

116TH CONGRESS
1ST SESSION

S. 473

To amend title 5, United States Code, to include certain Federal positions within the definition of law enforcement officer for retirement purposes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2019

Mr. BOOKER (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 5, United States Code, to include certain Federal positions within the definition of law enforcement officer for retirement purposes, and for other purposes.

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.**

4 This Act may be cited as the “Law Enforcement Offi-
5 cers Equity Act”.

1 **SEC. 2. INCLUDING CERTAIN POSITIONS WITHIN THE DEFINITION OF LAW ENFORCEMENT OFFICER**
 2 **FOR PURPOSES OF RETIREMENT.**

4 (a) **FEDERAL EMPLOYEES RETIREMENT SYSTEM.**—
 5 Section 8401(17) of title 5, United States Code, is amended—
 6 ed—

7 (1) in subparagraph (C)—

8 (A) by striking “subparagraph (A) and
 9 (B)” and inserting “subparagraphs (A), (B),
 10 (E), (F), (G), (H), and (I)”; and

11 (B) by striking “and” at the end; and

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

13 “(E) an employee not otherwise covered by
 14 this paragraph—

15 “(i) the duties of whose position include the investigation or apprehension of
 16 individuals suspected or convicted of offenses against the criminal laws of the
 17 United States; and

20 “(ii) who is authorized to carry a fire-
 21 arm;

22 “(F) an employee of the Internal Revenue
 23 Service, the duties of whose position are primarily the—
 24

25 “(i) collection of delinquent taxes; and

26 “(ii) securing of delinquent returns;

1 “(G) an employee of the United States
2 Postal Inspection Service;

3 “(H) an employee of the Department of
4 Veterans Affairs who is a Department police of-
5 ficer under section 902 of title 38; and

6 “(I) an employee of U.S. Customs and
7 Border Protection—

8 “(i) who is a seized property specialist
9 in the GS–1801 job series; and

10 “(ii) the duties of whose position in-
11 clude activities relating to the efficient and
12 effective custody, management, and dis-
13 position of seized and forfeited property;”.

14 (b) CIVIL SERVICE RETIREMENT SYSTEM.—Section
15 8331(20) of title 5, United States Code, is amended, in
16 the matter preceding subparagraph (A)—

17 (1) by inserting “and an individual described in
18 any of subparagraphs (E) through (I) of section
19 8401(17)” after “United States”; and

20 (2) by striking “this activity” and inserting
21 “such activity or described in any such subpara-
22 graph”.

23 (c) APPLICATION.—The amendments made by this
24 section shall apply to any—

1 (1) individual who is appointed as a law en-
2 forcement officer—

3 (A) as defined in section 8331(20) or
4 8401(17) of title 5, United States Code (as
5 amended by this section); and

6 (B) on or after the date of enactment of
7 this Act; and

8 (2) incumbent (as defined in section 3(a)(4)),
9 consistent with the requirements of section 3.

10 **SEC. 3. INCUMBENT LAW ENFORCEMENT OFFICERS.**

11 (a) DEFINITIONS.—In this section—

12 (1) the term “Director” means the Director of
13 the Office of Personnel Management;

14 (2) the term “employee” has the meaning given
15 the term in section 8331(1) or 8401(11) of title 5,
16 United States Code;

17 (3) the term “Fund” means the Civil Service
18 Retirement and Disability Fund;

19 (4) the term “incumbent” means an individual
20 who—

21 (A) before the date of enactment of this
22 Act, was appointed to a position as an employee
23 that—

1 (i) did not satisfy the requirements of
2 section 8331(20) or 8401(17) of title 5,
3 United States Code, as then in effect; and

4 (ii) would have satisfied the require-
5 ments described in clause (i) if the amend-
6 ments made by section 2 had been in ef-
7 fect; and

8 (B) on the date of enactment of this Act,
9 is serving in a position as an employee that sat-
10 isfies the requirements of section 8331(20) of
11 title 5, United States Code, by virtue of the
12 amendments made by section 2;

13 (5) the term “law enforcement officer” has the
14 meaning given the term in section 8331(20) or
15 8401(17) of title 5, United States Code, as amended
16 by section 2;

17 (6) the term “prior service” means, with re-
18 spect to an incumbent who makes an election under
19 subsection (b)(2), service performed by the incum-
20 bent before the date on which appropriate retirement
21 deductions begin to be made under the election; and

22 (7) the term “service” means service performed
23 by an individual in a position that—

1 (A) satisfies the requirements of section
 2 8331(20) or 8401(17) of title 5, United States
 3 Code, as amended by section 2; or

4 (B) would have satisfied the requirements
 5 of section 8331(20) or 8401(17) of title 5,
 6 United States Code, as amended by section 2,
 7 if the amendments made by section 2 had then
 8 been in effect.

9 (b) TREATMENT OF SERVICE PERFORMED BY IN-
 10 CUMBENTS.—

11 (1) SERVICE ON OR AFTER DATE OF ENACT-
 12 MENT.—Service performed by an incumbent on or
 13 after the date of enactment of this Act shall be
 14 treated as service performed as a law enforcement
 15 officer.

16 (2) SERVICE BEFORE DATE OF ENACTMENT.—
 17 Service performed by an incumbent before the date
 18 of enactment of this Act shall, for purposes of sub-
 19 chapter III of chapter 83 and chapter 84 of title 5,
 20 United States Code, be treated as service performed
 21 as a law enforcement officer only if the incumbent
 22 submits a written election to the Director by the ear-
 23 lier of—

24 (A) the date that is 5 years after the date
 25 of enactment of this Act; or

1 (B) the day before the date on which the
 2 incumbent separates from the service.

3 (c) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERV-
 4 ICE.—

5 (1) IN GENERAL.—An incumbent who makes an
 6 election under subsection (b)(2) may, with respect to
 7 prior service performed by the incumbent, pay a de-
 8 posit into the Fund equal to the sum of—

9 (A) the difference between—

10 (i) the amount that would have been
 11 deducted during the period of prior service
 12 under section 8334 or 8422 of title 5,
 13 United States Code, from the pay of the
 14 incumbent if the amendments made by sec-
 15 tion 2 had been in effect during the prior
 16 service; and

17 (ii) the amount that was deducted
 18 during the period of prior service under
 19 section 8334 or 8422 of title 5, United
 20 States Code; and

21 (B) interest on the amount described in
 22 subparagraph (A)(i), as computed under—

23 (i) paragraphs (2) and (3) of section
 24 8334(e) of title 5, United States Code; and

1 (ii) regulations promulgated by the
2 Director.

3 (2) EFFECT OF NOT CONTRIBUTING.—If an in-
4 cumbent does not pay the full amount of the deposit
5 described in paragraph (1)—

6 (A) all prior service of the incumbent shall
7 remain fully creditable as a law enforcement of-
8 ficer; and

9 (B) the resulting annuity shall be re-
10 duced—

11 (i) in a manner similar to that de-
12 scribed in section 8334(d)(2) of title 5,
13 United States Code; and

14 (ii) to the extent necessary to make
15 up the amount unpaid.

16 (d) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERV-
17 ICE.—

18 (1) IN GENERAL.—If an incumbent makes an
19 election under subsection (b)(2), an agency that em-
20 ployed the incumbent during any prior service of the
21 incumbent shall remit to the Director, for deposit in
22 the Fund, an amount equal to the sum of—

23 (A) the difference between—

24 (i) the total amount of Government
25 contributions that would have been paid

under section 8334 or 8423 of title 5, United States Code, if the amendments made by section 2 had been in effect during the prior service; and

(ii) the total amount of Government contributions paid under section 8334 or 8423 of title 5, United States Code; and

(B) interest on the amount described in subparagraph (A)(i), as computed in accordance with—

(i) paragraphs (2) and (3) of section 8334(e) of title 5, United States Code; and

(ii) regulations promulgated by the Director.

(2) CONTRIBUTIONS TO BE MADE RATABLY.—

Government contributions under this subsection on behalf of an incumbent shall be made by the agency ratably (not less frequently than annually) over the 10-year period beginning on the date described in subsection (a)(6).

(e) EXEMPTION FROM MANDATORY SEPARATION.—

Notwithstanding section 8335(b) or 8425(b) of title 5, United States Code, a law enforcement officer shall not be subject to mandatory separation during the 3-year period beginning on the date of enactment of this Act.

1 (f) REGULATIONS.—The Director shall prescribe reg-
2 ulations to carry out this Act, including regulations for
3 the application of this section in the case of any individual
4 entitled to a survivor annuity (based on the service of an
5 incumbent who dies before making an election under sub-
6 section (b)(2)), to the extent of any rights that would have
7 been available to the decedent if still living.

8 (g) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be considered to apply in the case of a reem-
10 ployed annuitant.

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