

Public Law 101-530
101st Congress

An Act

Nov. 6, 1990
[S. 1890]

Government
employees.

To amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

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

SECTION 1. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RETIREMENT CREDIT.

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

5 USC 8332 note.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

- (i) separate from employment with the Government on or after the date of enactment of this Act; and
- (ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

- (i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and
- (ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

- (i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act, any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individual's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid either in a lump sum at the time of application or in installments over the 2-year period which begins on the date of application, or such shorter period as the Office may by regulation prescribe.

(B) **EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.**—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) **PAYMENT BY SURVIVORS.**—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) **RULE FOR SECTION 2.**—

32 USC 709 note.

(1) **GENERAL RULE.**—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) **EXCEPTION.**—

(A) **RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.**—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) **CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.**—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of

the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

5 USC 8332 note. **SEC. 4. REGULATIONS.**

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

Approved November 6, 1990.

LEGISLATIVE HISTORY—S. 1890:

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 10, considered and passed Senate.

Oct 22, considered and passed House.