

Union Calendar No. 383

112TH CONGRESS
2^D SESSION

H. R. 4363

[Report No. 112-535]

To amend title 5, United States Code, to allow Federal employees to continue their public service while partially retired.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2012

Mr. ISSA (for himself, Mr. ROSS of Florida, and Mr. LYNCH) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

JUNE 15, 2012

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

[Insert the part printed in italic]

A BILL

To amend title 5, United States Code, to allow Federal employees to continue their public service while partially retired.

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 “Federal Employee
5 Phased Retirement Act”.

6 **SEC. 2. PHASED RETIREMENT AUTHORITY.**

7 (a) CSRS.—Chapter 83 of title 5, United States
8 Code, is amended—

9 (1) in section 8331—

10 (A) in paragraph (30) by striking “and” at
11 the end;

12 (B) in paragraph (31) by striking the pe-
13 riod at the end and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(32) ‘Director’ means the Director of the Of-
16 fice of Personnel Management.”;

17 (2) by inserting after section 8336 the fol-
18 lowing:

19 **“§ 8336a. Phased retirement**

20 “(a) For the purposes of this section—

21 “(1) the term ‘composite retirement annuity’
22 means the annuity computed when a phased retiree
23 attains full retirement status;

24 “(2) the term ‘full retirement status’ means
25 that a phased retiree has ceased employment and is

1 entitled, upon application, to a composite retirement
2 annuity;

3 “(3) the term ‘phased employment’ means the
4 less-than-full-time employment of a phased retiree;

5 “(4) the term ‘phased retiree’ means a retiree-
6 ment-eligible employee who—

7 “(A) makes an election under subsection
8 (b); and

9 “(B) has not entered full retirement sta-
10 tus;

11 “(5) the term ‘phased retirement annuity’
12 means the annuity payable under this section before
13 full retirement;

14 “(6) the term ‘phased retirement percentage’
15 means the percentage which, when added to the
16 working percentage for a phased retiree, produces a
17 sum of 100 percent;

18 “(7) the term ‘phased retirement period’ means
19 the period beginning on the date on which an indi-
20 vidual becomes entitled to receive a phased retiree-
21 ment annuity and ending on the date on which the
22 individual dies or separates from phased employ-
23 ment;

24 “(8) the term ‘phased retirement status’ means
25 that a phased retiree is concurrently employed in

1 phased employment and eligible to receive a phased
2 retirement annuity;

3 “(9) the term ‘retirement-eligible employee’—

4 “(A) means an individual who, if the indi-
5 vidual separated from the service, would meet
6 the requirements for retirement under sub-
7 section (a) or (b) of section 8336; but

8 “(B) does not include an employee, de-
9 scribed in section 8335, after the date as of
10 which such employee is required to be separated
11 from the service by reason of such section; and

12 “(10) the term ‘working percentage’ means the
13 percentage of full-time employment equal the
14 quotient obtained by dividing—

15 “(A) the number of hours per pay period
16 to be worked by a phased retiree as scheduled
17 in accordance with subsection (b)(2); by

18 “(B) the number of hours per pay period
19 to be worked by an employee serving in a com-
20 parable position on a full-time basis.

21 “(b)(1) With the concurrence of the head of the em-
22 ploying agency, and under regulations promulgated by the
23 Director, a retirement-eligible employee who has been em-
24 ployed on a full-time basis for not less than the 3-year
25 period ending on the date on which the retirement-eligible

1 employee makes an election under this subsection may
2 elect to enter phased retirement status.

3 “(2)(A) Subject to subparagraph (B), at the time of
4 entering phased retirement status, a phased retiree shall
5 be appointed to a position for which the working percent-
6 age is 50 percent.

7 “(B) The Director may, by regulation, provide for
8 working percentages different from the percentage speci-
9 fied under subparagraph (A), which shall be not less than
10 20 percent and not more than 80 percent.

11 “(C) The working percentage for a phased retiree
12 may not be changed during the phased retiree’s phased
13 retirement period.

14 “(D)(i) Not less than 20 percent of the hours to be
15 worked by a phased retiree shall consist of mentoring.

16 “(ii) The Director may, by regulation, provide for ex-
17 ceptions to the requirement under clause (i).

18 “(iii) Clause (i) shall not apply to a phased retiree
19 serving in the United States Postal Service. Nothing in
20 this clause shall prevent the application of clause (i) or
21 (ii) with respect to a phased retiree serving in the Postal
22 Regulatory Commission.

23 “(3) A phased retiree—

24 “(A) may not be employed in more than one po-
25 sition at any time; and

1 “(B) may transfer to another position in the
2 same or a different agency, if the transfer does not
3 result in a change in the working percentage.

4 “(4) A retirement-eligible employee may make only
5 one election under this subsection during the retirement-
6 eligible employee’s lifetime.

7 “(5) A retirement-eligible employee who makes an
8 election under this subsection may not make an election
9 under section 8343a.

10 “(c)(1) Except as otherwise provided under this sub-
11 section, the phased retirement annuity for a phased retiree
12 is the product obtained by multiplying—

13 “(A) the amount of an annuity computed under
14 section 8339 that would have been payable to the
15 phased retiree if, on the date on which the phased
16 retiree enters phased retirement status, the phased
17 retiree had separated from service and retired under
18 section 8336 (a) or (b); by

19 “(B) the phased retirement percentage for the
20 phased retiree.

21 “(2) A phased retirement annuity shall be paid in ad-
22 dition to the basic pay for the position to which a phased
23 retiree is appointed during phased employment.

24 “(3) A phased retirement annuity shall be adjusted
25 in accordance with section 8340.

1 “(4)(A) A phased retirement annuity shall not be
2 subject to reduction for any form of survivor annuity, shall
3 not serve as the basis of the computation of any survivor
4 annuity, and shall not be subject to any court order requir-
5 ing a survivor annuity to be provided to any individual.

6 “(B) A phased retirement annuity shall be subject to
7 a court order providing for division, allotment, assign-
8 ment, execution, levy, attachment, garnishment, or other
9 legal process on the same basis as other annuities.

10 “(5) Any reduction of a phased retirement annuity
11 based on an election under section 8334(d)(2) shall be ap-
12 plied to the phased retirement annuity after computation
13 under paragraph (1).

14 “(6)(A) Any deposit, or election of an actuarial annu-
15 ity reduction in lieu of a deposit, for military service or
16 for creditable civilian service for which retirement deduc-
17 tions were not made or refunded shall be made by a retire-
18 ment-eligible employee at or before the time the retire-
19 ment-eligible employee enters phased retirement status.
20 No such deposit may be made, or actuarial adjustment
21 in lieu thereof elected, at the time a phased retiree enters
22 full retirement status.

23 “(B) Notwithstanding subparagraph (A), if a phased
24 retiree does not make such a deposit and dies in service
25 as a phased retiree, a survivor of the phased retiree shall

1 have the same right to make such deposit as would have
2 been available had the employee not entered phased retire-
3 ment status and died in service.

4 “(C) If a phased retiree makes an election for an ac-
5 tuarial annuity reduction under section 8334(d)(2) and
6 dies in service as a phased retiree, the amount of any de-
7 posit upon which such actuarial reduction shall have been
8 based shall be deemed to have been fully paid.

9 “(7) A phased retirement annuity shall commence on
10 the date on which a phased retiree enters phased employ-
11 ment.

12 “(8) No unused sick leave credit may be used in the
13 computation of the phased retirement annuity.

14 “(d) All basic pay not in excess of the full-time rate
15 of pay for the position to which a phased retiree is ap-
16 pointed shall be deemed to be basic pay for purposes of
17 section 8334.

18 “(e) Under such procedures as the Director may pre-
19 scribe, a phased retiree may elect to enter full retirement
20 status at any time. Upon making such an election, a
21 phased retiree shall be entitled to a composite retirement
22 annuity.

23 “(f)(1) Except as provided otherwise under this sub-
24 section, a composite retirement annuity is a single annuity

1 computed under regulations prescribed by the Director,
2 equal to the sum of—

3 “(A) the amount of the phased retirement an-
4 nuity as of the date of full retirement, before any re-
5 duction based on an election under section
6 8334(d)(2), and including any adjustments made
7 under section 8340; and

8 “(B) the product obtained by multiplying—

9 “(i) the amount of an annuity computed
10 under section 8339 that would have been pay-
11 able at the time of full retirement if the indi-
12 vidual had not elected a phased retirement and
13 as if the individual was employed on a full-time
14 basis in the position occupied during the phased
15 retirement period and before any reduction for
16 survivor annuity or reduction based on an elec-
17 tion under section 8334(d)(2); by

18 “(ii) the working percentage.

19 “(2) After computing a composite retirement annuity
20 under paragraph (1), the Director shall adjust the amount
21 of the annuity for any applicable reductions for a survivor
22 annuity and any previously elected actuarial reduction
23 under section 8334(d)(2).

1 “(3) A composite retirement annuity shall be ad-
2 justed in accordance with section 8340, except that sub-
3 section (c)(1) of that section shall not apply.

4 “(4) In computing a composite retirement annuity
5 under paragraph (1)(B)(i), the unused sick leave to the
6 credit of a phased retiree at the time of entry into full
7 retirement status shall be adjusted by dividing the number
8 of hours of unused sick leave by the working percentage.

9 “(g)(1) Under such procedures and conditions as the
10 Director may provide, and with the concurrence of the
11 head of the employing agency, a phased retiree may elect
12 to terminate phased retirement status and return to a full-
13 time work schedule.

14 “(2) Upon entering a full-time work schedule based
15 upon an election under paragraph (1), the phased retire-
16 ment annuity of a phased retiree shall terminate.

17 “(3) After the termination of a phased retirement an-
18 nuity under this subsection, the individual’s rights under
19 this subchapter shall be determined based on the law in
20 effect at the time of any subsequent separation from serv-
21 ice. For purposes of this subchapter or chapter 84, at time
22 of the subsequent separation from service, the phased re-
23 tirement period shall be treated as if it had been a period
24 of part-time employment with the work schedule described
25 in subsection (b)(2).

1 “(h) For purposes of section 8341—

2 “(1) the death of a phased retiree shall be
3 deemed to be the death in service of an employee;
4 and

5 “(2) the phased retirement period shall be
6 deemed to have been a period of part-time employ-
7 ment with the work schedule described in subsection
8 (b)(2).

9 “(i) Employment of a phased retiree shall not be
10 deemed to be part-time career employment, as defined in
11 section 3401(2).

12 “(j) A phased retiree is not eligible to apply for an
13 annuity under section 8337.

14 “(k) For purposes of section 8341(h)(4), retirement
15 shall be deemed to occur on the date on which a phased
16 retiree enters into full retirement status.

17 “(l) For purposes of sections 8343 and 8351, and
18 subchapter III of chapter 84, a phased retiree shall be
19 deemed to be an employee.

20 “(m) A phased retiree is not subject to section 8344.

21 “(n) For purposes of chapter 87, a phased retiree
22 shall be deemed to be receiving basic pay at the rate of
23 a full-time employee in the position to which the phased
24 retiree is appointed.”; and

1 (3) in the table of sections by inserting after
2 the item relating to section 8336 the following:

“8336a. Phased retirement.”.

3 (b) **FERS.**—Chapter 84 of title 5, United States
4 Code, is amended—

5 (1) by inserting after section 8412 the following
6 new section:

7 **“§ 8412a. Phased retirement**

8 “(a) For the purposes of this section—

9 “(1) the term ‘composite retirement annuity’
10 means the annuity computed when a phased retiree
11 attains full retirement status;

12 “(2) the term ‘full retirement status’ means
13 that a phased retiree has ceased employment and is
14 entitled, upon application, to a composite retirement
15 annuity;

16 “(3) the term ‘phased employment’ means the
17 less-than-full-time employment of a phased retiree;

18 “(4) the term ‘phased retiree’ means a retire-
19 ment-eligible employee who—

20 “(A) makes an election under subsection
21 (b); and

22 “(B) has not entered full retirement sta-
23 tus;

1 “(5) the term ‘phased retirement annuity’
2 means the annuity payable under this section before
3 full retirement;

4 “(6) the term ‘phased retirement percentage’
5 means the percentage which, when added to the
6 working percentage for a phased retiree, produces a
7 sum of 100 percent;

8 “(7) the term ‘phased retirement period’ means
9 the period beginning on the date on which an indi-
10 vidual becomes entitled to receive a phased retire-
11 ment annuity and ending on the date on which the
12 individual dies or separates from phased employ-
13 ment;

14 “(8) the term ‘phased retirement status’ means
15 that a phased retiree is concurrently employed in
16 phased employment and eligible to receive a phased
17 retirement annuity;

18 “(9) the term ‘retirement-eligible employee’—

19 “(A) means an individual who, if the indi-
20 vidual separated from the service, would meet
21 the requirements for retirement under sub-
22 section (a) or (b) of section 8412; and

23 “(B) does not include—

24 “(i) an individual who, if the indi-
25 vidual separated from the service, would

1 meet the requirements for retirement
2 under subsection (d) or (e) of section
3 8412; but

4 “(ii) does not include an employee, de-
5 scribed in section 8425, after the date as
6 of which such employee is required to be
7 separated from the service by reason of
8 such section; and

9 “(10) the term ‘working percentage’ means the
10 percentage of full-time employment equal to the
11 quotient obtained by dividing—

12 “(A) the number of hours per pay period
13 to be worked by a phased retiree as scheduled
14 in accordance with subsection (b)(2); by

15 “(B) the number of hours per pay period
16 to be worked by an employee serving in a com-
17 parable position on a full-time basis.

18 “(b)(1) With the concurrence of the head of the em-
19 ploying agency, and under regulations promulgated by the
20 Director, a retirement-eligible employee who has been em-
21 ployed on a full-time basis for not less than the 3-year
22 period ending on the date on which the retirement-eligible
23 employee makes an election under this subsection may
24 elect to enter phased retirement status.

1 “(2)(A) Subject to subparagraph (B), at the time of
2 entering phased retirement status, a phased retiree shall
3 be appointed to a position for which the working percent-
4 age is 50 percent.

5 “(B) The Director may, by regulation, provide for
6 working percentages different from the percentage speci-
7 fied under subparagraph (A), which shall be not less than
8 20 percent and not more than 80 percent.

9 “(C) The working percentage for a phased retiree
10 may not be changed during the phased retiree’s phased
11 retirement period.

12 “(D)(i) Not less than 20 percent of the hours to be
13 worked by a phased retiree shall consist of mentoring.

14 “(ii) The Director may, by regulation, provide for ex-
15 ceptions to the requirement under clause (i).

16 “(iii) Clause (i) shall not apply to a phased retiree
17 serving in the United States Postal Service. Nothing in
18 this clause shall prevent the application of clause (i) or
19 (ii) with respect to a phased retiree serving in the Postal
20 Regulatory Commission.

21 “(3) A phased retiree—

22 “(A) may not be employed in more than one po-
23 sition at any time; and

1 “(B) may transfer to another position in the
2 same or a different agency, if the transfer does not
3 result in a change in the working percentage.

4 “(4) A retirement-eligible employee may make only
5 one election under this subsection during the retirement-
6 eligible employee’s lifetime.

7 “(5) A retirement-eligible employee who makes an
8 election under this subsection may not make an election
9 under section 8420a.

10 “(c)(1) Except as otherwise provided under this sub-
11 section, the phased retirement annuity for a phased retiree
12 is the product obtained by multiplying—

13 “(A) the amount of an annuity computed under
14 section 8415 that would have been payable to the
15 phased retiree if, on the date on which the phased
16 retiree enters phased retirement status, the phased
17 retiree had separated from service and retired under
18 section 8412 (a) or (b); by

19 “(B) the phased retirement percentage for the
20 phased retiree.

21 “(2) A phased retirement annuity shall be paid in ad-
22 dition to the basic pay for the position to which a phased
23 retiree is appointed during the phased employment.

24 “(3) A phased retirement annuity shall be adjusted
25 in accordance with section 8462.

1 “(4)(A) A phased retirement annuity shall not be
2 subject to reduction for any form of survivor annuity, shall
3 not serve as the basis of the computation of any survivor
4 annuity, and shall not be subject to any court order requir-
5 ing a survivor annuity to be provided to any individual.

6 “(B) A phased retirement annuity shall be subject to
7 a court order providing for division, allotment, assign-
8 ment, execution, levy, attachment, garnishment, or other
9 legal process on the same basis as other annuities.

10 “(5)(A) Any deposit, or election of an actuarial annu-
11 ity reduction in lieu of a deposit, for military service or
12 for creditable civilian service for which retirement deduc-
13 tions were not made or refunded, shall be made by a re-
14 tirement-eligible employee at or before the time the retire-
15 ment-eligible employee enters phased retirement status.
16 No such deposit may be made, or actuarial adjustment
17 in lieu thereof elected, at the time a phased retiree enters
18 full retirement status.

19 “(B) Notwithstanding subparagraph (A), if a phased
20 retiree does not make such a deposit and dies in service
21 as a phased retiree, a survivor of the phased retiree shall
22 have the same right to make such deposit as would have
23 been available had the employee not entered phased retire-
24 ment status and died in service.

1 “(6) A phased retirement annuity shall commence on
2 the date on which a phased retiree enters phased employ-
3 ment.

4 “(7) No unused sick leave credit may be used in the
5 computation of the phased retirement annuity.

6 “(d) All basic pay not in excess of the full-time rate
7 of pay for the position to which a phased retiree is ap-
8 pointed shall be deemed to be basic pay for purposes of
9 sections 8422 and 8423.

10 “(e) Under such procedures as the Director may pre-
11 scribe, a phased retiree may elect to enter full retirement
12 status at any time. Upon making such an election, a
13 phased retiree shall be entitled to a composite retirement
14 annuity.

15 “(f)(1) Except as provided otherwise under this sub-
16 section, a composite retirement annuity is a single annuity
17 computed under regulations prescribed by the Director,
18 equal to the sum of—

19 “(A) the amount of the phased retirement an-
20 nuity as of the date of full retirement, including any
21 adjustments made under section 8462; and

22 “(B) the product obtained by multiplying—

23 “(i) the amount of an annuity computed
24 under section 8412 that would have been pay-
25 able at the time of full retirement if the indi-

1 vidual had not elected a phased retirement and
2 as if the individual was employed on a full-time
3 basis in the position occupied during the phased
4 retirement period and before any adjustment to
5 provide for a survivor annuity; by

6 “(ii) the working percentage.

7 “(2) After computing a composite retirement annuity
8 under paragraph (1), the Director shall adjust the amount
9 of the annuity for any applicable reductions for a survivor
10 annuity.

11 “(3) A composite retirement annuity shall be ad-
12 justed in accordance with section 8462, except that sub-
13 section (c)(1) of that section shall not apply.

14 “(4) In computing a composite retirement annuity
15 under paragraph (1)(B)(i), the unused sick leave to the
16 credit of a phased retiree at the time of entry into full
17 retirement status shall be adjusted by dividing the number
18 of hours of unused sick leave by the working percentage.

19 “(g)(1) Under such procedures and conditions as the
20 Director may provide, and with the concurrence of the
21 head of employing agency, a phased retiree may elect to
22 terminate phased retirement status and return to a full-
23 time work schedule.

1 “(2) Upon entering a full-time work schedule based
2 on an election under paragraph (1), the phased retirement
3 annuity of a phased retiree shall terminate.

4 “(3) After termination of the phased retirement an-
5 nuity under this subsection, the individual’s rights under
6 this chapter shall be determined based on the law in effect
7 at the time of any subsequent separation from service. For
8 purposes of this chapter, at the time of the subsequent
9 separation from service, the phased retirement period shall
10 be treated as if it had been a period of part-time employ-
11 ment with the work schedule described in subsection
12 (b)(2).

13 “(h) For purposes of subchapter IV—

14 “(1) the death of a phased retiree shall be
15 deemed to be the death in service of an employee;

16 “(2) except for purposes of section
17 8442(b)(1)(A)(i), the phased retirement period shall
18 be deemed to have been a period of part-time em-
19 ployment with the work schedule described in sub-
20 section (b)(2) of this section; and

21 “(3) for purposes of section 8442(b)(1)(A)(i),
22 the phased retiree shall be deemed to have been at
23 the full-time rate of pay for the position occupied.

1 “(i) Employment of a phased retiree shall not be
2 deemed to be part-time career employment, as defined in
3 section 3401(2).

4 “(j) A phased retiree is not eligible to receive an an-
5 nuity supplement under section 8421.

6 “(k) For purposes of subchapter III, a phased retiree
7 shall be deemed to be an employee.

8 “(l) For purposes of section 8445(d), retirement shall
9 be deemed to occur on the date on which a phased retiree
10 enters into full retirement status.

11 “(m) A phased retiree is not eligible to apply for an
12 annuity under subchapter V.

13 “(n) A phased retiree is not subject to section 8468.

14 “(o) For purposes of chapter 87, a phased retiree
15 shall be deemed to be receiving basic pay at the rate of
16 a full-time employee in the position to which the phased
17 retiree is appointed.”; and

18 (2) in the table of sections by inserting after
19 the item relating to section 8412 the following:

“8412a. Phased retirement.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the effective date of the
22 implementing regulations issued by the Director of the Of-
23 fice of Personnel Management.

1 **SEC. 3. CONTRIBUTIONS TO THRIFT SAVINGS FUND OF PAY-**
2 **MENTS FOR ACCRUED OR ACCUMULATED**
3 **LEAVE.**

4 (a) *CIVIL SERVICE RETIREMENT SYSTEM.*—Section
5 8351(b)(2) of title 5, United States Code, is amended by
6 adding at the end the following:

7 “(D)(i) A qualified phased retiree may, in addition
8 to any contributions otherwise allowable, contribute to the
9 Thrift Savings Fund by direct transfer any part of any
10 amount otherwise payable to such retiree for accumulated
11 and current accrued annual or vacation leave under section
12 5551 or 5552.

13 “(ii) For purposes of this subparagraph, the term
14 ‘qualified phased retiree’ means a phased retiree (as defined
15 by section 8336a) who has completed at least 1 year of serv-
16 ice as such a retiree.”.

17 (b) *FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.*—
18 Section 8432(a) of title 5, United States Code, is amended
19 by adding at the end the following:

20 “(4)(A) A qualified phased retiree may, in addition
21 to any contributions otherwise allowable, contribute to the
22 Thrift Savings Fund by direct transfer any part of any
23 amount otherwise payable to such retiree for accumulated
24 and current accrued annual or vacation leave under section
25 5551 or 5552.

1 “(B) For purposes of this paragraph, the term ‘quali-
2 fied phased retiree’ means a phased retiree (as defined by
3 section 8412a) who has completed at least 1 year of service
4 as such a retiree.”.

5 (c) *REGULATIONS.*—The Executive Director of the Fed-
6 eral Retirement Thrift Investment Board shall prescribe
7 regulations to carry out the amendments made by this sec-
8 tion.

9 (d) *EFFECTIVE DATE.*—The amendments made by this
10 section shall take effect 1 year after the date of the enact-
11 ment of this section, or upon such earlier date as may be
12 established by the Executive Director of the Federal Retire-
13 ment Thrift Investment Board under the regulations pre-
14 scribed under subsection (c).

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