84TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 2403

PROVIDING THAT THE SECRETARY OF THE NAVY SHALL APPOINT CERTAIN FORMER MEMBERS OF THE NAVY AND MARINE CORPS TO THE FLEET RESERVE OR FLEET MARINE CORPS RESERVE, AS MAY BE APPROPRIATE, AND THEREAFTER TRANSFER SUCH MEMBERS TO THE APPROPRIATE RETIRED LIST

JUNE 20, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KILDAY, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 6729]

The Committee on Armed Services, to whom was referred the bill (H. R. 6729) to provide that the Secretary of the Navy shall appoint certain former members of the Navy and Marine Corps to the Fleet Reserve or Fleet Marine Corps Reserve, as may be appropriate, and thereafter transfer such members to the appropriate retired list, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause, and insert the following:

That upon application by any former member of the Navy or Marine Corps—

(1) who was discharged prior to August 10, 1946, under honorable conditions, and

(2) who, at the time of his discharge, had at least twenty years' active Federal service,

the Secretary of the Navy shall appoint such former member in the Fleet Reserve or Fleet Marine Corps Reserve, as may be appropriate, in the rank held by him at the time of such discharge.

SEC. 2. Each person appointed to the Fleet Reserve or Fleet Marine Corps Reserve under the first section of this Act shall be transferred to the appropriate retired list (1) on the first day of the first calendar month beginning after such appointment, if his last discharge occurred ten or more years prior to the date of such appointment, and (2) in the case of individuals appointed under such section before the expiration of ten years from their last discharge, on the first day of the first calendar month, beginning after the expiration of ten years from the date of such discharge.

SEC. 3. (a) Each former member transferred to a retired list under clauses (1) and (2) of section (2) shall receive retired pay at the annual rate of 2½ per centum of the annual base and longevity pay he was receiving at the time of his last discharge, multiplied by the number of his years of active Federal service at such time (not to exceed thirty), and adjusted to reflect the percentage increases made

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since such discharge in the retired pay of persons retired from the Armed Forces prior to October 12, 1949.

SEC. 4. For the purposes of this Act, all active service in the Army of the United States, the Navy, the Marine Corps, the Coast Guard, or any component thereof, shall be deemed to be active Federal service.

SEC. 5. No pay shall accrue to the benefit of any person appointed under the provisions of this Act prior to the date such person is actually appointed under the provisions of this Act and in no event prior to the first day of the first month following enactment of this Act.

The purpose of the proposed legislation, as amended, is to provide authority for appointment in the Fleet Reserve or the Fleet Marine Corps Reserve as appropriate and for further transfer to the retired list with retired pay when qualified of those persons with 20 or more years of active Federal service who were discharged under honorable conditions prior to August 10, 1946, and who at the time of discharge were not eligible for transfer to the Fleet Reserve under the laws then in effect since the active service performed at that time had not all been performed in the naval service.

Since August 10, 1946, enlisted members of the Navy and Marine Corps have been able to credit their active duty performed in other services toward the computation of time required for transfer to the Fleet Reserve and the later entitlement to retired pay.

The proposed legislation, as amended, would permit individuals who actually completed 20 or more years of active duty to be appointed in the Fleet Reserve or Fleet Marine Corps Reserve, and, upon completing a total of 30 years, including service that would otherwise have been in the Fleet Reserve, to be retired. Upon retirement such individuals would draw retired pay based upon their base and longevity pay at the time of last discharge, together with increases provided since that date, multiplied by the number of years of active Federal service performed.

No individual will draw retainer pay under the proposed legislation, as amended. The retired pay authorized under the proposed legislation will not be retroactive.

There is only one known case involved but the proposed legislation is general in nature in the event other cases are disclosed.

The only known case will involve an annual expenditure of approximately $1,824.

The Committee on Armed Services amended the proposed legislation to remove technical ambiguities; to eliminate the possibility of granting retirement pay to a person discharged under conditions other than honorable; and to preclude any possible retroactive benefit.

The Department of Defense recommends enactment of the proposed legislation and the Bureau of the Budget interposes no objection, as indicated by the following letter, hereby made a part of this report.

The Committee on Armed Services recommends enactment of the proposed legislation.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., May 16, 1956.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on the bill H. R. 6729 to provide that the Secretary of the Navy shall appoint

certain former members of the Navy and Marine Corps to the Fleet Reserve or Fleet Marine Corps Reserve, as may be appropriate and thereafter transfer such members to the appropriate retired list, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The purpose of this measure is to provide authority for appointment in the Fleet Reserve or the Fleet Marine Corps Reserve, as appropriate, and for further transfer to the retired list with retired pay, for those persons with 20 or more years of active Federal service who were discharged under honorable conditions prior to August 10, 1946, and who at the time of discharge were not eligible for transfer to the Fleet Reserve under the laws then in effect.

One of the cases known to be affected by the instant bill, in the event of enactment, is that of a former master gunnery sergeant of the Marine Corps, who was honorably discharged on March 28, 1945. While the serviceman had completed 20 years of Federal service, he had not completed 20 years of active naval service, 4 years of his service having been spent in the Army. Records indicate that he was prevented from reenlisting because of physical reasons. Under the provisions of law then in effect he could not be transferred to the Fleet Marine Corps Reserve unless he had completed 20 years of active Federal service in the Navy or Marine Corps. As a result, he is not entitled to receive retainer pay nor to subsequent transfer to the retired list and to the receipt of retired pay.

Since 1946, enlisted members of the Navy and Marine Corps have been allowed to credit active duty in other services toward the computation of the time required for transfer to the Fleet Reserve category and a consequent entitlement to the drawing of retainer pay. This same active Federal service may be used in the computation of the service required for retirement of enlisted and commissioned members of the Navy and Marine Corps.

In view of the fact that the laws allowing the crediting of active duty in other services for the above-mentioned purposes contain no retroactive provisions, thereby creating somewhat of an inequity toward a relatively small group, the Department of the Navy, on behalf of the Department of Defense, favors the enactment of H. R. 6729.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on H. R. 6729 to the Congress.

Sincerely yours,

W. R. Sheeley,
Rear Admiral, USN,
Acting Judge Advocate General of the Navy
(For the Secretary of the Navy).

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