

Union Calendar No. 33

106TH CONGRESS
1ST SESSION

H. R. 807

[Report No. 106-53]

To amend title 5, United States Code, to provide portability of service credit for persons who leave employment with the Federal Reserve Board to take positions with other Government agencies.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1999

Mr. SCARBOROUGH (for himself, Ms. NORTON, Mr. CUMMINGS, Mrs. MORELLA, Mr. HOYER, Mr. DAVIS of Virginia, Mr. MORAN of Virginia, Mr. WAXMAN, and Mr. MICA) introduced the following bill; which was referred to the Committee on Government Reform

MARCH 16, 1999

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on February 23, 1999]

A BILL

To amend title 5, United States Code, to provide portability of service credit for persons who leave employment with the Federal Reserve Board to take positions with other Government agencies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Federal Reserve Board*
3 *Retirement Portability Act”.*

4 **SEC. 2. PORTABILITY OF SERVICE CREDIT.**

5 *(a) CREDITABLE SERVICE.—*

6 *(1) IN GENERAL.—Section 8411(b) of title 5,*
7 *United States Code, is amended—*

8 *(A) by striking “and” at the end of para-*
9 *graph (3);*

10 *(B) in paragraph (4)—*

11 *(i) by striking “of the preceding provi-*
12 *sions” and inserting “other paragraph”;*

13 *and*

14 *(ii) by striking the period at the end*
15 *and inserting “; and”; and*

16 *(C) by adding at the end the following:*

17 *“(5) a period of service (other than any service*
18 *under any other paragraph of this subsection, any*
19 *military service, and any service performed in the*
20 *employ of a Federal Reserve Bank) that was cred-*
21 *itable under the Bank Plan (as defined in subsection*
22 *(i)), if the employee waives credit for such service*
23 *under the Bank Plan and makes a payment to the*
24 *Fund equal to the amount that would have been de-*
25 *ducted from pay under section 8422(a) had the em-*
26 *ployee been subject to this chapter during such period*

1 of service (together with interest on such amount com-
2 puted under paragraphs (2) and (3) of section
3 8334(e)).

4 Paragraph (5) shall not apply in the case of any employee
5 as to whom subsection (g) (or, to the extent subchapter III
6 of chapter 83 is involved, section 8332(n)) otherwise ap-
7 plies.”.

8 (2) *BANK PLAN DEFINED.*—Section 8411 of title
9 5, United States Code, is amended by adding at the
10 end the following:

11 “(i) For purposes of subsection (b)(5), the term ‘Bank
12 Plan’ means the benefit structure in which employees of the
13 Board of Governors of the Federal Reserve System ap-
14 pointed on or after January 1, 1984, participate, which
15 benefit structure is a component of the Retirement Plan for
16 Employees of the Federal Reserve System, established under
17 section 10 of the Federal Reserve Act (and any redesignated
18 or successor version of such benefit structure, if so identified
19 in writing by the Board of Governors of the Federal Reserve
20 System for purposes of this chapter).”.

21 (b) *EXCLUSION FROM CHAPTER 84.*—

22 (1) *IN GENERAL.*—Paragraph (2) of section
23 8402(b) of title 5, United States Code, is amended by
24 striking the matter before subparagraph (B) and in-
25 serting the following:

1 “(2)(A) any employee or Member who has sepa-
2 rated from the service after—

3 “(i) having been subject to—

4 “(I) subchapter III of chapter 83
5 of this title;

6 “(II) subchapter I of chapter 8 of
7 title I of the Foreign Service Act of
8 1980; or

9 “(III) the benefit structure for em-
10 ployees of the Board of Governors of
11 the Federal Reserve System appointed
12 before January 1, 1984, that is a com-
13 ponent of the Retirement Plan for Em-
14 ployees of the Federal Reserve System,
15 established under section 10 of the Fed-
16 eral Reserve Act; and

17 “(ii) having completed—

18 “(I) at least 5 years of civilian
19 service creditable under subchapter III
20 of chapter 83 of this title;

21 “(II) at least 5 years of civilian
22 service creditable under subchapter I of
23 chapter 8 of title I of the Foreign Serv-
24 ice Act of 1980; or

1 “(III) at least 5 years of civilian
2 service (other than any service per-
3 formed in the employ of a Federal Re-
4 serve Bank) creditable under the ben-
5 efit structure for employees of the
6 Board of Governors of the Federal Re-
7 serve System appointed before January
8 1, 1984, that is a component of the Re-
9 tirement Plan for Employees of the
10 Federal Reserve System, established
11 under section 10 of the Federal Reserve
12 Act,
13 determined without regard to any deposit or
14 redeposit requirement under either such sub-
15 chapter or under such benefit structure, or
16 any requirement that the individual become
17 subject to either such subchapter or to such
18 benefit structure after performing the service
19 involved; or”.

20 (2) *EXCEPTION.*—Subsection (d) of section 8402
21 of title 5, United States Code, is amended to read as
22 follows:

23 “(d) Paragraph (2) of subsection (b) shall not apply
24 to an individual who—

25 “(1) becomes subject to—

1 “(A) subchapter II of chapter 8 of title I of
2 the Foreign Service Act of 1980 (relating to the
3 Foreign Service Pension System) pursuant to an
4 election; or

5 “(B) the benefit structure in which employ-
6 ees of the Board of Governors of the Federal Re-
7 serve System appointed on or after January 1,
8 1984, participate, which benefit structure is a
9 component of the Retirement Plan for Employees
10 of the Federal Reserve System, established under
11 section 10 of the Federal Reserve Act (and any
12 redesignated or successor version of such benefit
13 structure, if so identified in writing by the
14 Board of Governors of the Federal Reserve Sys-
15 tem for purposes of this chapter); and

16 “(2) subsequently enters a position in which, but
17 for paragraph (2) of subsection (b), such individual
18 would be subject to this chapter.”.

19 (c) *PROVISIONS RELATING TO CERTAIN FORMER EM-*
20 *PLOYEES.*—A former employee of the Board of Governors
21 of the Federal Reserve System who—

22 (1) has at least 5 years of civilian service (other
23 than any service performed in the employ of a Fed-
24 eral Reserve Bank) creditable under the benefit struc-
25 ture for employees of the Board of Governors of the

1 *Federal Reserve System appointed before January 1,*
2 *1984, that is a component of the Retirement Plan for*
3 *Employees of the Federal Reserve System, established*
4 *under section 10 of the Federal Reserve Act;*

5 *(2) was subsequently employed subject to the ben-*
6 *efit structure in which employees of the Board of Gov-*
7 *ernors of the Federal Reserve System appointed on or*
8 *after January 1, 1984, participate, which benefit*
9 *structure is a component of the Retirement Plan for*
10 *Employees of the Federal Reserve System, established*
11 *under section 10 of the Federal Reserve Act (and any*
12 *redesignated or successor version of such benefit struc-*
13 *ture, if so identified in writing by the Board of Gov-*
14 *ernors of the Federal Reserve System for purposes of*
15 *chapter 84 of title 5, United States Code); and*

16 *(3) after service described in paragraph (2), be-*
17 *comes subject to and thereafter entitled to benefits*
18 *under chapter 84 of title 5, United States Code,*
19 *shall, for purposes of section 302 of the Federal Employees'*
20 *Retirement System Act of 1986 (100 Stat. 601; 5 U.S.C.*
21 *8331 note) be considered to have become subject to chapter*
22 *84 of title 5, United States Code, pursuant to an election*
23 *under section 301 of such Act.*

24 *(d) EFFECTIVE DATE.—*

1 (1) *IN GENERAL.*—Subject to succeeding provi-
2 sions of this subsection, this section and the amend-
3 ments made by this section shall take effect on the
4 date of enactment of this Act.

5 (2) *PROVISIONS RELATING TO CREDITABILITY*
6 *AND CERTAIN FORMER EMPLOYEES.*—The amend-
7 ments made by subsection (a) and the provisions of
8 subsection (c) shall apply only to individuals who
9 separate from service subject to chapter 84 of title 5,
10 United States Code, on or after the date of enactment
11 of this Act.

12 (3) *PROVISIONS RELATING TO EXCLUSION FROM*
13 *CHAPTER.*—The amendments made by subsection (b)
14 shall not apply to any former employee of the Board
15 of Governors of the Federal Reserve System who, sub-
16 sequent to his or her last period of service as an em-
17 ployee of the Board of Governors of the Federal Re-
18 serve System and prior to the date of enactment of
19 this Act, became subject to subchapter III of chapter
20 83 or chapter 84 of title 5, United States Code, under
21 the law in effect at the time of the individual's ap-
22 pointment.

1 **SEC. 3. CERTAIN TRANSFERS TO BE TREATED AS A SEPARA-**
2 **TION FROM SERVICE FOR PURPOSES OF THE**
3 **THRIFT SAVINGS PLAN.**

4 (a) AMENDMENTS TO CHAPTER 84 OF TITLE 5,
5 UNITED STATES CODE.—

6 (1) IN GENERAL.—Subchapter III of chapter 84
7 of title 5, United States Code, is amended by insert-
8 ing before section 8432 the following:

9 **“§8431. Certain transfers to be treated as a separa-**
10 **tion**

11 “(a) For purposes of this subchapter, separation from
12 Government employment includes a transfer from a posi-
13 tion that is subject to one of the retirement systems de-
14 scribed in subsection (b) to a position that is not subject
15 to any of them.

16 “(b) The retirement systems described in this sub-
17 section are—

18 “(1) the retirement system under this chapter;

19 “(2) the retirement system under subchapter III
20 of chapter 83; and

21 “(3) any other retirement system under which
22 individuals may contribute to the Thrift Savings
23 Fund through withholdings from pay.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions for chapter 84 of title 5, United States Code, is

1 *amended by inserting before the item relating to sec-*
2 *tion 8432 the following:*

“8431. Certain transfers to be treated as a separation.”.

3 *(b) CONFORMING AMENDMENTS.—Subsection (b) of*
4 *section 8351 of title 5, United States Code, is amended by*
5 *redesignating paragraph (11) as paragraph (8), and by*
6 *adding at the end the following:*

7 *“(9) For the purpose of this section, separation*
8 *from Government employment includes a transfer de-*
9 *scribed in section 8431.”.*

10 *(c) EFFECTIVE DATE.—The amendments made by this*
11 *section shall apply with respect to transfers occurring be-*
12 *fore, on, or after the date of enactment of this Act, except*
13 *that, for purposes of applying such amendments with re-*
14 *spect to any transfer occurring before such date of enact-*
15 *ment, the date of such transfer shall be considered to be the*
16 *date of enactment of this Act. The Executive Director (with-*
17 *in the meaning of section 8401(13) of title 5, United States*
18 *Code) may prescribe any regulations necessary to carry out*
19 *this subsection.*

20 **SEC. 4. CLARIFYING AMENDMENTS.**

21 *(a) IN GENERAL.—Subsection (f) of section 3304 of*
22 *title 5, United States Code, as added by section 2 of Public*
23 *Law 105–339, is amended—*

24 *(1) by striking paragraph (4);*

1 (2) *by redesignating paragraphs (2) and (3) as*
2 *paragraphs (3) and (4), respectively; and*

3 (3) *by inserting after paragraph (1) the fol-*
4 *lowing:*

5 “(2) *If selected, a preference eligible or veteran de-*
6 *scribed in paragraph (1) shall acquire competitive status*
7 *and shall receive a career or career-conditional appoint-*
8 *ment, as appropriate.”.*

9 (b) *EFFECTIVE DATE.—The amendments made by sub-*
10 *section (a) shall take effect as if enacted on October 31,*
11 *1998.*

Amend the title so as to read: “A bill to amend title 5, United States Code, to provide portability of service credit for persons who leave employment with the Federal Reserve Board to take positions with other Government agencies, and for other purposes.”.

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