

110TH CONGRESS
1ST SESSION

H. R. 3136

To provide for enhanced retirement benefits for administrative law judges.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2007

Mr. WYNN introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To provide for enhanced retirement benefits for
administrative law judges.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Administrative Law Judges Retirement Act of 2007”.

6 (b) REFERENCES.—Whenever in this Act an amend-
7 ment is expressed in terms of an amendment to a section
8 or other provision, the reference shall be considered to be
9 made to a section or other provision of title 5, United
10 States Code.

1 **SEC. 2. PROVISIONS RELATING TO THE CIVIL SERVICE RE-**
2 **TIREMENT SYSTEM.**

3 (a) DEFINITION.—Section 8331 is amended—

4 (1) in paragraph (28), by striking “and” at the
5 end;

6 (2) in the first paragraph (29), by striking the
7 period and inserting a semicolon;

8 (3) in the second paragraph (29)—

9 (A) by striking “(29)” and inserting
10 “(30)”; and

11 (B) by striking the period and inserting “;
12 and”; and

13 (4) by adding at the end the following:

14 “(31) ‘administrative law judge’ means an ad-
15 ministrative law judge appointed under section 3105
16 or a similar prior provision of law.”.

17 (b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-
18 ITS.—Section 8334 is amended—

19 (1) in subsection (a)(1)(A), by striking “or nu-
20 clear materials courier,” and inserting “nuclear ma-
21 terials courier, or administrative law judge,”;

22 (2) in subsection (a)(1)(B)—

23 (A) in the first sentence of clause (i), by
24 striking “clause (ii),” and inserting “clause (ii)
25 or (iii),”; and

1 (B) by adding after clause (ii) the fol-
 2 lowing:

3 “(iii) In the case of an administrative law judge, the
 4 amount to be contributed under this subparagraph shall
 5 (instead of the amount described in clause (i)) be equal
 6 to the amount derived by multiplying the administrative
 7 law judge’s basic pay by the percentage that is 1 percent-
 8 age point less than the percentage applicable under sub-
 9 section (c).”; and

10 (3) in subsection (c), by adding after the item
 11 relating to a nuclear materials courier the following:

“Administrative law judge	5	June 11, 1947, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7	January 1, 2001, to (but not including) the effective date of the Administrative Law Judges Retirement Act of 2007.
	8	The effective date of the Administrative Law Judges Retirement Act of 2007 and thereafter.”.

12 (c) IMMEDIATE RETIREMENT.—

1 (1) IN GENERAL.—Section 8336 is amended by
2 adding at the end the following:

3 “(q) An employee who is separated from the service
4 after completing 10 years of service as an administrative
5 law judge and becoming 60 years of age is entitled to an
6 annuity. An employee who is separated from the service
7 voluntarily after completing 10 years of service as an ad-
8 ministrative law judge but before becoming 60 years of
9 age is entitled to a reduced annuity.”.

10 (2) DISCONTINUED SERVICE OR EARLY VOL-
11 UNTARY RETIREMENT.—Section 8336(d) is amended
12 by adding at the end the following: “In the case of
13 an administrative law judge, the preceding provi-
14 sions of this subsection shall be applied by treating
15 any reference in such provisions to removal or sepa-
16 ration for ‘misconduct or delinquency’ or for ‘mis-
17 conduct or unacceptable performance’ to refer to re-
18 moval under section 1215, 7521, or 7532.”.

19 (d) COMPUTATION OF ANNUITY.—Section 8339 is
20 amended—

21 (1) in subsection (f), by striking “(r), and (s)”
22 and inserting “(r), (s), and (v)”;

23 (2) in subsection (h), by adding at the end the
24 following: “The annuity computed under subsections
25 (f) and (v) for a employee retiring under the second

1 sentence of section 8336(q) is reduced by $\frac{1}{12}$ of 1
 2 percent for each full month not in excess of 60
 3 months, and $\frac{1}{6}$ of 1 percent for each full month in
 4 excess of 60 months, the employee is under 60 years
 5 of age at the date of separation.”;

6 (3) in subsection (i), by striking “(r), or (s)”
 7 and inserting “(r), (s), or (v)”;

8 (4) by adding at the end the following:

9 “(v) The annuity of an employee retiring under sec-
 10 tion 8336(q) is computed under subsection (a), except, if
 11 the employee has had at least 5 years’ service as an ad-
 12 ministrative law judge, the employee’s annuity is com-
 13 puted with respect to—

14 “(1) such employee’s service as an administra-
 15 tive law judge; and

16 “(2) such employee’s military service not ex-
 17 ceeding 5 years;

18 by multiplying $2\frac{1}{2}$ percent of such employee’s average pay
 19 by the years of that service.”.

20 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) Sections 8337(a) and 8339(g) are amended by striking
 22 “or (s)” each place it appears and inserting “(s), or (v)”.

23 (2) Subsections (j), (k)(1), (l), and (m) of section
 24 8339, subsections (b)(1) and (d) of section 8341, section
 25 8343a(c), and section 8344(a)(A) are amended by striking

1 “and (s)” each place it appears and inserting “(s), and
2 (v)”.

3 (3) Subsections (j)(3) (in the third sentence before
4 the sentence containing subparagraph (A)), (j)(5)(C)(iii),
5 and (k)(2)(C) of section 8339 are amended by striking
6 “and (r)” and inserting “(r), and (v)”.

7 (4) Section 8335(a) is amended by striking
8 “8331(29)(A)” and inserting “8331(30)(A)”.

9 **SEC. 3. PROVISIONS RELATING TO THE FEDERAL EMPLOY-**
10 **EES’ RETIREMENT SYSTEM.**

11 (a) DEFINITION.—Section 8401 is amended—

12 (1) in paragraph (34), by striking “and” at the
13 end;

14 (2) in paragraph (35), by striking the period
15 and inserting “; and”; and

16 (3) by adding at the end the following:

17 “(36) ‘administrative law judge’ means an ad-
18 ministrative law judge appointed under section 3105
19 or a similar prior provision of law.”.

20 (b) EARLY RETIREMENT.—Section 8414(b) is
21 amended by adding at the end the following:

22 “(4) In the case of an administrative law judge, the
23 preceding provisions of this subsection shall be applied by
24 treating any reference in such provisions to removal or
25 separation for ‘misconduct or delinquency’ or for ‘mis-

1 conduct or unacceptable performance’ to refer to removal
 2 under section 1215, 7521, or 7532.”.

3 (c) COMPUTATION OF ANNUITY.—Section 8415 is
 4 amended—

5 (1) in subsection (h)(2), by striking “or air
 6 traffic controller.” and inserting “air traffic con-
 7 troller, or administrative law judge.”; and

8 (2) by adding at the end the following:

9 “(n) The annuity of an administrative law judge, or
 10 a former administrative law judge, retiring under this sub-
 11 chapter is computed under subsection (a), except that if
 12 the individual has had at least 5 years of service as an
 13 administrative law judge, so much of the annuity as is
 14 computed with respect to such type of service, not exceed-
 15 ing a total of 20 years, shall be computed by multiplying
 16 $1\frac{7}{10}$ percent of such employee’s average pay by the years
 17 of that service.”.

18 (d) DEDUCTIONS FROM PAY.—Section 8422(a)(3) is
 19 amended by adding after the item relating to a nuclear
 20 materials courier the following:

“Administrative law judge 7 January 1, 1987, to De-
 cember 31, 1998.

7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7	January 1, 2001, to (but not including) the effective date of the Administrative Law Judges Retirement Act of 2007.
8	The effective date of the Administrative Law Judges Retirement Act of 2007 and thereafter.”.

1 (e) GOVERNMENT CONTRIBUTIONS.—Section 8423 is
2 amended—

3 (1) in subsection (a)(1)(B)(i), by striking “and
4 employees under sections 302 and 303 of the Cen-
5 tral Intelligence Agency Retirement Act, multiplied
6 by” and inserting “employees under sections 302
7 and 303 of the Central Intelligence Agency Retirement
8 Act, and administrative law judges, multiplied
9 by”;

10 (2) by amending paragraph (2) of subsection
11 (a) to read as follows:

12 “(2) In determining any normal-cost percentage to
13 be applied under this subsection—

14 “(A) amounts provided for under section 8422
15 shall be taken into account; and

16 “(B) amounts provided by or for administrative
17 law judges under subchapter III of chapter 83 (in-

1 including sections 8334 and 8348, and whether pro-
 2 vided before, on, or after the effective date of this
 3 subparagraph) shall, to the extent they exceed the
 4 normal cost of the benefits which are (i) provided for
 5 under subchapter III of chapter 83, and (ii) attrib-
 6 utable to service performed as an administrative law
 7 judge (within the meaning of such subchapter), be
 8 taken into account as if they had been provided by
 9 or for administrative law judges under this chap-
 10 ter.”; and

11 (3) in subsection (a)(3)(A), by inserting “ad-
 12 ministrative law judges,” after “military reserve
 13 technicians,” each place it appears.

14 **SEC. 4. EFFECTIVE DATE.**

15 (a) IN GENERAL.—This Act and the amendments
 16 made by this Act—

17 (1) shall take effect on the date of the enact-
 18 ment of this Act; and

19 (2) except as provided in subsection (b), shall
 20 apply only with respect to administrative law judges
 21 first appointed on or after the effective date of this
 22 Act.

23 (b) EXCEPTION.—

24 (1) ELECTION FOR INCUMBENTS.—The amend-
 25 ments made by this Act shall apply with respect to

1 any individual serving as an administrative law
2 judge on the effective date of this Act if appropriate
3 written application is submitted to the Office of Per-
4 sonnel Management within 12 months after such ef-
5 fective date.

6 (2) TREATMENT OF PRIOR SERVICE.—

7 (A) DEPOSIT REQUIREMENT.—An indi-
8 vidual who makes an election under paragraph
9 (1) shall, with respect to any administrative law
10 judge service performed by such individual prior
11 to the date as of which deductions from such
12 individual's pay begin to be made in accordance
13 with the amendments made by this Act, be re-
14 quired to pay into the Civil Service Retirement
15 and Disability Fund an amount equal to the
16 difference between—

17 (i) the unrefunded individual contribu-
18 tions that were made for such prior serv-
19 ice; and

20 (ii) the individual contributions that
21 would have been required if the rate (or
22 rates) in effect for such prior service had
23 been equal to the rate (or rates) actually in
24 effect for such prior service, increased by 1
25 percentage point.

1 (B) EFFECT OF NOT MAKING DEPOSIT.—

2 If or to the extent that any amounts under sub-
3 paragraph (A) are not paid by an individual
4 making an election under paragraph (1), any
5 annuity based on the service of such indi-
6 vidual—

7 (i) shall be computed in accordance
8 with the amendments made by this Act;
9 but

10 (ii) shall be reduced in a manner simi-
11 lar to that set forth in section
12 8334(d)(2)(B) of title 5, United States
13 Code.

14 (3) SURVIVOR ANNUITANTS.—In the case of an
15 individual described in paragraph (1) who dies be-
16 fore the end of the 12-month period beginning on
17 the effective date of this Act, any application or de-
18 posit under this subsection may, for purposes of any
19 survivor annuity based on the service of such indi-
20 vidual, also be made by a survivor of such individual.

21 (c) DEFINITION.—For purposes of this section, the
22 term “administrative law judge” means an administrative
23 law judge appointed under section 3105 of title 5, United
24 States Code, or a similar prior provision of law.

1 (d) REGULATIONS.—The Office of Personnel Man-
2 agement may prescribe any regulations necessary to carry
3 out this section.

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