

Public Law 94-522
94th Congress

An Act

To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes.

Oct. 17, 1976
[H.R. 13615]

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

TITLE I—RETIREMENT FINANCING

SEC. 101. Section 111 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

- (a) by striking out “and” at the end of paragraph (2);
- (b) by striking out the period at the end of paragraph (3) and inserting a semicolon in lieu thereof; and
- (c) by adding the following new paragraphs (4), (5), and (6):

“(4) ‘Fund balance’ means the sum of—

“(a) the investments of the fund calculated at par value; and

“(b) the cash balance of the fund on the books of the Treasury;

“(5) ‘Unfunded liability’ means the estimated excess of the present value of all benefits payable from the fund to participants and former participants, subject to this Act, and to their survivors, over the sum of—

“(a) the present value of deductions to be withheld from the future basic salary of participants currently subject to this Act and of future Agency contributions to be made in their behalf; plus

“(b) the present value of Government payments to the fund under section 261 (b) and (c) of this Act; plus

“(c) the fund balance as of the date the unfunded liability is determined; and

“(6) ‘Normal cost’ means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for government employees and less the cost of credit allowed for military service.”.

SEC. 102. Section 261 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by inserting “(a)” after “261.” and by adding the following new paragraphs (b), (c), and (d):

“(b) Any statute which authorizes—

“(1) new or liberalized benefits payable from the fund, including annuity increases other than under section 291 of this Act;

“(2) extension of the coverage of this Act to new groups of employees; or

Central
Intelligence
Agency
Retirement Act of
1964 for Certain
Employees,
amendments.

Definitions.

Infra.

50 USC 403 note.

“(3) increases in salary on which benefits are computed is deemed to authorize appropriations to the fund to finance the unfunded liability created by that statute in thirty equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of coverage, or increase in salary is effective.

“(c) There is hereby authorized to be appropriated to the fund each fiscal year, beginning with fiscal year 1977 such amounts as may be necessary to meet the amount of normal cost for each year which is not met by contributions under section 211(a).

“(d) There is hereby authorized to be appropriated to the fund each fiscal year such sums as may be necessary to provide the amount equivalent to (1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and (2) that portion of disbursement for annuities for that year which the Director estimates is attributable to credit allowed for military service, not to exceed the following percentages of such amounts: 70 per centum for 1977; 80 per centum for 1978; 90 per centum for 1979; and 100 per centum for 1980 and for each fiscal year thereafter.”.

TITLE II—RETIREMENT ACT AMENDMENTS

Annuitants.

SEC. 201. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by striking “dependent” in subsection (a);

(b) by striking “Dependent widower” and inserting “Widower” in lieu thereof in subsection (b) (2);

(c) by inserting a period before the first comma and striking the remainder of the sentence in subsection (b) (2);

(d) by inserting before the comma in subsection (b) (3) (i) the words: “or a child who lived with and for whom a petition for adoption was filed by a participant and who is adopted by the surviving spouse after the participant’s death.”; and

(e) by striking out “two years” wherever it appears and inserting in lieu thereof “one year”.

Annuities, computation.

SEC. 202. Section 221(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended to read as follows:

“(b) (1) If a participant dies after having retired and is survived by a spouse to whom he or she was married at the time of retirement, or by a widow or widower whom he or she married after retirement, the spouse, widow, or widower is entitled to an annuity equal to 55 per centum of the amount of the participant’s annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by the participant as the base for such survivor benefits at the time of retirement. The annuity of the participant shall be reduced by 2½ per centum of any amount up to \$3,600 specified by the participant as the base for such survivor benefit plus 10 per centum of any amount over \$3,600 so specified. If at the time of retirement the participant does not desire any surviving spouse to receive an annuity under this paragraph he shall so state in writing to the Director.

"(2) If an annuitant dies after having elected a reduced annuity provided in paragraph (2) of section 221(f) the surviving widow or widower is entitled to an annuity computed as prescribed in paragraph (1) of this subsection.

Infra.

"(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or another retirement system for Government employees. The annuity of the spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the spouse, widow, or widower—

"(A) dies; or

"(B) remarries before becoming sixty years of age.

"(4) An annuity which is reduced under this subsection shall, for each full month during which an annuitant is not married, be recomputed and paid as if the annuity had not been so reduced. Upon remarriage of the annuitant, the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement."

SEC. 203. Section 221(f) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

Unmarried participant.

(a) by inserting "(1)" immediately after "(f)"; and

(b) by adding at the end thereof the following new paragraph (2):

"(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received in the Agency within one year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection."

SEC. 204. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding at the end thereof the following new subsection:

Annuities, monthly rate.

"(1) Notwithstanding any other provision of this section, the monthly rate of annuity payable under subsection (a) of this section, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

42 USC 401 et seq.

"(2) Notwithstanding any other provision of this section, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

"(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act."

Retirement for disability or incapacity, application submittal.

SEC. 205. Section 231(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees as amended (78 Stat. 1043; U.S.C. 403 note), is amended by adding at the end thereof the following: "Retirement for disability or incapacity may be approved only if the application is submitted before the applicant is separated from the Agency or within one year thereafter. This time limitation may be waived by the Director for a participant or annuitant who at the date of separation from the Agency or within one year thereafter is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant or annuitant to competency or the appointment of a fiduciary, whichever is earlier."

SEC. 206. Section 231(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; U.S.C. 403 note), is amended—

(a) by inserting the figure "(1)" immediately after the letter "(b)";

(b) by striking the words "six months" in the sixth sentence and substitute "one year"; and

(c) by adding at the end of the section a new paragraph (2) as follows:

"(2) If the annuitant receiving disability retirement annuity is restored to earning capacity, before becoming sixty years of age, payment of the annuity terminates on reemployment by the Government or one year after the end of the calendar year in which earning capacity is restored whichever is earlier. Earning capacity is restored if in each of two succeeding calendar years the income of the annuitant from wages or self-employment or both equals at least 80 per centum of the current rate of pay of the position occupied at the time of retirement."

SEC. 207. Section 231(c) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by inserting the figure "(1)" immediately after the letter "(c)";

(b) by inserting immediately after the words "If a recovered" the words: "or restored";

(c) by inserting immediately after the words "shall be considered" the words: "except for service credit";

(d) by inserting immediately after the words "as of the date" the words: "of termination of the disability annuity";

(e) by striking the words: "he was retired for disability";

(f) by striking the period after the last word "provisions" and adding the words: "or he may be placed by the Director in an involuntary retired status if he qualifies under the provisions of section 235(a). Retirement rights under this section shall be based on the provisions of this Act in effect as of the date the disability annuity was discontinued."

(g) by adding at the end of the section a new paragraph (2):

"(2) If, based on a current medical examination, the Director determines that a recovered annuitant has, before reaching age sixty-two, again become totally disabled due to recurrence of the disability for which he was originally retired, his terminated disability annuity (same type and rate) is reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that his income from wages and self-employment in any calendar year before reaching age sixty-two was less than 80 per centum of the pay rate attached to the position from

Annuity, termination.

Reinstatement.

which he retired, his terminated disability annuity (same type and rate) is reinstated from the first of the next following year. If he has been allowed an involuntary or voluntary retirement annuity in the meantime, his reinstated disability annuity is substituted for it unless he elects to retain the former benefit.”

SEC. 208. Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

Death in service.

(a) by striking “dependent” wherever it occurs; and

(b) by inserting a period after “section 221(g)” and striking the remainder of the section.

SEC. 209. Section 241(b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended to read as follows:

“(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Agency before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;”

SEC. 210. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

Length of service, computation.

(a) by striking “the Federal Employees’ Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.)” and inserting in lieu thereof “chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based”; and

(b) by adding at the end thereof the following new sentence: “A participant or former participant who returns to Government duty after a period of separation shall have included in his period of service that part of the period of separation in which he was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based.”

5 USC 8101.

SEC. 211. Section 252 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by striking the period at the end of paragraph (a)(2) thereof and adding the following: “or active and honorable service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.”

Prior service credit.

SEC. 212. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding in “PART G—MONEYS” thereof the following new section 264:

“RECOVERY OF PAYMENTS

“SEC. 264. Recovery of payments under this Act may not be made from an individual when in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this Act on account of a certification or payment made by a former employee of the Central Intelligence Agency in the discharge of his official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.”

SEC. 213. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding at the end thereof the following new section:

"PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

"AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEMS

50 USC 403 note.

"SEC. 292. (a) Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, he may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which:

5 USC 8331.

"(1) amends subchapter III, chapter 83, title 5, United States Code, and is applicable to civil service employees generally, or

"(2) otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors.

Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors. Any such order shall have the force and effect of law and may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.

"(b) Any provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

"(2) any prior provision of an Executive order issued under authority of this section."

Annuity increase.
50 USC 403 note.

SEC. 214. (a) An annuity payable from the Central Intelligence Agency Retirement and Disability Fund to an annuitant which is based on a separation occurring prior to October 20, 1969, is increased by \$240 per annum.

(b) In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Central Intelligence Agency Retirement and Disability Fund to the surviving spouse of an annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by \$132 per annum.

Monthly rate.

(c) The monthly rate of an annuity resulting from an increase under this section shall be considered as the monthly rate of annuity payable under section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) for purposes of computing the minimum annuity under new section 221(1) of the Act, as added by section 204 of this Act.

Effective dates.
50 USC 403 note.

SEC. 215. (a) This Act shall become effective October 1, 1976.

(b) The amendments made by sections 201 (a), (b), (c), and (d), 202, and 208 shall not apply in the case of participants who died before January 8, 1971. The amendments made by section 201(e) shall not apply in the case of participants who died before April 9, 1974. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(c) The amendment made by section 203 shall apply to a participant who married prior to enactment but only if the election is made within one year after enactment.

(d) The amendment made by section 210 is effective only with respect to annuity accruing for full months beginning after January 8, 1971; but any part of a period of separation referred to in such amendment in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based shall be counted whether the person returns to duty before, on, or after January 8, 1971. With respect to any person retired before such date of enactment, any such part of a period of separation shall be counted only upon application of the retired person.

5 USC 8101.

(e) The amendment in section 211 to credit certain service in the Public Health Service is effective as of April 8, 1960, and the amendment to credit certain service in the National Oceanic and Atmospheric Administration is effective as of September 14, 1961.

(f) The amendment in section 212 is effective as of June 30, 1974.

(g) The amendment to recompute a reduced annuity during periods when not married in section 202 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to November 1, 1974.

(h) Annuity increases under sections 204 and 214 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to August 1, 1974, or the date on which the annuity commences, whichever is later.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1152 pt. 1 (Comm. on Armed Services) and No. 94-1152 pt. 2 (Comm. on Appropriations).

SENATE REPORT No. 94-1304 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 13, considered and passed House.

Sept. 30, considered and passed Senate.