

Public Law 106-303
106th Congress

An Act

To make certain personnel flexibilities available with respect to the General Accounting Office, and for other purposes.

Oct. 13, 2000
[H.R. 4642]

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

SECTION 1. VOLUNTARY EARLY RETIREMENT AUTHORITY.

5 USC 8336 note.

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Effective for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003, paragraph (2) of section 8336(d) of title 5, United States Code, shall, with respect to officers and employees of the General Accounting Office, be applied as if it had been amended to read as follows:

“(2)(A) has been employed continuously by the General Accounting Office for at least the 31-day period immediately preceding the start of the period referred to in subparagraph (D);

“(B) is serving under an appointment that is not time limited;

“(C) has not received a notice of involuntary separation, for misconduct or unacceptable performance, with respect to which final action remains pending; and

“(D) is separated from the service voluntarily during a period with respect to which the Comptroller General determines that the application of this subsection is necessary and appropriate for the purpose of—

“(i) realigning the General Accounting Office’s workforce in order to meet budgetary constraints or mission needs;

“(ii) correcting skill imbalances; or

“(iii) reducing high-grade, managerial, or supervisory positions;”.

(b) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—Effective for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003, subparagraph (B) of section 8414(b)(1) of title 5, United States Code, shall, with respect to officers and employees of the General Accounting Office, be applied as if it had been amended to read as follows:

“(B)(i) has been employed continuously by the General Accounting Office for at least the 31-day period immediately preceding the start of the period referred to in clause (iv);

“(ii) is serving under an appointment that is not time limited;

“(iii) has not received a notice of involuntary separation, for misconduct or unacceptable performance, with respect to which final action remains pending; and

“(iv) is separated from the service voluntarily during a period with respect to which the Comptroller General determines that the application of this subsection is necessary and appropriate for the purpose of—

“(I) realigning the General Accounting Office’s workforce in order to meet budgetary constraints or mission needs;

“(II) correcting skill imbalances; or

“(III) reducing high-grade, managerial, or supervisory positions;”.

(c) **NUMERICAL LIMITATION.**—Not to exceed 10 percent of the General Accounting Office’s workforce (as of the start of a fiscal year) shall be permitted to take voluntary early retirement in such fiscal year pursuant to this section.

(d) **REGULATIONS.**—The Comptroller General shall prescribe any regulations necessary to carry out this section, including regulations under which an early retirement offer may be made to any employee or group of employees based on—

(1) geographic area, organizational unit, or occupational series or level;

(2) skills, knowledge, or performance; or

(3) such other similar factors (or combination of factors described in this or any other paragraph of this subsection) as the Comptroller General considers necessary and appropriate in order to achieve the purpose involved.

5 USC 5597 note.

SEC. 2. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) **IN GENERAL.**—Effective for purposes of the period beginning on the date of the enactment of this Act and ending on December 31, 2003, the authority to provide voluntary separation incentive payments shall be available to the Comptroller General with respect to employees of the General Accounting Office.

(b) **TERMS AND CONDITIONS.**—The authority to provide voluntary separation incentive payments under this section shall be available in accordance with the provisions of subsections (a)(2)–(e) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note), except that—

(1) subsection (a)(2)(D) of such section shall be disregarded;

(2) subsection (a)(2)(G) of such section shall be applied by construing the citations therein to be references to the appropriate authorities in connection with employees of the General Accounting Office;

(3) subsection (b)(1) of such section shall be applied by substituting “Committee on Government Reform” for “Committee on Government Reform and Oversight”;

(4)(A) subsection (b)(2)(A) of such section shall be applied by substituting “eliminated (if any)” for “eliminated”;

(B) subsection (b)(2)(C) of such section shall be applied by substituting “such positions or functions as are to be eliminated and such employees as are to be separated” for “the eliminated positions and functions”; and

(C) the agency strategic plan referred to in subsection (b) of such section shall, in addition to the information described

in paragraph (2) thereof, contain the following: the steps to be taken to realign the General Accounting Office's workforce in order to meet budgetary constraints or mission needs, correct skill imbalances, or reduce high-grade, managerial, or supervisory positions;

(5) subsection (c)(1) of such section shall be applied by substituting "to the extent necessary (A) to realign the General Accounting Office's workforce in order to meet budgetary constraints or mission needs, (B) to correct skill imbalances, or (C) to reduce high-grade, managerial, or supervisory positions, in conformance with that agency's strategic plan (as referred to in subsection (b))." for the matter following "only";

(6) subsection (c)(2)(D) of such section shall be applied by substituting "December 31, 2003, or the end of the 3-month period beginning on the date on which such payment is offered to such employee, whichever is earlier" for "December 31, 1997"; and

(7) instead of the amount described in paragraph (1) of subsection (d) of such section, the amount required under such paragraph shall be determined in accordance with subsection (c)(1) of this section.

(c) ADDITIONAL CONTRIBUTION TO RETIREMENT FUND.—

(1) DETERMINATION OF AMOUNT REQUIRED.—The amount required under this paragraph shall be the amount determined under subparagraph (A) or (B), whichever is greater, for the fiscal year involved.

(A) FIRST METHOD.—The amount required under this subparagraph shall be determined as follows:

(i) First, determine the sum of the following:

(I) The amount equal to 19 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8336(d) of title 5, United States Code.

(II) The amount equal to 58 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8336 of such title 5 (not including any employee covered by subclause (I)).

(ii) Second, reduce the sum of the amounts determined under clause (i) by the sum of the following (but not below zero):

(I) The amount equal to 419 percent of the final basic pay of each employee described in paragraph (2), who is covered by subchapter III of chapter 83 of title 5, United States Code, and who resigns.

(II) The amount equal to 17 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8414(b) of such title 5.

(III) The amount equal to 8 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8412 of such title 5.

(IV) The amount equal to 211 percent of the final basic pay of each employee described in paragraph (2), who is covered by chapter 84 of such title 5, and who resigns.

(B) SECOND METHOD.—The amount required under this subparagraph shall be equal to 45 percent of the final basic pay of each employee described in paragraph (2).

(2) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year involved.

(3) REGULATIONS.—

(A) IN GENERAL.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection, including provisions under which any additional contribution determined under this subsection shall, at the election of the General Accounting Office, be payable either in a lump sum or through installment payments made over a period of not to exceed 3 years.

(B) INTEREST.—The regulations shall include provisions under which, if the installment method is chosen, interest shall be payable at the same rate as provided for under section 8348(f) of title 5, United States Code.

(4) RULE OF CONSTRUCTION.—As used in this subsection, the term “resign” shall not be considered to include early retirement or a separation giving rise to an immediate annuity.

(d) DEFINITIONS.—

(1) FINAL BASIC PAY.—As used in this section, the term “final basic pay” has the same meaning as under section 663(d)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104-208 (5 U.S.C. 5597 note).

(2) EMPLOYEE.—As used in this section and, for purposes of this section, the provisions of law cited in subsection (b), the term “employee” shall be considered to refer to an officer or employee of the General Accounting Office.

(e) NUMERICAL LIMITATION.—Not to exceed 5 percent of the General Accounting Office’s workforce (as of the start of a fiscal year) shall be permitted to receive a voluntary separation incentive payment under this section based on their separating from service in such fiscal year.

(f) REGULATIONS.—The Comptroller General shall prescribe any regulations necessary to carry out this section, excluding subsection (c). Such regulations shall include provisions under which a voluntary separation incentive payment may be offered to any employee or group of employees based on—

(1) geographic area, organizational unit, or occupational series or level;

(2) skills, knowledge, or performance; or

(3) such other similar factors (or combination of factors described in this or any other paragraph of this subsection) as the Comptroller General considers necessary and appropriate in order to achieve the purpose involved.

SEC. 3. REDUCTIONS IN FORCE.

(a) MODIFIED PROCEDURES.—

(1) IN GENERAL.—Subsection (h) of section 732 of title 31, United States Code, is amended to read as follows:

“(h)(1)(A) Notwithstanding any other provision of law, the Comptroller General shall prescribe regulations, consistent with regulations issued by the Office of Personnel Management under authority of section 3502(a) of title 5 for the separation of employees of the General Accounting Office during a reduction in force or other adjustment in force.

“(B) The regulations must give effect to the following factors in descending order of priority—

“(i) tenure of employment;

“(ii) military preference subject to section 3501(a)(3) of title 5;

“(iii) veterans’ preference under sections 3502(b) and 3502(c) of title 5;

“(iv) performance ratings;

“(v) length of service computed in accordance with the second sentence of section 3502(a) of title 5; and

“(vi) other objective factors such as skills and knowledge that the Comptroller General considers necessary and appropriate to realign the agency’s workforce in order to meet current and future mission needs, to correct skill imbalances, or to reduce high-grade, managerial, or supervisory positions.

“(C) Notwithstanding subparagraph (B), the regulations relating to removal from the General Accounting Office Senior Executive Service in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

“(2)(A) The regulations shall provide a right of appeal to the General Accounting Office Personnel Appeals Board regarding a personnel action under the regulations, consistent with section 753 of this title.

“(B) The regulations shall provide that final decision by the General Accounting Office Personnel Appeals Board may be reviewed by the United States Court of Appeals for the Federal Circuit consistent with section 755 of this title.

“(3)(A) Except as provided in subparagraph (B), an employee may not be released, due to a reduction in force, unless such employee is given written notice at least 60 days before such employee is so released. Such notice shall include—

Notice.

“(i) the personnel action to be taken with respect to the employee involved;

“(ii) the effective date of the action;

“(iii) a description of the procedures applicable in identifying employees for release;

“(iv) the employee’s ranking relative to other competing employees, and how that ranking was determined; and

“(v) a description of any appeal or other rights which may be available.

“(B) The Comptroller General may, in writing, shorten the period of advance notice required under subparagraph (A) with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable, except that such period may not be less than 30 days.”

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall apply with respect to all reduction-in-force actions taking effect on or after—

31 USC 732 note.

(A) the 180th day following the date of the enactment of this Act; or

(B) if earlier, the date the Comptroller General issues the regulations required under such amendment.

(3) SAVINGS PROVISIONS.—If, before the effective date determined under paragraph (2), specific notice of a reduction-in-force action is given to an individual in accordance with section 1 of chapter 5 of GAO Order 2351.1 (dated February 28, 1996), then, for purposes of determining such individual's rights in connection with such action, the amendment made by paragraph (1) shall be treated as if it had never been enacted.

(b) AUTHORITY TO PERMIT VOLUNTARY SEPARATIONS TO AVOID REDUCTIONS IN FORCE.—

(1) IN GENERAL.—Section 732 of title 31, United States Code (as amended by subsection (a)), is amended by adding at the end the following:

“(i) The regulations under subsection (h) shall include provisions under which, at the discretion of the Comptroller General, the opportunity to separate voluntarily (in order to permit the retention of an individual occupying a similar position) shall, with respect to the General Accounting Office, be available to the same extent and in the same manner as described in subsection (f)(1)-(4) of section 3502 of title 5 (with respect to the Department of Defense or a military department).”

31 USC 732 note.

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

SEC. 4. SENIOR-LEVEL POSITIONS.

(a) CRITICAL POSITIONS.—

(1) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 732 the following:

“§ 732a. Critical positions

“(a) The Comptroller General may establish senior-level positions to meet critical scientific, technical or professional needs of the General Accounting Office. An individual serving in such a position shall—

“(1) be subject to the laws and regulations applicable to the General Accounting Office Senior Executive Service under section 733 of this title, with respect to rates of basic pay, performance awards, ranks, carry over of annual leave, benefits, performance appraisals, removal or suspension, and reductions in force;

“(2) have the same rights of appeal to the General Accounting Office Personnel Appeals Board as are provided to the Office Senior Executive Service;

“(3) be exempt from the same provisions of law as are made inapplicable to the Office Senior Executive Service under section 733(d) of this title, except for section 732(e) of this title;

“(4) be entitled to discontinued service retirement under chapter 83 or 84 of title 5 as if a member of the Office Senior Executive Service; and

“(5) be subject to reassignment by the Comptroller General to any position in the Office Senior Executive Service under section 733 of this title, as the Comptroller General determines necessary and appropriate.

“(b) Senior-level positions under this section may include positions referred to in section 731(d), (e)(1), or (e)(2) of this title.”.

(2) NUMERICAL LIMITATION APPLIES.—Section 732(c)(4) of title 31, United States Code, is amended—

(A) by inserting “(including senior-level positions under section 732a of this title)” after “129 positions”; and

(B) by striking “title;” and inserting “title and senior-level positions described in section 732a(b) of this title;”.

(3) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 31, United States Code, is amended by inserting after the item relating to section 732 the following:

“732a. Critical positions.”.

(b) REASSIGNMENT TO SENIOR-LEVEL POSITIONS.—Section 733(a) of title 31, United States Code, is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

“(7) allowing the Comptroller General to reassign an officer or employee in the Office Senior Executive Service to any senior-level position established under section 732a of this title, as the Comptroller General determines necessary and appropriate; and”.

SEC. 5. EXPERTS AND CONSULTANTS.

Section 731(e) of title 31, United States Code, is amended—

(1) in paragraph (1) by striking “not more than 3 years” and inserting “terms of not more than 3 years, but which shall be renewable”; and

(2) in paragraph (2) by striking “level V” and inserting “level IV”.

SEC. 6. REPORTING REQUIREMENTS.

31 USC 719 note.

(a) ANNUAL REPORTS.—The Comptroller General shall include in each report submitted to Congress under section 719(a) of title 31, United States Code, during the 5-year period beginning on the date of the enactment of this Act—

(1) a review of all actions taken pursuant to sections 1 through 3 of this Act during the period covered by the report, including—

(A) the number of officers or employees who separated from service pursuant to section 1 or 2, or who were released pursuant to a reduction in force conducted under the amendment made by section 3, during such period;

(B) an assessment of the effectiveness and usefulness of those sections in contributing to the agency's ability to carry out its mission, meet its performance goals, and fulfill its strategic plan; and

(C) with respect to the amendment made by section 3, an assessment of the impact such amendment has had with respect to preference eligibles, including—

(i) whether a disproportionate number or percentage of preference eligibles were included among those who became subject to reduction-in-force actions as a result of such amendment;

(ii) whether a disproportionate number or percentage of preference eligibles were in fact released pursuant to reductions in force under such amendment; and

(iii) to the extent that either of the foregoing is answered in the affirmative, the reasons for the disproportionate impact involved (particularly, whether such amendment caused or contributed to the disproportionate impact involved); and

(2) recommendations for any legislation which the Comptroller General considers appropriate with respect to any of those sections.

Deadline.
Reports.

(b) **THREE-YEAR ASSESSMENT.**—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report concerning the implementation and effectiveness of this Act. Such report shall include—

(1) a summary of the portions of the annual reports required under subsection (a);

(2) recommendations for continuation of section 1 or 2 or any legislative changes to section 1 or 2 or the amendment made by section 3; and

(3) any assessment or recommendations of the General Accounting Office Personnel Appeals Board or of any interested groups or associations representing officers or employees of the General Accounting Office.

(c) **PREFERENCE ELIGIBLE DEFINED.**—For purposes of this section, the term “preference eligible” has the meaning given such term under section 2108(3) of title 5, United States Code.

Approved October 13, 2000.

LEGISLATIVE HISTORY—H.R. 4642:

CONGRESSIONAL RECORD, Vol. 146 (2000):

Sept. 19, considered and passed House.

Oct. 4, considered and passed Senate.