

104TH CONGRESS
2D SESSION

S. 1686

To provide for early deferred annuities under chapter 83 of title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1996

Mr. FORD (for himself, Mr. COATS, Mr. LUGAR, Mrs. HUTCHISON, and Mr. McCONNELL) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide for early deferred annuities under chapter 83 of title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, 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. EARLY DEFERRED ANNUITIES OF CERTAIN**
4 **FORMER EMPLOYEES OF THE DEPARTMENT**
5 **OF DEFENSE.**

6 (a) DEFINITIONS.—For purposes of this section—

1 (1) the term “Civil Service Retirement System”
2 means the retirement system under subchapter III
3 of chapter 83 of title 5, United States Code;

4 (2) the term “defense contractor” means any
5 entity that—

6 (A) contracts with the Department of De-
7 fense to perform a function previously per-
8 formed by Department of Defense employees;

9 (B) performs that function at the same in-
10 stallation at which such function was previously
11 performed by Department of Defense employees
12 or in the vicinity of that installation; and

13 (C) is the employer of one or more trans-
14 ferred employees;

15 (3) the term “early deferred retirement age”
16 means the first age at which a transferred employee
17 would have been eligible for immediate retirement
18 under subsection (a) or (b) of section 8336 of title
19 5, United States Code, if such transferred employee
20 had remained an employee within the meaning of
21 section 8331(1) of such title continuously until at-
22 taining such age;

23 (4) the term “severance pay” means severance
24 pay payable under section 5595 of title 5, United
25 States Code;

1 (5) the term “separation pay” means separa-
2 tion pay payable under section 5597 of title 5, Unit-
3 ed States Code; and

4 (6) the term “transferred employee” means a
5 former employee of the Department of Defense
6 (other than a temporary employee) who—

7 (A) while employed by the Department of
8 Defense at a military installation to be closed or
9 realigned pursuant to recommendations of the
10 Defense Base Closure and Realignment Com-
11 mission that were approved by the President in
12 1995 under section 2903(e) of the Defense
13 Base Closure and Realignment Act of 1990
14 (title XXIX of Public Law 101–510; 10 U.S.C.
15 2687 note) and while covered under the Civil
16 Service Retirement System, was separated from
17 Federal service in a reduction-in-force resulting
18 from conversion from performance of a function
19 by Department of Defense employees at that
20 military installation to performance of that
21 function by a defense contractor at that instal-
22 lation or in the vicinity of that installation;

23 (B) is employed by the defense contractor
24 within 60 days following such separation to per-

1 form substantially the same function performed
2 before the separation;

3 (C) remains employed by the defense con-
4 tractor or a successor defense contractor, or
5 subcontractor of a defense contractor until at-
6 taining early deferred retirement age or is in-
7 voluntarily separated from employment by the
8 defense contractor before attaining such age for
9 reasons other than misconduct;

10 (D) at the time separated from Federal
11 service, was not eligible for an immediate annu-
12 ity under the Civil Service Retirement System;

13 (E) does not withdraw retirement contribu-
14 tions under section 8342 of title 5, United
15 States Code; and

16 (F)(i) has not received separation pay or
17 severance pay due to a separation described in
18 subparagraph (A); or

19 (ii) has repaid the full amount of such pay
20 with interest (as determined by the Office of
21 Personnel Management) to the Department of
22 Defense before attaining early deferred retire-
23 ment age.

24 (b) RETIREMENT BENEFITS OF TRANSFERRED EM-
25 PLOYEES.—Notwithstanding the age requirement under

1 section 8338(a) of title 5, United States Code, payment
2 of a deferred annuity for which a transferred employee
3 is eligible under that section shall commence on the first
4 day of the first month that begins after the date on which
5 the transferred employee attains early deferred retirement
6 age.

7 (c) COMPUTATION OF AVERAGE PAY.—(1)(A) This
8 paragraph applies to the computation of the annuity of
9 a transferred employee who retires under this section who
10 immediately before separation from Federal service as de-
11 scribed under subsection (a)(6)(A) was employed in a posi-
12 tion classified under the General Schedule.

13 (B) Subject to subparagraph (C), in the computation
14 of an annuity referred to under subparagraph (A) for a
15 transferred employee, the average pay of the transferred
16 employee under section 8331(4) of title 5, United States
17 Code, shall be adjusted at the same time and by the same
18 percentage that rates of basic pay are increased under sec-
19 tion 5303 of title 5, United States Code, during the period
20 beginning on the date on which the transferred employee
21 separates from Federal service as described under sub-
22 section (a)(6)(A) and ending on the date on which the
23 transferred employee attains early deferred retirement
24 age.

1 (C) Average pay as adjusted by this paragraph may
2 not exceed the limitation on maximum pay, final pay, or
3 average pay (as applicable) under section 8340(g)(1) (A)
4 or (B) of title 5, United States Code.

5 (2)(A) This paragraph applies to the compensation
6 of an annuity of a transferred employee who retires in ac-
7 cordance with this section who immediately before separa-
8 tion from Federal service as described under subsection
9 (a)(6)(A) was a prevailing rate employee as defined under
10 section 5342(2) of title 5, United States Code.

11 (B) In the computation of an annuity referred to
12 under subparagraph (A) for a transferred employee, aver-
13 age pay under section 8331(4) of title 5, United States
14 Code, shall be adjusted at the same time and by the same
15 percentage that pay rates for positions that are in the
16 same area as, and are comparable to, the last position the
17 transferred employee held as a prevailing rate employee,
18 are increased under section 5343(a) of such title during
19 the period beginning on the date on which the transferred
20 employee separates from Federal service as described
21 under subsection (a)(6)(A) and ending on the date on
22 which the transferred employee attains early deferred re-
23 tirement age.

24 (d) SERVICE FOR A DEFENSE CONTRACTOR RELAT-
25 ING TO CREDITABLE SERVICE AND HEALTH INSUR-

1 ANCE.—(1) Service performed by a transferred employee
2 for a defense contractor after separation from Federal
3 service as described under subsection (a)(6)(A) shall not
4 be treated as creditable service for purposes of computing
5 the amount of an early deferred annuity in accordance
6 with this section.

7 (2) Nothing in this section shall be construed to re-
8 quire employee or agency contributions under chapter 89
9 of title 5, United States Code, for any period of service
10 performed by a transferred employee for a defense con-
11 tractor after separation from Federal service as described
12 under subsection (a)(6)(A).

13 (e) RECEIPT OF BENEFITS WHILE EMPLOYED BY A
14 DEFENSE CONTRACTOR.—A transferred employee may
15 commence receipt of an early deferred annuity in accord-
16 ance with this section while continuing to work for a de-
17 fense contractor.

18 (f) LUMP-SUM CREDIT PAYMENT.—If a transferred
19 employee dies before attaining early deferred retirement
20 age, such employee shall be treated as a former employee
21 who dies not retired for purposes of payment of the lump-
22 sum credit under section 8342(d) of title 5, United States
23 Code.

1 (g) IMPLEMENTING REGULATIONS.—The Office of
2 Personnel Management shall promulgate regulations to
3 carry out the provisions of this section.

4 (h) EFFECTIVE DATE.—This section shall take effect
5 on August 1, 1996, and shall apply to transferred employ-
6 ees separated from Federal service on or after that date.

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