

**Calendar No. 526**

116TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
116-263 }

CONTINUITY FOR OPERATORS WITH NEC-  
CESSARY TRAINING REQUIRED FOR ATC  
CONTRACT TOWERS ACT OF 2019

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 2898



SEPTEMBER 8, 2020.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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### CONTINUITY FOR OPERATORS WITH NECESSARY TRAINING REQUIRED FOR ATC CONTRACT TOWERS ACT OF 2019

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Mr. WICKER, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### R E P O R T

[To accompany S. 2898]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2898) to amend title 5, United States Code, to provide for a full annuity supplement for certain air traffic controllers, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of S. 2898, the Continuity for Operators with Necessary Training Required for ATC Contract Towers Act of 2019 (CONTRACT Act of 2019), is to amend title 5 of United States Code to provide for a full annuity supplement for certain air traffic controllers.

#### BACKGROUND AND NEEDS

The Federal Aviation Administration (FAA) Federal Contract Tower (FCT) Program, established in 1982, allows the FAA to contract out the operation of certain low-activity ATC towers. Currently, 256 air traffic control (ATC) towers participate in the FCT Program. FAA controllers face mandatory retirement at age 56, and are eligible for retirement without a reduction in their basic annuity after either 25 years of service at any age or after 20 years of service if they are at least 50 years old. Historically, many retired FAA controllers continue their careers with towers within the FCT Program. However, under the Federal Employees Retirement System (FERS), retired FAA air traffic control specialists under the age of 62 who receive a FERS supplement annually have an annu-

ity offset penalty when they earn more than \$17,640 annually (the Social Security earnings limit in the 2019 tax year) until they reach age 62.<sup>1</sup> This has resulted in fewer retired FAA controllers entering the hiring pool for the FCT Program, even though demand for FCT Program controllers continues to increase.

In 2016, President Obama signed Public Law 114–251, which exempted retired FAA air traffic controllers who serve as ATC instructors on-site at FAA facilities, including the FAA Academy in Oklahoma City, Oklahoma, from the Social Security annuity offset penalty. The CONTRACT Act of 2019 would expand this exemption to allow eligible retired FAA controllers to serve as controllers in the FCT Program without including an annuity offset penalty to ensure that there is a sufficient trained workforce to staff the FCT Program.

#### SUMMARY OF PROVISIONS

The CONTRACT Act of 2019 would allow retired air traffic controllers to receive an exemption from the supplement offset penalty in their FERS annuity if they work as controllers at an air traffic control (ATC) tower operated under the FAA FCT Program. Retired FAA air traffic controllers are currently authorized to receive this exemption if they work as ATC instructors on-site at the FAA’s training academy or other facility.

#### LEGISLATIVE HISTORY

S. 2898 was introduced on November 19, 2019, by Senator Inhofe (for himself and Senators Moran and Murray) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. There are 42 additional cosponsors. On December 11, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 2898 reported favorably without amendment.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

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<sup>1</sup> See Tammy Flanagan, “The FERS Supplement: Q&A,” *Government Executive*, May 16, 2019 (<https://www.govexec.com/pay-benefits/2019/05/fers-supplement-q/157077/>) (accessed Jun. 23, 2020).

<b>S. 2898, CONTRACT Act of 2019</b>			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on December 11, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	*	8	15
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	8	15
Spending Subject to Appropriation (Outlays)	0	0	not estimated
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

Air traffic controllers employed by the Federal Aviation Administration (FAA) must retire by age 56—six years before reaching age 62, the age at which people can qualify for old-age insurance benefits under title II of the Social Security Act. Depending on when they entered federal service, air traffic controllers earn retirement benefits either through the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). Under current law, retired air traffic controllers covered by FERS who are younger than 62 receive supplemental annuity payments if their incomes do not exceed \$18,240. That income threshold is adjusted annually for inflation. For every \$2 in earnings above the threshold, retirees' supplemental annuity benefits are reduced by \$1. Those payments are disbursed from the Civil Service Retirement and Disability Fund and are recorded in the budget as direct spending. (CSRS retirees, whose benefit structure differs significantly from FERS retirees, are not eligible for such payments.)

S. 2898 would exempt certain retired air traffic controllers from the income limit; thus, those air traffic controllers would receive full annuity supplements even if their income exceeded the statutory limit. Specifically, the bill would exempt those retired controllers covered by FERS who are also employed under federal contracts as controllers at FAA contract towers.<sup>1</sup>

According to information from the FAA and industry groups, about 1,500 people are currently covered under such contracts, and about 10 percent of those contractors are FERS retirees who receive reduced supplemental annuity benefits because their earnings exceed the threshold. In recent years, the average annual benefit reduction for those retirees was about \$10,000 to \$12,000. In general, the other contractors are either covered under CSRS, work part-time to ensure that their income remains below the threshold, or do not otherwise qualify for supplemental benefits.

CBO assumes that the bill will be enacted in fiscal year 2020. On that basis, and using the information from industry groups, CBO

<sup>1</sup>Contract towers are air traffic control towers that are staffed by private contractors instead of FAA employees.

estimates that exempting retired air traffic controllers who work at FAA contract towers from the earnings limit would increase supplemental annuity payments, and thus direct spending, by an insignificant amount in 2020 and by a little more than \$1.5 million each year over the 2021–2030 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

TABLE 1.—CBO’S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF S. 2898, THE CONTRACT ACT OF 2019, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON DECEMBER 11, 2019

	By fiscal year, millions of dollars—													
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020– 2025	2020– 2030	
	Net Increase in the Deficit													
Pay-As-You-Go Effect	0	2	2	2	2	2	2	2	2	2	2	8	15	

Components do not sum to totals because of rounding.

The CBO staff contact for this estimate is Aaron Krupkin. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

##### NUMBER OF PERSONS COVERED

The population of persons covered by S. 2898 is limited to certain retired FAA air traffic controllers serving as air traffic controllers under the Federal Contract Tower program.

##### ECONOMIC IMPACT

S. 2898 is not anticipated to adversely impact the Nation’s economy, as it enables retired FAA air traffic controllers working as air traffic controllers under the Federal Contract Tower program to not receive an annuity offset penalty.

##### PRIVACY

S. 2898 is not anticipated to have a negative impact on the privacy rights of individuals.

##### PAPERWORK

S. 2898 is not anticipated to require additional paperwork.

##### CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title.*

This section would provide that the bill may be cited as the “Continuity for Operators with Necessary Training Required for ATC Contract Towers Act of 2019” or the “CONTRACT Act of 2019”.

*Section 2. Annuity supplement.*

This section would amend title 5 of United States Code to allow eligible retired FAA air traffic controllers to receive an exemption from the FERS supplement annuity penalty if those controllers serve as air traffic controllers under the FAA’s FCT Program.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

**UNITED STATES CODE**

\* \* \* \* \*

**TITLE 5—GOVERNMENT ORGANIZATION  
AND EMPLOYEES**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**Subpart G—Insurance and Annuities**

\* \* \* \* \*

**CHAPTER 84—FEDERAL EMPLOYEES’ RETIREMENT  
SYSTEM**

\* \* \* \* \*

**Subchapter II—Basic Annuity**

\* \* \* \* \*

**§ 8421a. Reductions on account of earnings from work performed while entitled to an annuity supplement**

(a) \* \* \*

(b) \* \* \*

(c) This section shall not apply to an individual described in section 8412(e) during any period in which the individual, after separating from the service as described in that section, is employed [as an air traffic] *as an—*

(1) *air traffic* control instructor, or supervisor thereof, under contract with the Federal Aviation Administration, including an instructor or supervisor working at an on-site facility (such as an airport) **[.1]**; or

(2) *air traffic controller pursuant to a contract made with the Secretary of Transportation under section 47124 of title 49.*

(d) \* \* \*

\* \* \* \* \*

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