

Public Law 100-426
100th Congress

An Act

Sept. 9, 1988
[H.R. 4318]

To improve the administration of the personnel systems of the General Accounting Office.

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

General
Accounting
Office Personnel
Amendments
Act of 1988.
31 USC 701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Accounting Office Personnel Amendments Act of 1988".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

TITLE I—PERSONNEL APPEALS BOARD

SEC. 101. MEMBERS.

(a) 3 YEARS OF EXPERIENCE IN ADJUDICATION OR ARBITRATION NOT A PREREQUISITE.—Section 751(a) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(b) CANDIDATES RECOMMENDED NEED ONLY BE CONSIDERED.—Paragraph (1) of section 751(b) is amended to read as follows:

"(1) after considering any candidates who are recommended to the Comptroller General (at such time and in such manner as the Comptroller General requires) by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and"

(c) TERMS OF OFFICE.—Section 751(c) is amended—

(1) by striking "The" in the first sentence and inserting "(1) Except as provided in paragraph (2), the";

(2) by striking "3" each place it appears and inserting "5";

and

(3) by adding at the end the following:

"(2)(A) The term of a member serving on the date of the enactment of the General Accounting Office Personnel Amendments Act of 1988 shall be as follows:

"(i) Of the 2 members appointed in 1985, the term of 1 such member shall be 5 years, and the term of the other such member shall be 6 years.

"(ii) Of the 2 members appointed in 1986, the term of 1 such member shall be 6 years, and the term of the other such member shall be 7 years.

"(iii) The term of the member appointed in 1987 shall be 7 years.

“(B) Within 60 days after the date referred to in subparagraph (A), the Comptroller General shall determine—

“(i) with respect to the members under subparagraph (A)(i), which will have a term of 5 years and which will have a term of 6 years; and

“(ii) with respect to the members under subparagraph (A)(ii), which will have a term of 6 years and which will have a term of 7 years.

“(C) A term established for a member under this paragraph shall be measured—

“(i) from the date on which the member was originally appointed; or

“(ii) in the case of a member serving for the unexpired portion of a term, from the appointment date of the individual who was originally appointed to serve for such term.”

SEC. 102. PAY RATES.

(a) **GENERAL COUNSEL.**—The second sentence of section 752(b)(2) is amended to read as follows: “The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for grade GS-16 of the General Schedule.”

(b) **MEMBERS.**—The first sentence of section 751(e) is amended to read as follows: “While carrying out a member’s duties (including travel), a member who is not an officer or employee of the United States Government is entitled to basic pay at a rate equal to the daily rate of basic pay payable for grade GS-18 of the General Schedule.”

SEC. 103. JUDICIAL REVIEW.

(a) **JURISDICTION OF COURTS.**—Section 755 is amended by striking “District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides.” and inserting “Federal Circuit.”

(b) **ATTORNEY’S FEES IN DISCRIMINATION CASES.**—Section 755 as amended by subsection (a), is further amended—

(1) by inserting “(a)” immediately before the beginning of the first sentence; and

(2) by adding at the end the following:

“(b) If an officer, employee, or applicant for employment is the prevailing party in a proceeding under this section, and the decision is based on a finding of discrimination prohibited under section 732(f) of this title, attorney’s fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964.”

(c) **APPLICABILITY.**—Nothing in any of the amendments made by this section shall apply with respect to an appeal pending on the date of the enactment of this Act.

31 USC 755 note.

TITLE II—RETIREMENT AND ANNUITIES

SEC. 201. ELIGIBILITY REQUIREMENTS FOR RETIREMENT.

Section 703(e)(1) is amended by striking “retires on becoming 70 years of age.” and inserting “may retire after becoming 70 years of age and completing 10 years of service as Comptroller General or Deputy Comptroller General (as the case may be).”

SEC. 202. DEFINITIONS.

(a) **DEPENDENT CHILD.**—Section 771(1) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “; or”, and by adding after subparagraph (B) the following:

“(C) between 18 and 22 years of age and is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purposes of this subchapter, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while such child is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim period between school years if the interim period is not more than 5 months and if such child shows to the satisfaction of the General Counsel of the General Accounting Office that such child has a bona fide intention of continuing in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim period.”

(b) **SURVIVING SPOUSE.**—Section 771(2) is amended—

(1) in subparagraph (A), by striking “2 years” and inserting “1 year”; and

(2) in subparagraph (B), by inserting “before age 55” after “remarried”.

SEC. 203. ANNUITY OF THE COMPTROLLER GENERAL.

Section 772 is amended—

(1) in subsection (a), by striking “is retired for age under section 703(e)(1) of this title after serving at least 10 years” and inserting “retires under section 703(e)(1) of this title”; and

(2) in subsection (c), by striking “subchapter III of chapter 83 of title 5 remains subject to subchapter III” and inserting “subchapter III of chapter 83 or chapter 84 of title 5 remains subject to such subchapter III or such chapter 84 (as the case may be)”.

SEC. 204. ELECTION OF SURVIVOR BENEFITS.

Section 773 is amended—

(1) in subsection (b)(1), by inserting “5 percent of the” before “annuity”;

(2) in subsection (b)(2)(C), by striking “4.5” and inserting “3”; and

(3) by adding after subsection (c) the following:

“(d) The reduction in the Comptroller General’s annuity under subsection (b)(1) for the purpose of providing survivor benefits shall be terminated for each full month after the death of the spouse.”

SEC. 205. SURVIVOR ANNUITIES.

Section 774 is amended—

(1) in subsection (b), by striking “5 years” each place it appears and inserting “18 months”;

(2) in subsection (c), by amending paragraphs (2) and (3) to read as follows:

“(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity computed under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

“(A) 10 percent of the average annual pay computed under subsection (d)(1) of this section; or

“(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children; or

“(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

“(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection, divided by the number of dependent children;

“(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section; or

“(C) 40 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children.”;

(3) in subsection (d)(1), by striking “1.25” and inserting “1.5”; and

(4) in subsection (e), by amending the first sentence to read as follows: “A surviving spouse’s annuity may not be more than 50 percent nor less than 25 percent of the average annual pay computed under subsection (d)(1) of this section.”.

SEC. 206. PAYMENT OF SURVIVOR BENEFITS.

Section 776(b) is amended—

(1) in paragraph (1), by inserting “before age 55” after “re-marries”; and

(2) in paragraph (2), by striking “age,” and inserting “age (unless the child is then a student as described in section 771(1)(C) of this title).”.

SEC. 207. ANNUITY INCREASES.

Section 777 is amended to read as follows:

“§ 777. Annuity increases

“(a) An annuity payable under this subchapter shall be increased at the same time that, and by the same percent as the percentage by which, annuities are increased under section 8340(b) of title 5.

“(b) An annuity under section 772 of this title may not be more than the basic pay of the Comptroller General. A surviving spouse’s annuity may be increased under this section without regard to any limitation set forth in section 774(e) of this title.”.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall be effective after the end of the 60-day period beginning on the date of enactment of this Act, except that an individual who, as of such date of enactment, is receiving an annuity under subchapter V of chapter 7 of title 31, United States Code, as a retired Comptroller General (and the spouse and any dependent children of such individual who may survive such individual) shall remain subject to the provisions of such subchapter, as in effect immediately before such date, if the retired Comptroller General makes an election under this section. An election under this section shall be ineffective unless it is made

31 USC 772 note.

in writing and received by the General Counsel of the General Accounting Office before the end of the 60-day period referred to in the preceding sentence.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. PREVAILING RATE EMPLOYEES.

Section 5349(a) of title 5, United States Code, is amended by inserting "the General Accounting Office," after "the Government Printing Office,".

SEC. 302. MAXIMUM NUMBER OF POSITIONS PAYABLE AT GS-18.

Section 732(c)(4) is amended—

- (1) by striking "119" and inserting "129"; and
- (2) by striking "the highest rate for GS-18," and inserting "the rate of basic pay payable for grade GS-18 of the General Schedule,".

SEC. 303. TECHNICAL AND CONFORMING AMENDMENTS.

Section 732(c)(3) is amended by striking "in section 733(a)(3)(B) of this title," and inserting "under section 733(a)(3)(B) of this title or section 5349(a) of title 5,".

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 4318:

HOUSE REPORTS: No. 100-599, Pt. 1 (Comm. on Post Office and Civil Service).

SENATE REPORTS: No. 100-463 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

May 9, considered and passed House.

Aug. 11, considered and passed Senate.