

111TH CONGRESS
1ST SESSION

H. R. 1688

To amend title 10, United States Code, to ensure that commissioned officers who serve in a reserve component of the Armed Forces are able to retire in the highest grade in which they have successfully served.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2009

Ms. BORDALLO (for herself and Mr. AUSTRIA) introduced the following bill;
which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to ensure that commissioned officers who serve in a reserve component of the Armed Forces are able to retire in the highest grade in which they have successfully served.

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

1 **SECTION 1. ELECTION TO RECEIVE RETIRED PAY FOR NON-**
 2 **REGULAR SERVICE UPON RETIREMENT FOR**
 3 **SERVICE IN AN ACTIVE RESERVE STATUS**
 4 **PERFORMED AFTER ATTAINING ELIGIBILITY**
 5 **FOR REGULAR RETIREMENT.**

6 (a) ELECTION AUTHORITY; REQUIREMENTS.—Sub-
 7 section (a) of section 12741 of title 10, United States
 8 Code, is amended to read as follows:

9 “(a) AUTHORITY TO ELECT TO RECEIVE RESERVE
 10 RETIRED PAY.—(1) Notwithstanding the requirement in
 11 paragraph (4) of section 12731(a) of this title that a per-
 12 son may not receive retired pay under this chapter when
 13 the person is entitled, under any other provision of law,
 14 to retired pay or retainer pay, a person may elect to re-
 15 ceive retired pay under this chapter, instead of receiving
 16 retired or retainer pay under chapter 65, 367, 571, or 867
 17 of this title, if the person—

18 “(A) satisfies the requirements specified in
 19 paragraphs (1) and (2) of such section for entitle-
 20 ment to retired pay under this chapter;

21 “(B) served in an active status in the Selected
 22 Reserve of the Ready Reserve after becoming eligible
 23 for retirement under chapter 65, 367, 571, or 867
 24 of this title (without regard to whether the person
 25 actually retired or received retired or retainer pay
 26 under one of those chapters); and

1 “(C) completed not less than two years of satis-
2 factory service (as determined by the Secretary con-
3 cerned) in such active status (excluding any period
4 of active service).

5 “(2) The Secretary concerned may reduce the min-
6 imum two-year service requirement specified in paragraph
7 (1)(C) in the case of a person who—

8 “(A) completed at least six months of service in
9 a position of adjutant general required under section
10 314 of title 32 or in a position of assistant adjutant
11 general subordinate to such a position of adjutant
12 general; and

13 “(B) failed to complete the minimum years of
14 service solely because the appointment of the person
15 to such position was terminated or vacated as de-
16 scribed in section 324(b) of title 32.”.

17 (b) ACTIONS TO EFFECTUATE ELECTION.—Sub-
18 section (b) of such section is amended by striking para-
19 graph (1) and inserting the following new paragraph:

20 “(1) terminate the eligibility of the person to
21 retire under chapter 65, 367, 571, or 867 of this
22 title, if the person is not already retired under one
23 of those chapters, and terminate entitlement of the
24 person to retired or retainer pay under one of those

1 chapters, if the person was already receiving retired
 2 or retainer pay under one of those chapters; and”.

3 (c) CONFORMING AMENDMENT TO REFLECT NEW
 4 VARIABLE AGE REQUIREMENT FOR RETIREMENT.—Sub-
 5 section (d) of such section is amended—

6 (1) in paragraph (1), by striking “attains 60
 7 years of age” and inserting “attains the eligibility
 8 age applicable to the person under section 12731(f)
 9 of this title”; and

10 (2) in paragraph (2)(A), by striking “attains 60
 11 years of age” and inserting “attains the eligibility
 12 age applicable to the person under such section”.

13 (d) CLERICAL AMENDMENTS.—

14 (1) SECTION HEADING.—The heading for sec-
 15 tion 12741 of such title is amended to read as fol-
 16 lows:

17 **“§ 12741. Retirement for service in an active status**
 18 **performed in the Selected Reserve of the**
 19 **Ready Reserve after eligibility for reg-**
 20 **ular retirement”.**

21 (2) TABLE OF SECTIONS.—The table of sections
 22 at the beginning of chapter 1223 of such title is
 23 amended by striking the item relating to section
 24 12741 and inserting the following new item:

“12741. Retirement for service in an active status performed in the Selected Re-
 serve of the Ready Reserve after eligibility for regular retire-
 ment.”.

1 (e) RETROACTIVE APPLICABILITY.—The amend-
 2 ments made by this section shall take effect as of January
 3 1, 2008.

4 **SEC. 2. RECOMPUTATION OF RETIRED PAY AND ADJUST-**
 5 **MENT OF RETIRED GRADE OF RESERVE RE-**
 6 **TIREES TO REFLECT SERVICE AFTER RE-**
 7 **TIREMENT.**

8 (a) RECOMPUTATION OF RETIRED PAY.—Section
 9 12739 of title 10, United States Code, is amended by add-
 10 ing at the end the following new subsection:

11 “(e)(1) If a member of the Retired Reserve is recalled
 12 to an active status in the Selected Reserve of the Ready
 13 Reserve under section 10145(d) of this title and completes
 14 not less than two years of service in such active status,
 15 the member is entitled to the recomputation under this
 16 section of the retired pay of the member.

17 “(2) The Secretary concerned may reduce the two-
 18 year service requirement specified in paragraph (1) in the
 19 case of a member who—

20 “(A) is recalled to serve in a position of adju-
 21 tant general required under section 314 of title 32
 22 or in a position of assistant adjutant general subor-
 23 dinate to such a position of adjutant general;

24 “(B) completes at least six months of service in
 25 such position; and

1 “(C) fails to complete the minimum two years
2 of service solely because the appointment of the
3 member to such position is terminated or vacated as
4 described in section 324(b) of title 32.”.

5 (b) ADJUSTMENT OF RETIRED GRADE.—Section
6 12771 of such title is amended—

7 (1) by striking “Unless” and inserting “(a)
8 GRADE ON TRANSFER.—Unless”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(b) EFFECT OF SUBSEQUENT RECALL TO ACTIVE
12 STATUS.—(1) If a member of the Retired Reserve who
13 is a commissioned officer is recalled to an active status
14 in the Selected Reserve of the Ready Reserve under sec-
15 tion 10145(d) of this title and completes not less than two
16 years of service in such active status, the member is enti-
17 tled to an adjustment in the retired grade of the member
18 in the manner provided in section 1370(d) of this title.

19 “(2) The Secretary concerned may reduce the two-
20 year service requirement specified in paragraph (1) in the
21 case of a member who—

22 “(A) is recalled to serve in a position of adju-
23 tant general required under section 314 of title 32
24 or in a position of assistant adjutant general subor-
25 dinate to such a position of adjutant general;

1 “(B) completes at least six months of service in
2 such position; and

3 “(C) fails to complete the minimum two years
4 of service solely because the appointment of the
5 member to such position is terminated or vacated as
6 described in section 324(b) of title 32.”.

7 (c) RETROACTIVE APPLICABILITY.—The amend-
8 ments made by this section shall take effect as of January
9 1, 2008.

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