getting it." So what I'll have to do is to divorce my husband and have my annuity restored and then remarry him.

Could she do that?

Mr. TINSLEY. She certainly could have the marriage dissolved and collect. Let me say that, Mr. Chairman, I'm rather sympathetic to the problem we're dealing with here and I think it is the same problem the 1966 Congress dealt with when they recognized this type of a situation was difficult to defend in terms of what happened.

I find it equally difficult to say, OK, someone presently who remarries before age 60 then has it dissolved is entitled to go back on the rolls and another individual who in this same period of time, just because it occurred prior to 1966, finds herself in a different situation.

I quite agree. I agree with you philosophically that it shouldn't be.

Mr. WHITE. It would discourage remarriage and encourage living without marriage prior to 1966.

Mr. TINSLEY. Certainly many of our laws do that, if what I read in some of the journals and papers is correct. I understand that today there are a number of people who manage to have their marriages dissolved for tax purposes and subsequently, remarry. It's practically like a carousel.

Mr. WHITE. What I'm driving at, Mr. Tinsley, is in the case of the National Guard situation, there was an internal fact; remarriage is an external fact and it can be changed by annulment, divorce, or any kind of manipulation, to take advantage of the law.

Why put these people through that type of a manipulation in order to accomplish what apparently appears to be a justice anyway? I understand what you're driving at. You're trying to encourage people who were already in the service but by doing this, I feel the committee in the past, has done a real inequity and that sociologically it does have repercussions. If a person doesn't believe in divorce or has principles, she's going to suffer.

In other words, if she's willing to use the law to her advantage, all she has to do is get an annulment or divorce, so why not give some deference to the person that has these very strong principles and doesn't want to go on the record of having dissolved the marriage?

Mr. TINSLEY. Are you suggesting now, Mr. Chairman, suggesting going on—

Mr. WHITE. I'm talking about those who prior to July 1966.

Mr. TINSLEY. I would agree with you. I have no problems with that.

Mr. WHITE. But the administration position is contrary to that?

Mr. TINSLEY. Yes; mainly because of the precedent it establishes in this particular instance. The basic precedent of sticking with the date of the original retirement in 1969 was to some extent violated.

Mr. WHITE. Mr. Tinsley, what I've observed in Congress is one of topping all kinds of precedents.

Mr. Tinsley, we want you to know we appreciate your coming down here and stating your position and we understand your position.

Mr. TINSLEY. I would like to call the subcommittee's attention to one particular thing that Mr. McClelland alluded to that I do think was just an oversight on the part of the Congress, and it has as much significance today as the restoration of the annuity and that is the fact that even the widows today who now can have their annuity restored, are not eligible to again pick up their health benefits.

They were not restored to their eligibility for health benefits.

Mr. WHITE. Are you suggesting that if this committee approves a correcting bill that the administration would support that?

Mr. TINSLEY. I am certain that they would, although I have no official notice of that, but in my own mind, I am certain that they would.

Mr. WHITE. It is certainly something the committee needs to look into.

Mr. TINSLEY. It is certainly something that would not be that costly to the Government.

Mr. WHITE. Are you talking about the 25 percent?

Mr. TINSLEY. Right, the 60-40 sharing of health costs.

Health insurance is far more important to these people than the life insurance.

Mr. WHITE. Thank you very much for your appearance this morning.

There being no further business before the subcommittee the meeting is adjourned.

[Whereupon, at 10 a.m., the hearing was adjourned.]

REINSTATEMENT OF SURVIVOR ANNUITIES FOR CERTAIN WIDOWS

THURSDAY, OCTOBER 9, 1975

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 9:05 a.m. in room 304, Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

Mr. WHITE. The subcommittee will come to order.

We are convened this morning to continue hearings on H.R. 2516, a bill introduced by Congressman William Lehman of Florida. Mr. Simon, also, has introduced a similar bill.

Section 1 of H.R. 2516 would amend the United States Code so that section 8341 of title 5 would be deemed to provide a survivor annuity for a widow or widower—

(1) of an employee who died, retired, or was otherwise separated from employment at any time;

(2) who remarried at any time, before, on, or after the enactment of this bill; and

(3) who immediately before her or his remarriage was receiving an annuity from the Civil Service Retirement and Disability Fund.

Any annuity payment to be made by reason of enactment of this bill would be prospective only.

Section 2 of the bill would amend section 8341 (g) of title 5 to provide for the restoration of a survivor annuity terminated before, on, or after July 18, 1966, because of remarriage before becoming 60 years of age, upon the dissolution of such remarriage by death, divorce, or annulment.

As I noted at our prior hearing, H.R. 6542, introduced by Congressman Paul Simon of Illinois, is similar though not identical to this bill.

This morning we have the benefit of having both Congressman Lehman and Congressman Simon present to discuss the provisions of their respective bills.

Our first witness today will be Congressman William Lehman of Florida.

STATEMENT OF HON. WILLIAM LEHMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. LEHMAN. Mr. Chairman, I appreciate this opportunity to appear before your subcommittee this morning to express my vigorous support for H.R. 2516. I am hopeful that these hearings signal the termi-

nation of an inequitable situation that resulted from the imposition of an arbitrary cut-off date that has since deprived several thousand widows and widowers of certain financial benefits.

Simply put, Congress erred when it liberalized survivor benefits several years ago by not providing equal treatment under the law. The resultant inequity should be overwhelmingly clear to all present. Survivor annuitants who remarried before July 18, 1966 and whose second marriage has since dissolved by whatever fate, have been denied reinstatement of their eligibility for survivor benefits while those who remarried after this date remained eligible. On face value, such exclusionary practices are discriminatory and contradictory to our constitutional notion of fairness and equality.

This legislation, if enacted, would restore survivor annuity retention rights to survivors who remarried before July 18, 1966, thereby granting these survivors the same benefits now enjoyed by the widows and widowers of Federal retirees who remarried after this date.

An amendment to the legislation has been proposed that I believe merits your careful consideration. Along with restoration of survivor annuity, allowance also should be made for restoration of eligibility to participate in the Federal employees health benefits program. This eligibility ceased with the survivor annuity and should likewise be restored with it. Again this is to bring those currently excluded up to par with eligible beneficiaries.

Mr. Chairman, the potential number of beneficiaries declines daily because of deaths. This legislation will affect possibly 3,500 individuals by the best estimates the U.S. Civil Service Commission can come up with. Using this figure, the total cost is estimated at \$8 million. However, this sum will be amortized over 30 years at an annual expenditure rate of \$500,000. This is a small price to pay to rectify this unreasonable exclusion.

I would like to read from a letter I received from one of these excluded annuitants.

I believe her letter reflects the disappointment if not despair these individuals are experiencing. Her letter states:

The number and expense declines each year because of deaths, and the group in the end will self-destruct. The miniscule number of persons, microscopic amount of money, and lack of interest in survivors will all work against passage of a bill to correct this situation.

Mr. Chairman, I don't think we should allow that to happen. H.R. 2516 proposes a fair and equitable solution, in the removal of the cut-off date eligibility requirement. The objective is equalization among survivor annuitants and is a long overdue reversal of an unfortunate legislative error.

SUMMARY

Mr. Chairman you and most of your members of the subcommittee are conversant with the problems of the inequities here, the cutoff date where the widows that are married before a particular time are still ineligible for pensions.

I think that it is only about 3,500, as well as I can recall, in the whole United States that are basically subjected to this inequity, and yet when you go to a meeting of retired Federal employees, you do find in most of these meetings several people there that either know of, or are involved in one of these kinds of situations.

As you know, the widow is entitled to the pension as long as she remains a widow. If she remarries, the pension is stopped. But if the second husband dies, then once again she is often in a very, very precarious financial condition, and if she has been a wife of a Federal employee for 30 years before she remarried and also remarried only out of sheer loneliness and companionship in the elder years, she should not be penalized, and should not have to give up the benefit of the pension that the first husband paid for just because she sought companionship for several years in the elderly part of her life.

I just hope we can rectify this situation. It's one of the least costly pieces of legislation that I can remember being personally involved in, and even the cost itself is amortized over a number of years to where any particular effect on the Federal budget is going to be negligible. The amount of money that I think is an amortized annual cost, is about half million dollars a year.

I hope that we will be able, through your subcommittee, to work out a satisfactory solution to this particular problem.

I want to thank, again, the chairman for permitting me to be here, for the work of this subcommittee staff in bringing this piece of legislation to the subcommittee.

Mr. WHITE. I know your district includes a lot of retirees. I conclude you learned of this plight through the assistance of many of the retirees who moved to your district.

Mr. LEHMAN. Right. The NARFE organization brought it to my attention as well as many of its individual members.

Mr. WHITE. Mr. Tinsley appeared on behalf of the administration and established that the administration opposes your bill, but he did admit it was very easy to circumvent the provisions of the present law by retirees merely through the mechanism of annulment or divorce, and remarriage.

Mr. LEHMAN. Even by living in sin.

Mr. WHITE. So therefore it gravitates to the passage of a bill like yours.

Mr. LEHMAN. We shouldn't make a financial benefit for adultery.

Mr. WHITE. I notice that your bill does not include members of the legislative branch. Did you have any purpose in omitting those?

Mr. LEHMAN. No. I imagine that it would be easy to include those. I have no objection to that.

Mr. WHITE. Thank you very much, Mr. Lehman.

Mrs. DuVAL. I would like to know if you intend under the bill to include people who remarried prior to 1966—

Mr. LEHMAN. That is the main ones.

Mrs. DuVAL [continuing]. And were over 60 years of age when they remarried.

Mr. LEHMAN. I am not that familiar with the technical aspect of the different categories this would apply to, but the philosophy of the legislation is not to exclude anyone whose spouse had entitled them to a Federal pension and who, because of a remarriage since the original Federal spouse is dead, had been cut off from this pension and was now once again a single person.

Mrs. DuVAL. Thank you.

Mr. WHITE. Thank you, Mr. Lehman. We appreciate your coming.

Mr. Simon?

STATEMENT OF HON. PAUL SIMON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, ACCOMPANIED BY JOHN SAMUELS, STAFF MEMBER

Mr. SIMON. This is John Samuels, of our staff, who has been doing most of the work on this.

The basic thrust of my bill is the same as Mr. Lehman's. I have frankly not made a detailed comparison.

I believe that ours does cover the problems faced by widows and widowers of Members of Congress. Additionally, it covers basically the same problem, the same inequities that Congressman Lehman's bill covers.

In my case, I do not happen to bring this as a result of a constituent. I was visiting with a former Senator, Paul Douglas, and a friend of Senator Douglas, who happens to be from Wisconsin, learned that I was in Congress and explained this inequity to me. That is how I happened to get into it.

Since then, I have received a number of letters from people who really face a very unfair situation. If I may just take the liberty of reading two of these cases, Mr. Chairman: A woman living in Illinois, not my district, was married for 25 years to a man who was employed by the Civil Service for 27 years.

At the time of her husband's death, they were supporting a daughter in college, a son in high school, and another son, an 8-year-old.

After her husband's death, she received the survivor's benefit, but she had to take on a full-time job to make ends meet and to assist the high schooler in paying for the upcoming college education.

After 4 years, she remarried, in April of 1966. If she had just postponed that marriage 4 months, she would not have had any problem.

Her second husband died after only 2 years. She received only limited insurance benefits from her second husband, but was denied survivor benefits from her first husband.

I won't go into the second case. It is somewhat similar. That is the kind of inequity, it seems to me, we ought to straighten out.

I don't know what the total costs are. The administration witness you mentioned, who opposed it, probably had some cost figure, but it would be a declining cost figure in any event. It's not like many pension changes where you are building up 10, 20 years from now some huge cost.

Mr. WHITE. Actually, the Government witness, Mr. Tinsley, made the statement that it was the policy of the administration to resist efforts to reach back to make these measures retroactive. I think that was the primary reason they opposed the bill, although, we, in our discourse, determined that this does differ from many other retirement problems in that this is external and not intrinsic to the man's work.

For instance, some business would have a peg to tie-in service. This is merely an external act of the parties as to when they marry.

I think he developed to be very sympathetic to what we are seeking, but I think he felt he was constrained by the administration's direction.

Have you completed your remarks?

Mr. SIMON. I have completed my remarks.

If I may, just for the record, since we are on the record, I want to add my personal appreciation to the chairman. As a member of the Post Office and Civil Service Committee, I have been impressed. Your counsel and staff have to take credit here, too.

I am impressed that you are on top of things. You do your job thoroughly. As one member of the Post Office Committee, I appreciate that.

Mr. WHITE. That is very kind of you. Coming from a former Lieutenant Governor, I'm impressed by that remark.

There is one thing I would like to ask you or your counsel, if you know. As I mentioned, your bill does differ from Mr. Lehman's in that it does cover members of the legislative body. Now, could you enlighten us as to the present status of the retirement program as to Members of Congress? For example, is the state of the law such that a Member's widow, who remarries, and then divorces, regardless of when she remarries, and even if she remarries after July 1966, is not covered under reinstatement of benefits? You know this?

Mr. SIMON. I don't know.

Mrs. DuVAL. After 1971, the Members' spouses were treated in the same way employees' spouses. One problem that I thought appeared in your bill is that there is a period between 1966 and 1971 when Members' spouses were treated differently from employees' spouses.

The employees' spouses could remarry after age 60 and not lose their annuities. The Members' spouses still lost their annuities if they remarried at any age. By the bill being phrased, "Any remarriage before 1966," you are cutting out that 1966 to 1971 period for Members' spouses. I thought, perhaps, you might want to include them under the bill.

Mr. SIMON. I think it is a very good point that we certainly did not catch.

Mr. WHITE. I think arbitrary dates in this instance would lead to unwanted results. I think we can prepare this in the interim process. Do you have anything further, Counsel?

Mrs. DuVAL. No; thank you.

Mr. WHITE. Mr. Simon, we do appreciate your appearance today. I could respond to your compliments by saying we are impressed by your expertise, not only in committee, but on the floor. One thing I could say, you do things well. Thank you.

Mr. Derthick, would you come to the witness chair. If you would, please, give us your full name, and proceed.

STATEMENT OF LAWRENCE G. DERTHICK, MEMBER NRTA, REPRESENTING THE NATIONAL RETIRED TEACHERS ASSOCIATION AND THE AMERICAN ASSOCIATION OF RETIRED PERSONS, ACCOMPANIED BY JAMES HACKING, LEGISLATIVE REPRESENTATIVE

Mr. DERTHICK. I am Lawrence G. Derthick, Sr. For most of my professional life I have served as a school administrator, and during the Eisenhower administration, became the U.S. Commissioner of Education; I am now a life member of the National Retired Teachers Association. This morning, Mr. James M. Hacking and I are appearing as the spokesmen for that organization and its affiliate, the Ameri-

can Association of Retired Persons, to urge upon this subcommittee the development of legislation to eliminate the discrimination of the July 18, 1966, date against the survivors who, solely because of remarriage prior to that date, lost the survivor annuities or options for restoration of such annuities that they would not have lost if their remarriages had occurred after that date.

I wish to make clear to this subcommittee my motivation for being here. I simply became concerned by the plight of those suffering from this discrimination and wrote a letter critical of this civil service in equity which was published in the July-August issues of the NRTA and AARP news bulletins.

Those publications were distributed to all 8,300,000 members of these combined associations.

I was searching for a very small number of human needles in a great big people haystack. It seemed to me that if we and all others working with this problem were to help these senior citizens, we needed to get close to their feelings and anxieties, who they are, what are their circumstances and their compelling needs in these inflationary times. And we wanted to help them tell their story to you.

In response to that letter, I have received 315 replies—that is the first letter responses. Each of these I have read, logged, analyzed, and answered. Many I have discussed with those others who are likewise deeply concerned and working to help bring about the sorely needed remedy.

I see a representative of NARFE here today, an organization that has long worked valiantly and most persistently in its concern due to the distress suffered by these relatively few who have been so severely penalized by the discriminatory cutoff date.

It has been an impressive experience—my correspondence with these people—sometimes very touching, occasionally bringing a fleeting chuckle, but always leaving one sobered by the hurt and frustration, and in some cases, the dire financial difficulties experienced by those members of these organizations who are victimized by this minor inequity of the civil service law. The case file of these persons, and I have them all, is an eloquent argument for the correction of this particular feature.

Now, the letters came in July, and August, and early September, and are becoming a trickle now. I had a letter yesterday from one of these people, a woman who remarried just 16 days before the cutoff date, and she, like the others, just can't understand why the discrimination.

Mr. WHITE. Would you suspend one moment.

Is there any objection to a picture being made of the witness for his association?

Mr. DERTHICK. No. We'd like to include the counsel and chairman in that picture.

Mr. Chairman, this lady, like so many others, suffering the loss of their survivor annuities, also spoke with deep concern of the accompanying loss of the Federal health benefit program. That was repeated over again.

Another lady who comes to mind at the moment was one with a teenage daughter. She remarried thinking she would gain a good father for her daughter and one whose income would compensate

for the loss of her survivor benefit. But, as so often happened, the remarriage was a complete failure in all respects.

She was soon forced to divorce the man and find employment to support the girl, and herself, having sacrificed the annuity that she and her husband had shared in creating.

Some of these people are living on little more than \$100 to \$150 per month, and to read about their circumstances is a very agonizing experience. Then there was the case of the 72-year-old lady who, within about 8 months divorced. She said, "I should have divorced him the next day." So many of the remarriages were exceedingly unfortunate.

By the way, one of the most rewarding developments—and I think whatever efforts AARP and NRTA and I have invested were greatly rewarded when we uncovered a case of a woman in a small community who had her survivor benefits cut off in 1968 in error. If you could read her letter, you would realize why there was some limitations in the communication.

I don't fault the Civil Service Commission. I think they do a very fine job. But she said, "I have done everything I can. I have written to everybody I can. If you all can help me, do it quick," and then tells her about her circumstances. Happily, her benefits are fully restored with back pay to 1968.

Prior to July 18, 1966, survivor benefits were terminated upon remarriage. Public Law 89-504 provided for, (1) a continuation of annuities for the survivors of employees who died in service or who retired after July 18, 1966, if such survivors remarried after age 60, and (2) an option to have annuities restored for survivors of such deceased employees or retirees if such survivors remarried before age 60 and their remarriage was subsequently dissolved.

This newly created category of benefits was further expanded by Public Law 91-93 enacted in 1969. It restored annuities or annuity options to survivors who had remarried after July 18, 1966, but whose deceased spouse had retired from or died in service before that date.

Unfortunately, this partial retroactive restoration of annuities and annuity options did not eliminate the civil service retirement law's inequitable and dissimilar treatment among survivors. Under current law, survivors who remarried either before or after reaching age 60 but prior to July 18, 1966, do not have their annuities or annuity options restored; in the latter case, only upon dissolution of the second marriage.

Our associations are aware that two bills, H.R. 2516 and H.R. 6542, introduced by Congressmen Lehman and Simon, respectively, would attempt to correct this inequitable situation. We applaud the initiative taken by these legislators and the high purposes demonstrated by their introduction of these bills. It was pleasing to have them testify this morning.

However, some questions have been raised about possible technical pitfalls in them and the need for certain clarification in wording; thus while cheered by the spirit and intent of these bills, we hesitate simply to give them a blanket endorsement. Instead, Mr. Chairman, we urge that a clean bill—already we have heard of certain changes that need to be made—be developed that would without any question whatsoever restore, in the case of survivors who remarried after age

60 but prior to July 18, 1966, their former survivor annuities and, in the case of survivors who remarried before age 60 and before July 18, 1966, and whose marriages were subsequently dissolved, the option of taking the survivor annuities they formerly received.

We recognize that other matters affecting large numbers of civil service employees, annuitants, and their dependents have and will continue to occupy the attention of this subcommittee. The growth in the system's unfunded liability, the debate over the 1-percent increment, and the impact upon the system of the current adverse economic circumstances are all matters of concern.

Nevertheless, we certainly recognize that the conduct of these hearings is a demonstration of the subcommittee's interest in and sympathy for the small number of survivors who are not being treated equitably.

We have heard the arguments made by the Civil Service Commission against the legislation which we propose. The Commission, of course, concedes that the pool of potential eligibles who would be helped by such legislation is a relatively small 3,500 and because of that, the increase in the unfunded liability would be a relatively insubstantial 8 million; which would be amortized in 30 equal annual payments of \$500,000. But the Commission suggests that the retroactive restoration of annuities and annuity options would be bad precedent because it might result in cumulative retroactive extensions that would be costly and that changes in the system should be made prospectively in order to attract and hold new or current civil service employees.

Our associations tend to agree with the Commission as to the relative insignificance of the number of potential eligibles and the cost to the system that would result from the enactment of corrective legislation.

While the replies that I have received constitute only a random sampling and certainly not a scientific survey, still the fact that 8.3 million contacts were made about a matter of extreme importance to survivors and relatives with only 315 responses—and I might indicate also that many of these wouldn't qualify, they were railroad retirees, or retirees of local, State, and city systems, and so on, but the fact that there are only 315 responses suggests that the number of persons who would be helped by such legislation is likely to be small.

I always come back to those first people who fell by the wayside right after July 18, 1966. The youngest would be 69, and many of them are in their seventies and eighties. I would like for you to read some of those letters.

We just do not believe that the cost factor is sufficiently significant to counterbalance the arguments in favor of legislation to correct this particular inequity.

As to the Commission's first argument, our associations recognize the value of precedents. As a general rule, we believe that legislation to correct discriminatory aspects of the laws governing the operations of major retirement systems is desirable per se. While we also recognize that factors such as cost may counterbalance the desirability of such legislation from time to time, that is not the case with respect to the legislation we have suggested.

While precedents can be set, they cannot always control. In the legislative process, there is no strict adherence to the doctrine of stare decisis.

We believe that the correction of this small discriminatory feature would justify the confidence which civil service employees, annuitants, and their dependents have in the continuing willingness of the Congress to perfect and change the retirement system to meet their changing needs and circumstances. Certainly, the maintenance of confidence in the various retirement systems on the part of beneficiaries they serve is at least as important a consideration as the fear expressed by the system's administrators that a small retroactive extension of benefits may lead to other and bigger ones.

With respect to the Commission's second argument, our associations would suggest that continuing efforts on the part of this subcommittee and the Congress to improve a system which is already one of the best for those served by it is a more weighty inducement to employment and the retention of employees than the introduction of benefit liberalizations that apply only prospectively.

An employee may be less likely to leave Federal service if he feels that, when he retires, he will not simply be abandoned by the Congress and denied future benefit improvements.

This concludes my statement, Mr. Chairman.

Mr. Hacking of AARP and NRTA, legislative division, has a few remarks, very few remarks, which I hope you will hear.

We certainly want to thank you, Mr. Chairman, for the opportunity to present our views.

Mr. WHITE. We have Mr. Hacking listed as a witness.

Mr. HACKING. I want to reiterate a point Dr. Derthick made earlier: If the subcommittee undertakes to develop legislation to deal with the survivor restoration issue, we would also like that legislation to allow for the restoration of eligibility to participate in Federal employees' health benefit plans as well. All of these things should be corrected in one bill.

Mr. WHITE. Thank you very much. That was one of the questions I was going to ask. However, we find that when you bite too much, you sometimes have difficulty swallowing on the floor. We have been taking to the floor bills that would not invite or encourage any kind of veto or opposition. That is how we have been successful up to this time in correcting inequities such as you have mentioned.

I think you are probably right. Mr. Tinsley too suggested that the health benefit program be reinstated with the annuity, and I have legislation that is now being prepared for introduction for that purpose.

I worry about trying to combine apples and oranges. This always seems to invite problems on the floor. Anyway, we'll examine the issue further.

Dr. Derthick, you stated that the youngest would probably be 69.

Dr. DERTHICK. I referred to the first people who were cut off. It was done in 1966, by adding the 9 years intervening would make them 69 now.

Many of them are in their seventies and eighties.

Mr. WHITE. As I understand the bills, it doesn't matter if a person is under 60. She could be 30, 35.

Dr. DERTHICK. Only if the marriage is dissolved. My prior comment about those disqualified who are now in their eighties reminds me of a woman whose husband had served in the Post Office Department for almost 50 years. He had elected a reduced pension so that his survivor might benefit, a benefit that she, as so many rightly contend, had helped to earn. Then 2 months before the 1966 date, she remarried and lost her hard earned benefit.

Mr. WHITE. You are talking about those who would maintain their annuities even though they were still married. Over 60 years of age, that group.

Dr. DERTHICK. Yes, sir.

Mr. WHITE. Very good.

Do you have any suggestions, specifically as to changes in the bill when we go into markup?

Dr. DERTHICK. Let me defer to our legislative aide here.

Mr. HACKING. Mr. Chairman, I have looked at both of these bills. I am satisfied with neither of them because they are not clear. Our position is that we want to see a restoration of annuities to survivors who married after age 60 and before July 18, 1966, and the restoration of the annuity option for those who married before age 60, and prior to July 18, 1966.

It seems to me that Mr. Simon's bill would cover the restoration of the option, but I'm not sure that it also covers those who remarried after age 60 and before 1966.

Mr. Lehman's bill is somewhat unclear as well. I just hope that the committee develops a clean bill that would be very clear to these things we recommended.

Mr. WHITE. You have no language that you wish to submit to the committee?

Mr. HACKING. Not at this time. Perhaps we could be of assistance later.

Mr. WHITE. We would invite you to submit it to the subcommittee for consideration.

Dr. DERTHICK. We appreciate that opportunity. I can't help but reiterate the spirit of, and purpose of these two fine Congressmen who are concerned about this matter.

Mr. WHITE. What are your views with respect to reinstating survivor annuities terminated because of remarriage at age 60 regardless of whether the marriage has been dissolved? We have spoken of that already. You, of course, naturally favor that.

Dr. DERTHICK. Oh; yes, indeed.

Mr. WHITE. I believe that's all the questions we have. We appreciate both of you appearing this morning. It is my prediction this bill will receive favorable consideration from the committee and the House.

There being no further business before the subcommittee, the subcommittee is adjourned.

[Whereupon, at 9:40 a.m., the hearing was adjourned.]

H. R. 2516

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1975

Mr. LEHMAN introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes.

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

That the provisions of section 8341 of title 5, United States Code, providing survivor annuities for certain widows and widowers, shall be deemed to provide such an annuity for any widow or widower—

(1) of an employee who died, retired, or was otherwise finally separated, at any time;

(2) who shall have remarried before, on, or after the date of enactment of this Act; and

(3) who, immediately before such remarriage, was receiving an annuity from the Civil Service Retirement and Disability Fund;

except that no annuity shall be paid by reason of this section for any period before the date of enactment of this section.

SEC. 2. Section 8341 (g) of title 5, United States Code, is amended by striking out "after July 18, 1966" and inserting in lieu thereof "before, on, or after July 18, 1966".

94TH CONGRESS
1ST SESSION

H. R. 6542

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 1975

Mr. SIMON introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to restore the survivor annuities of certain remarried spouses whose remarriages have terminated, 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 That section 8341 (g) of title 5, United States Code, is
4 amended by striking out "after July 18, 1966" and inserting
5 in lieu thereof "before, on, or after July 18, 1966".

6 SEC. 2. In the case of a surviving widow or widower—

7 (1) whose survivor annuity payable from the civil
8 service retirement and disability fund was terminated
9 because of the remarriage of the widow or widower
10 before July 18, 1966; and

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1 (2) whose remarriage is dissolved by death, divorce,
2 or annulment before, on, or after such date;

3 the survivor annuity shall be restored to such widow or
4 widower commencing on (A) the date of the dissolution of
5 such remarriage; or (B) the date of enactment of this sec-
6 tion; whichever date is later, if

7 (i) the surviving widow or widower elects to re-
8 ceive such survivor annuity in lieu of a survivor benefit
9 to which the widow or widower may be entitled, under
10 subchapter III of chapter 83 of title 5, United States
11 Code, or another retirement system for Government em-
12 ployees, by reason of the remarriage; and

13 (ii) any lump sum paid on termination of the
14 survivor annuity is repaid to the civil service retirement
15 and disability fund.



UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

CHAIRMAN

October 6, 1975

Honorable David N. Henderson
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your request for the Commission's views on H.R. 2516, a bill to amend title 5, United States Code, to restore the survivor annuities of certain remarried spouses whose remarriages have terminated.

Public Law 89-504, approved July 18, 1966, permitted a widow or widower age 60 or over to remarry without losing title to survivor annuity. The same law also permitted a widow or widower whose survivor annuity was terminated because of remarriage prior to age 60 to have the annuity restored upon termination of the remarriage. These provisions, however, applied only to widows and widowers of employees who retired or died on or after July 18, 1966.

Public Law 91-93, approved October 20, 1969, expanded these provisions to apply to the widows and widowers of former employees regardless of when the employee retired or died, provided the remarriage took place on or after July 18, 1966.

H.R. 2516 proposes to extend the same restoration rights to those widows and widowers of former employees who were remarried prior to July 18, 1966. Restoration of annuity in the case of remarriages which have already terminated would be prospective only.

The Commission has consistently opposed retroactive application of retirement liberalizations. Since 1948, Congress by its actions has recognized the principle that liberalizing benefits for the future is necessary and desirable from time to time to aid the retirement system in accomplishing one of its major functions -- helping to attract and retain competent Government personnel. The same reason does not exist for liberalizing benefits to persons already retired or, as a fringe benefit, to their survivors.

A widow or widower whose remarriage took place prior to July 18, 1966, lost her (his) survivor annuity and, under present law, is not eligible to have that survivor annuity restored if the remarriage is dissolved. While the Commission sympathizes with these people, we believe that legislation as proposed by H.R. 2516 would set an undesirable precedent for the future which could generate pressure to have any retirement liberalization apply retroactively. Endorsing such a policy of retroactivity would seriously impede the enactment of needed improvements in the retirement system because of the high costs that would be involved.

The Commission does not know the exact number of former survivor annuitants whose remarriages have been dissolved and who would be affected by these bills. However, assuming a population of approximately 3500 persons, we estimate that enactment of H.R. 2516 would increase the unfunded liability of the Civil Service Retirement and Disability Fund by approximately \$8 million. Under the provisions of section 8348(f) of title 5, United States Code, this amount would be amortized by 30 equal annual installments of \$500,000 each. While this cost might be relatively small, the impact on the cost of future legislation could be great.

For these reasons, the Commission opposes enactment of H.R. 2516.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

Robert H. Haughton
Chairman

James M. Egan
Assistant Director for
Legislative Reference

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 7 1975

Honorable David N. Henderson
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

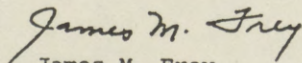
This is in reply to the Committee's request for the views of this Office on H.R. 2516, "To amend title 5, United States Code, to provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes," designed to restore survivor annuities terminated as a result of remarriage prior to July 18, 1966.

The purpose of this bill is to make retroactive the 1966 amendment to the retirement law which permits the widow or widower of a Federal employee to remarry after age 60 without loss of survivor annuity, and which also allows restoration of the annuity which was terminated because of remarriage before that age, when a remarriage is dissolved. The remarriage benefit was prospective, applying only to remarriages that occurred after the 1966 effective date.

In its report on this bill, the Civil Service Commission states its reasons for opposing retroactive application of retirement liberalizations.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend against enactment of H.R. 2516.

Sincerely,



James M. Frey
Assistant Director for
Legislative Reference

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