

Public Law 108–489
108th Congress

An Act

Dec. 23, 2004
[H.R. 4657]

To amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters, and for other purposes.

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

District of
Columbia
Retirement
Protection
Improvement Act
of 2004.

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia Retirement Protection Improvement Act of 2004”.

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA FEDERAL PENSION FUND FOR PAYMENT OF FEDERAL BENEFIT PAYMENTS TO DISTRICT OF COLUMBIA TEACHERS, POLICE OFFICERS, AND FIRE FIGHTERS.

(a) IN GENERAL.—Subtitle A of title XI of the Balanced Budget Act of 1997 (sec. 1—801.01 et seq., D.C. Official Code) is amended—

- (1) by redesignating chapter 9 as chapter 10;
- (2) by redesignating sections 11081 through 11087 as sections 11091 through 11097; and
- (3) by inserting after chapter 8 the following new chapter:

“CHAPTER 9—DISTRICT OF COLUMBIA FEDERAL PENSION FUND

“SEC. 11081. CREATION OF FUND.

“(a) ESTABLISHMENT.—There is established on the books of the Treasury the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund (hereafter referred to as the ‘D.C. Federal Pension Fund’), consisting of the following:

“(1) The assets transferred pursuant to section 11083.

“(2) The annual Federal payments deposited pursuant to section 11084.

“(3) Any amounts otherwise appropriated to such Fund.

“(4) Any income earned on the investment of the assets of such Fund pursuant to subsection (b).

“(b) INVESTMENT OF ASSETS.—The Secretary shall invest such portion of the assets of the D.C. Federal Pension Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the D.C. Federal Pension Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

“(c) RECORDKEEPING FOR ACTUARIAL STATUS.—The Secretary shall provide for the keeping of such records as are necessary for determining the actuarial status of the D.C. Federal Pension Fund.

“SEC. 11082. USES OF AMOUNTS IN FUND.

“(a) IN GENERAL.—Amounts in the D.C. Federal Pension Fund shall be used—

“(1) to make Federal benefit payments under this subtitle;

“(2) subject to subsection (b), to cover the reasonable and necessary administrative expenses incurred by any person in administering the D.C. Federal Pension Fund and carrying out this chapter;

“(3) for the accumulation of funds in order to finance obligations of the Federal Government for future benefits; and

“(4) for such other purposes as are specified in this subtitle.

“(b) BUDGETING, CERTIFICATION, AND APPROVAL OF ADMINISTRATIVE EXPENSES.—The administrative expenses of the D.C. Federal Pension Fund shall be paid in accordance with an annual budget set forth by the Pension Fund Trustee which shall be subject to certification and approval by the Secretary.

“SEC. 11083. TRANSFER OF ASSETS AND OBLIGATIONS OF TRUST FUND AND FEDERAL SUPPLEMENTAL FUND.

Effective dates.

“(a) TRANSFER OF OBLIGATIONS.—Effective October 1, 2004, all obligations to make Federal benefit payments shall be transferred from the Trust Fund to the D.C. Federal Pension Fund.

“(b) TRANSFER OF ASSETS.—Effective October 1, 2004, all assets of the Trust Fund and all assets of the Federal Supplemental Fund as of such date shall be transferred to the D.C. Federal Pension Fund.

“SEC. 11084. DETERMINATION OF ANNUAL FEDERAL PAYMENTS INTO D.C. FEDERAL PENSION FUND.

“(a) ANNUAL AMORTIZATION AMOUNT.—

“(1) IN GENERAL.—At the end of each fiscal year (beginning with fiscal year 2005), the Secretary shall promptly pay into the D.C. Federal Pension Fund from the general fund of the Treasury an amount equal to the annual amortization amount for the year (which may not be less than zero).

Effective date.

“(2) DETERMINATION OF AMOUNT.—For purposes of paragraph (1)—

“(A) the ‘original unfunded liability’ is the present value as of the effective date of this Act of expected future benefits payable from the Federal Supplemental Fund; and

“(B) the ‘annual amortization amount’ means the amount determined by the enrolled actuary to be necessary to amortize in equal annual installments (until fully amortized)—

“(i) the original unfunded liability over a 30-year period,

“(ii) a net experience gain or loss over a 10-year period, and

“(iii) any other changes in actuarial liability over a 20-year period.

“(3) SCHEDULE FOR AMORTIZATION.—In determining the annual amortization amount under paragraph (2)(B), the enrolled actuary shall include amounts necessary to complete

the amortization schedules used for determining the annual amortization amount for payments into the Federal Supplemental Fund under section 11053 (as in effect prior to the enactment of this chapter).

Effective date.

“(b) ADMINISTRATIVE EXPENSES.—During each fiscal year (beginning with fiscal year 2009), the Secretary shall pay into the D.C. Federal Pension Fund from the general fund of the Treasury the amounts necessary to pay the reasonable and necessary administrative expenses described in section 11082(a)(2) for the year.

“SEC. 11085. ADMINISTRATION THROUGH PENSION FUND TRUSTEE.

“(a) IN GENERAL.—The Secretary shall select a Pension Fund Trustee to carry out the responsibilities and duties specified in this subtitle in accordance with the contract described in subsection (b).

“(b) CONTRACT.—The Secretary shall enter into a contract with the Pension Fund Trustee to provide for the auditing of D.C. Federal Pension Fund assets, the making of Federal benefit payments under this subtitle from the D.C. Federal Pension Fund, and such other matters as the Secretary deems appropriate. The Secretary shall enforce the provisions of the contract and otherwise monitor the administration of the D.C. Federal Pension Fund.

“(c) SUBCONTRACTS.—Notwithstanding any provision of a District Retirement Program or any other law, rule, or regulation, the Pension Fund Trustee may, with the approval of the Secretary, enter into one or more subcontracts with the District Government or any person to provide services to the Pension Fund Trustee in connection with its performance of the contract. The Pension Fund Trustee shall monitor the performance of any such subcontract and enforce its provisions.

“(d) DETERMINATION BY THE SECRETARY.—Notwithstanding subsection (b) or any other provision of this subtitle, the Secretary may determine, with respect to any function otherwise to be performed by the Pension Fund Trustee, that in the interest of economy and efficiency such function shall be performed by the Secretary rather than the Pension Fund Trustee.

“(e) REPORTS.—The Pension Fund Trustee shall report to the Secretary, in a form and manner and at such intervals as the Secretary may prescribe, on any matters under the responsibility of the Pension Fund Trustee as the Secretary may prescribe.

“SEC. 11086. APPLICABILITY OF OTHER PROVISIONS TO D.C. FEDERAL PENSION FUND.

“The following provisions of this subtitle shall apply with respect to the D.C. Federal Pension Fund in the same manner as such provisions applied with respect to the Trust Fund prior to October 1, 2004:

“(1) Section 11023(b) (relating to the repayment by the District Government of costs attributable to errors or omissions in transferred records).

“(2) Section 11034 (relating to the treatment of the Trust Fund under certain laws).

“(3) Section 11061 (relating to annual valuations and reports by the enrolled actuary), except that in applying section 11061(b) to the D.C. Federal Pension Fund, the annual report required under such section shall include a determination of

the annual payment to the D.C. Federal Pension Fund under section 11084.

“(4) Section 11062 (relating to reports by the Comptroller General).

“(5) Section 11071 (relating to judicial review).

“(6) Section 11074 (relating to the treatment of misappropriation of Trust Fund amounts as a Federal crime).”.

(b) TERMINATION OF CURRENT FUNDS.—

(1) DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND.—Chapter 4 of subtitle A of title XI of such Act (sec. 1—807.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

“SEC. 11036. TERMINATION OF TRUST FUND.

“Effective upon the transfer of the obligations and assets of the Trust Fund to the D.C. Federal Pension Fund under section 11083—

“(1) the Trust Fund shall terminate; and

“(2) the obligation to make Federal benefit payments from the Trust Fund, and any duty imposed on any person with respect to the Trust Fund, shall terminate.”.

(2) FEDERAL SUPPLEMENTAL DISTRICT OF COLUMBIA PENSION FUND.—Chapter 6 of subtitle A of title XI of such Act (sec. 1—811.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

“SEC. 11056. TERMINATION OF FEDERAL SUPPLEMENTAL FUND.

“Effective upon the transfer of the assets of the Federal Supplemental Fund to the D.C. Federal Pension Fund under section 11083—

“(1) the Federal Supplemental Fund shall terminate; and

“(2) any duty imposed on any person with respect to the Federal Supplemental fund shall terminate.”.

(c) CONFORMING DEFINITIONS.—

(1) TRUSTEE.—Section 11003(16) of such Act (sec. 1—801.02(16), D.C. Official Code) is amended by striking the period at the end and inserting the following: “, or, beginning October 1, 2004, the Pension Fund Trustee selected by the Secretary under section 11085.”.

(2) D.C. FEDERAL PENSION FUND.—Section 11003 of such Act (sec. 1—801.02, D.C. Official Code) is amended—

(A) by redesignating paragraphs (3) through (16) as paragraphs (4) through (17); and

(B) by inserting after paragraph (2) the following new paragraph:

“(3) The term ‘D.C. Federal Pension Fund’ means the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund established under section 11081.”.

(d) OTHER CONFORMING AMENDMENT.—Section 11041(b) of such Act (sec. 1—809.01(b), D.C. Official Code) is amended in the heading by striking “FROM TRUST FUND”.

(e) CLERICAL AMENDMENTS.—The table of contents of subtitle A of title XI of such Act is amended—

(1) by adding at the end of the items relating to chapter 4 the following:

“Sec. 11036. Termination of Trust Fund.”;

(2) by adding at the end of the items relating to chapter 6 the following:

“Sec. 11056. Termination of Federal Supplemental Fund.”;

(3) by redesignating the item relating to chapter 9 as relating to chapter 10;

(4) by redesignating the items relating to sections 11081 through 11087 as relating to sections 11091 through 11097; and

(5) by inserting after the items relating to chapter 8 the following:

“CHAPTER 9—DISTRICT OF COLUMBIA FEDERAL PENSION FUND

“Sec. 11081. Creation of Fund.

“Sec. 11082. Uses of Amounts in Fund.

“Sec. 11083. Transfer of Assets and Obligations of Trust Fund and Federal Supplemental Fund.

“Sec. 11084. Determination of Annual Federal Payment Into D.C. Federal Pension Fund.

“Sec. 11085. Administration Through Pension Fund Trustee.

“Sec. 11086. Applicability of Other Provisions to D.C. Federal Pension Fund.”.

SEC. 3. ADMINISTRATION OF DISTRICT OF COLUMBIA JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.

(a) PROCEDURES FOR RESOLVING DENIED BENEFIT CLAIMS.—

(1) IN GENERAL.—Section 11-1570(c), D.C. Official Code, is amended by adding at the end the following new paragraph:

“(3)(A) In accordance with procedures approved by the Secretary, the Secretary shall provide to any individual whose claim for a benefit under this subchapter has been denied in whole or in part—

“(i) adequate written notice of such denial, setting forth the specific reasons for the denial in a manner calculated to be understood by the average participant in the program of benefits under this subchapter; and

“(ii) a reasonable opportunity for a full and fair review of the decision denying such claim.

“(B) Any factual determination made by the Secretary pursuant to this paragraph shall be presumed correct unless rebutted by clear and convincing evidence. The Secretary’s interpretation and construction of the benefit provisions of this subchapter shall be entitled to great deference.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to claims for benefits which are made after the date of the enactment of this Act.

(b) TREATMENT OF MISAPPROPRIATION OF FUND AMOUNTS AS FEDERAL CRIME.—

(1) IN GENERAL.—Section 11-1570, D.C. Official Code, is amended by adding at the end the following new subsection:

“(1) The provisions of section 664 of title 18, United States Code (relating to theft or embezzlement from employee benefit plans), shall apply to the Fund.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 4. ADMINISTRATION OF RETIREMENT PROGRAM FOR POLICE OFFICERS, FIRE FIGHTERS, AND TEACHERS BY OTHER THAN CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—Section 424(c)(21) of the District of Columbia Home Rule Act (sec. 1-204.24c(21), D.C. Official Code) is amended

Notice.

by striking “systems” and inserting the following: “systems (other than the retirement system for police officers, fire fighters, and teachers)”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

Approved December 23, 2004.

LEGISLATIVE HISTORY—H.R. 4657:

CONGRESSIONAL RECORD, Vol. 150 (2004):

Sept. 28, considered and passed House.

Dec. 8, considered and passed Senate.