

111TH CONGRESS
1ST SESSION

H. R. 2850

To provide for enhanced retirement benefits for administrative law judges.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2009

Mr. KUCINICH (for himself, Mr. LATOURETTE, Mr. MCHUGH, Mr. FRANK of Massachusetts, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To provide for enhanced retirement benefits for
administrative law judges.

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; REFERENCES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Administrative Law Judges Retirement Act of 2009”.

6 (b) **REFERENCES.**—Whenever in this Act an amend-
7 ment is expressed in terms of an amendment to a section
8 or other provision, the reference shall be considered to be
9 made to a section or other provision of title 5, United
10 States Code.

1 **SEC. 2. PROVISIONS RELATING TO THE CIVIL SERVICE RE-**
2 **TIREMENT SYSTEM.**

3 (a) DEFINITION.—Section 8331 is amended—

4 (1) in paragraph (30), by striking “and” at the
5 end;

6 (2) in paragraph (31), by striking the period
7 and inserting a semicolon; and

8 (3) by adding at the end the following:

9 “(32) ‘administrative law judge’ means an ad-
10 ministrative law judge appointed under section 3105
11 or a similar prior provision of law.”.

12 (b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-
13 ITS.—Section 8334 is amended—

14 (1) in subsection (a)(1)(A), by striking “or cus-
15 toms and border protection officer,” and inserting
16 “customs and border protection officer, or adminis-
17 trative law judge,”;

18 (2) in subsection (a)(1)(B)—

19 (A) in the first sentence of clause (i), by
20 striking “clause (ii),” and inserting “clause (ii)
21 or (iii),”; and

22 (B) by adding after clause (ii) the fol-
23 lowing:

24 “(iii) In the case of an administrative law judge, the
25 amount to be contributed under this subparagraph shall
26 (instead of the amount described in clause (i)) be equal

1 to the amount derived by multiplying the administrative
 2 law judge’s basic pay by the percentage that is 1 percent-
 3 age point less than the percentage applicable under sub-
 4 section (c).”; and

5 (3) in subsection (c), by adding after the item
 6 relating to a nuclear materials courier the following:

“Administrative law judge	5	June 11, 1947, to June 30, 1948.
	6	July 1, 1948, to Octo- ber 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to De- cember 31, 1998.
	7.25	January 1, 1999, to De- cember 31, 1999.
	7.4	January 1, 2000, to De- cember 31, 2000.
	7	January 1, 2001, to (but not including) the effective date of the Administrative Law Judges Retire- ment Act of 2009.
	8	The effective date of the Administrative Law Judges Retirement Act of 2009 and thereafter.”.

7 (c) IMMEDIATE RETIREMENT.—

8 (1) IN GENERAL.—Section 8336 is amended by
 9 adding at the end the following:

10 “(q) An employee who is separated from the service
 11 after completing 10 years of service as an administrative
 12 law judge and becoming 60 years of age is entitled to an
 13 annuity. An employee who is separated from the service

1 voluntarily after completing 10 years of service as an ad-
2 ministrative law judge but before becoming 60 years of
3 age is entitled to a reduced annuity.”.

4 (2) DISCONTINUED SERVICE OR EARLY VOL-
5 UNTARY RETIREMENT.—Section 8336(d) is amended
6 by adding at the end the following: “In the case of
7 an administrative law judge, the preceding provi-
8 sions of this subsection shall be applied by treating
9 any reference in such provisions to removal or sepa-
10 ration for ‘misconduct or delinquency’ or for ‘mis-
11 conduct or unacceptable performance’ to refer to re-
12 moval under section 1215, 7521, or 7532.”.

13 (d) COMPUTATION OF ANNUITY.—Section 8339 is
14 amended—

15 (1) in subsection (f), by striking “(r), and (s)”
16 and inserting “(r), (s), and (v)”;

17 (2) in subsection (h), by adding at the end the
18 following: “The annuity computed under subsections
19 (f) and (v) for a employee retiring under the second
20 sentence of section 8336(q) is reduced by $\frac{1}{12}$ of 1
21 percent for each full month not in excess of 60
22 months, and $\frac{1}{6}$ of 1 percent for each full month in
23 excess of 60 months, the employee is under 60 years
24 of age at the date of separation.”;

1 (3) in subsection (i), by striking “(r), or (s)”
2 and inserting “(r), (s), or (v)”; and

3 (4) by adding at the end the following:

4 “(v) The annuity of an employee retiring under sec-
5 tion 8336(q) is computed under subsection (a), except, if
6 the employee has had at least 5 years’ service as an ad-
7 ministrative law judge, the employee’s annuity is com-
8 puted with respect to—

9 “(1) such employee’s service as an administra-
10 tive law judge; and

11 “(2) such employee’s military service not ex-
12 ceeding 5 years;

13 by multiplying 2½ percent of such employee’s average pay
14 by the years of that service.”.

15 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) Sections 8337(a) and 8339(g) are amended by striking
17 “or (s)” each place it appears and inserting “(s), or (v)”.

18 (2) Subsections (j), (k)(1), (l), and (m) of section
19 8339, subsections (b)(1) and (d) of section 8341, section
20 8343a(c), and section 8344(a)(A) are amended by striking
21 “and (s)” each place it appears and inserting “(s), and
22 (v)”.

23 (3) Subsections (j)(3) (in the third sentence before
24 the sentence containing subparagraph (A)), (j)(5)(C)(iii),

1 and (k)(2)(C) of section 8339 are amended by striking
2 “and (r)” and inserting “(r), and (v)”.

3 (4) Section 8335(a) is amended by striking
4 “8331(29)(A)” and inserting “8331(30)(A)”.

5 **SEC. 3. PROVISIONS RELATING TO THE FEDERAL EMPLOY-**
6 **EES’ RETIREMENT SYSTEM.**

7 (a) DEFINITION.—Section 8401 is amended—

8 (1) in paragraph (35), by striking “and” at the
9 end;

10 (2) in paragraph (36), by striking the period
11 and inserting “; and”; and

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

13 “(37) ‘administrative law judge’ means an ad-
14 ministrative law judge appointed under section 3105
15 or a similar prior provision of law.”.

16 (b) EARLY RETIREMENT.—Section 8414(b) is
17 amended by adding at the end the following:

18 “(4) In the case of an administrative law judge, the
19 preceding provisions of this subsection shall be applied by
20 treating any reference in such provisions to removal or
21 separation for ‘misconduct or delinquency’ or for ‘mis-
22 conduct or unacceptable performance’ to refer to removal
23 under section 1215, 7521, or 7532.”.

24 (c) COMPUTATION OF ANNUITY.—Section 8415 is
25 amended—

1 (1) in subsection (h)(2), by striking all that fol-
 2 lows “air traffic controller,” and inserting “customs
 3 and border protection officer, or administrative law
 4 judge.”; and

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

6 “(n) The annuity of an administrative law judge, or
 7 a former administrative law judge, retiring under this sub-
 8 chapter is computed under subsection (a), except that if
 9 the individual has had at least 5 years of service as an
 10 administrative law judge, so much of the annuity as is
 11 computed with respect to such type of service, not exceed-
 12 ing a total of 20 years, shall be computed by multiplying
 13 1⁷/₁₀ percent of such employee’s average pay by the years
 14 of that service.”.

15 (d) DEDUCTIONS FROM PAY.—Section 8422(a)(3) is
 16 amended by adding after the item relating to a customs
 17 and border protection officer the following:

“Administrative law judge	7	January 1, 1987, to De- cember 31, 1998.
	7.25	January 1, 1999, to De- cember 31, 1999.
	7.4	January 1, 2000, to De- cember 31, 2000.
	7	January 1, 2001, to (but not including) the effective date of the Administrative Law Judges Retire- ment Act of 2009.

8 The effective date of the
 Administrative Law
 Judges Retirement
 Act of 2009 and
 thereafter.”.

1 (e) GOVERNMENT CONTRIBUTIONS.—Section 8423 is
 2 amended—

3 (1) in subsection (a)(1)(B)(i), by striking “and
 4 employees under sections 302 and 303 of the Cen-
 5 tral Intelligence Agency Retirement Act, multiplied
 6 by” and inserting “employees under sections 302
 7 and 303 of the Central Intelligence Agency Retire-
 8 ment Act, and administrative law judges, multiplied
 9 by”;

10 (2) by amending paragraph (2) of subsection
 11 (a) to read as follows:

12 “(2) In determining any normal-cost percentage to
 13 be applied under this subsection—

14 “(A) amounts provided for under section 8422
 15 shall be taken into account; and

16 “(B) amounts provided by or for administrative
 17 law judges under subchapter III of chapter 83 (in-
 18 cluding sections 8334 and 8348, and whether pro-
 19 vided before, on, or after the effective date of this
 20 subparagraph) shall, to the extent they exceed the
 21 normal cost of the benefits which are (i) provided for

1 under subchapter III of chapter 83, and (ii) attrib-
2 utable to service performed as an administrative law
3 judge (within the meaning of such subchapter), be
4 taken into account as if they had been provided by
5 or for administrative law judges under this chap-
6 ter.”; and

7 (3) in subsection (a)(3)(A), by inserting “ad-
8 ministrative law judges,” after “military reserve
9 technicians,” each place it appears.

10 **SEC. 4. EFFECTIVE DATE.**

11 (a) IN GENERAL.—This Act and the amendments
12 made by this Act—

13 (1) shall take effect 6 months after the date of
14 the enactment of this Act; and

15 (2) except as provided in subsection (b), shall
16 apply only with respect to administrative law judges
17 first appointed on or after the effective date of this
18 Act.

19 (b) EXCEPTION.—

20 (1) ELECTION FOR INCUMBENTS.—The amend-
21 ments made by this Act shall apply with respect to
22 any individual serving as an administrative law
23 judge on the effective date of this Act if appropriate
24 written application is submitted to the Office of Per-

1 sonnel Management within 12 months after such ef-
2 fective date.

3 (2) TREATMENT OF PRIOR SERVICE.—

4 (A) DEPOSIT REQUIREMENT.—An indi-
5 vidual who makes an election under paragraph
6 (1) shall, with respect to any administrative law
7 judge service performed by such individual prior
8 to the date as of which deductions from such
9 individual's pay begin to be made in accordance
10 with the amendments made by this Act, be re-
11 quired to pay into the Civil Service Retirement
12 and Disability Fund an amount equal to the
13 difference between—

14 (i) the unrefunded individual contribu-
15 tions that were made for such prior serv-
16 ice; and

17 (ii) the individual contributions that
18 would have been required if the rate (or
19 rates) in effect for such prior service had
20 been equal to the rate (or rates) actually in
21 effect for such prior service, increased by 1
22 percentage point,

23 without interest.

24 (B) EFFECT OF NOT MAKING DEPOSIT.—

25 If or to the extent that any amounts under sub-

1 paragraph (A) are not paid by an individual
2 making an election under paragraph (1), any
3 annuity based on the service of such indi-
4 vidual—

5 (i) shall be computed in accordance
6 with the amendments made by this Act;
7 but

8 (ii) shall be reduced in a manner simi-
9 lar to that set forth in section
10 8334(d)(2)(B) of title 5, United States
11 Code.

12 (3) SURVIVOR ANNUITANTS.—In the case of an
13 individual described in paragraph (1) who dies be-
14 fore the end of the 12-month period beginning on
15 the effective date of this Act, any application or de-
16 posit under this subsection may, for purposes of any
17 survivor annuity based on the service of such indi-
18 vidual, also be made by a survivor of such individual.

19 (c) DEFINITION.—For purposes of this section, the
20 term “administrative law judge” means an administrative
21 law judge appointed under section 3105 of title 5, United
22 States Code, or a similar prior provision of law.

1 (d) REGULATIONS.—The Office of Personnel Man-
2 agement may prescribe any regulations necessary to carry
3 out this section.

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