

111TH CONGRESS
2D SESSION

H. R. 4979

To amend chapters 83 and 84 of title 5, United States Code, to provide for the indexation of deferred annuities; to provide that a survivor annuity be provided to the widow or widower of a former employee who dies after separating from Government service with title to a deferred annuity under the Civil Service Retirement System but before establishing a valid claim therefor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2010

Mr. MORAN of Virginia (for himself, Mr. WOLF, Mr. CONNOLLY of Virginia, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend chapters 83 and 84 of title 5, United States Code, to provide for the indexation of deferred annuities; to provide that a survivor annuity be provided to the widow or widower of a former employee who dies after separating from Government service with title to a deferred annuity under the Civil Service Retirement System but before establishing a valid claim therefor, 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,*

1 **SECTION 1. INDEXATION OF DEFERRED ANNUITIES.**

2 (a) AMENDMENTS TO SUBCHAPTER III OF CHAPTER
3 83.—Section 8338 of title 5, United States Code, is
4 amended—

5 (1) in subsection (d) by striking “(d) An” and
6 inserting “(d) Subject to subsection (e), an”; and

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

8 “(e)(1) The average pay used in the computation of
9 an annuity authorized by this section shall be equal to the
10 average pay described in section 8331(4), increased by the
11 percentage adjustments (compounded) in rates of pay of
12 the General Schedule taking effect during the period—

13 “(A) beginning on the day after the date of the
14 separation on which title to annuity is based; and

15 “(B) ending on the day before the commence-
16 ment date of such annuity.

17 “(2) In the case of a former employee or Member who
18 dies after having separated from the service with title to
19 an annuity authorized by this section but before having
20 established a valid claim for such annuity, the average pay
21 used in the computation of any survivor annuity payable
22 based on the service of such former employee or Member
23 shall be increased in the manner described in paragraph
24 (1), except that, in applying subparagraph (B) of para-
25 graph (1) for purposes of this paragraph, the commence-
26 ment date of such survivor annuity shall be used instead

1 of the commencement date of the annuity referred to in
2 such subparagraph.

3 “(3) Average pay shall not be increased by reason
4 of any adjustment under this subsection to an amount
5 which exceeds the rate of basic pay that, as of the day
6 before the commencement date of the annuity or survivor
7 annuity involved, is payable for the position that was held
8 by the employee or Member at the time of earning the
9 highest rate of pay taken into account in computing such
10 employee’s or Member’s average pay, as determined under
11 regulations of the Office.”.

12 (b) AMENDMENT TO CHAPTER 84.—Section 8415 of
13 title 5, United States Code, is amended by adding at the
14 end the following:

15 “(n)(1) The average pay used in the computation of
16 a deferred annuity under section 8413 shall be equal to
17 the average pay described in section 8401(3), increased
18 by the percentage adjustments (compounded) in rates of
19 pay of the General Schedule taking effect during the pe-
20 riod—

21 “(A) beginning on the day after the date of the
22 separation on which title to annuity is based; and

23 “(B) ending on the day before the commence-
24 ment date of such annuity.

1 “(2) In the case of a former employee or Member who
2 dies after having separated from the service with title to
3 a deferred annuity referred to in paragraph (1) but before
4 having established a valid claim for such annuity, the aver-
5 age pay used in the computation of any survivor annuity
6 payable based on the service of such former employee or
7 Member shall be increased in the manner described in
8 paragraph (1), except that, in applying subparagraph (B)
9 of paragraph (1) for purposes of this paragraph, the com-
10 mencement date of such survivor annuity shall be used
11 instead of the commencement date of the annuity referred
12 to in such subparagraph.

13 “(3) Average pay shall not be increased by reason
14 of any adjustment under this subsection to an amount
15 which exceeds the rate of basic pay that, as of the day
16 before the commencement date of the annuity or survivor
17 annuity involved, is payable for the position that was held
18 by the employee or Member at the time of earning the
19 highest rate of pay taken into account in computing such
20 employee’s or Member’s average pay, as determined under
21 regulations of the Office.”.

22 (c) AMENDMENTS RELATING TO INDIVIDUALS BE-
23 COMING SUBJECT TO FERS BY ELECTION.—

24 (1) COMPUTATION OF A DEFERRED ANNUITY.—

25 Paragraph (6) of section 302(a) of the Federal Em-

1 ployees' Retirement System Act of 1986 (5 U.S.C.
2 8331 note) is amended by adding at the end the fol-
3 lowing:

4 “(C) In determining average pay under
5 this paragraph for purposes of computing a de-
6 ferred annuity under section 8413 of such
7 title—

8 “(i) the provisions of section
9 8338(e)(1) and (3) of such title shall
10 apply, to the extent that such annuity is
11 computed under paragraph (4); and

12 “(ii) the provisions of section
13 8415(n)(1) and (3) of such title shall
14 apply, to the extent that such annuity is
15 computed under paragraph (5).”.

16 (2) COMPUTATION OF A SURVIVOR ANNUITY.—

17 Paragraph (9) of such section 302(a) is amended by
18 striking “(9)” and inserting “(9)(A)”, and by add-
19 ing at the end the following:

20 “(B) In computing an annuity under para-
21 graph (3) for purposes of determining the
22 amount of a survivor annuity under subchapter
23 IV of chapter 84 of title 5, United States Code,
24 to which the survivor is entitled based on the
25 service of a former employee or Member who

1 dies in the circumstances described in section
2 8415(n)(2) of such title—

3 “(i) paragraph (6)(C)(i) shall apply,
4 to the extent that such annuity is com-
5 puted under paragraph (4); and

6 “(ii) paragraph (6)(C)(ii) shall apply,
7 to the extent that such annuity is com-
8 puted under paragraph (5).”.

9 (d) CONFORMING AMENDMENTS.—(1) Section
10 8331(10) of title 5, United States Code, is amended by
11 inserting “former employee or Member,” before “or annu-
12 itant”.

13 (2) Section 8341(h)(1) of title 5, United States Code,
14 is amended by striking “or former Member who was sepa-
15 rated from the service with title to a deferred annuity
16 under section 8338(b) of this title” and inserting “or
17 former employee or Member who died after having sepa-
18 rated from the service with title to a deferred annuity
19 under section 8338 but before having established a valid
20 claim for annuity,”.

21 (3) Clause (iii) of section 8341(h)(2)(B) of title 5,
22 United States Code, is amended by striking “a Member”
23 and inserting “an employee or Member”.

1 **SEC. 2. AMENDMENT TO PROVIDE THAT THE WIDOW OR**
2 **WIDOWER OF A DEFERRED ANNUITANT WHO**
3 **DIES BEFORE ESTABLISHING A VALID CLAIM**
4 **FOR ANNUITY UNDER CSRS SHALL BE ELIGI-**
5 **BLE FOR A SURVIVOR ANNUITY IN THE SAME**
6 **WAY AS APPLIES CURRENTLY UNDER FERS.**

7 Subsection (f) of section 8341 of title 5, United
8 States Code, is amended to read as follows:

9 “(f) If an employee or Member dies after having sepa-
10 rated from the service with title to a deferred annuity
11 under section 8338 but before having established a valid
12 claim for annuity, and is survived by a widow or widower
13 to whom married on the date of separation, the widow or
14 widower—

15 “(1) is entitled to an annuity equal to 55 per-
16 cent of the deferred annuity of the employee or
17 Member commencing on the day after the employee
18 or Member dies and terminating on the last day of
19 the month before the widow or widower dies or re-
20 marries before age 55; or

21 “(2) may elect to receive the lump-sum credit
22 instead of annuity if the widow or widower is the in-
23 dividual who would be entitled to the lump-sum
24 credit and files application therefor with the Office
25 before the award of the annuity.

1 Notwithstanding the preceding sentence, an annuity pay-
2 able under this subsection to the widow or widower of a
3 former employee or Member may not exceed the difference
4 between—

5 “(A) the annuity which would otherwise be pay-
6 able to such widow or widower under this subsection;
7 and

8 “(B) the amount of the survivor annuity pay-
9 able to any former spouse of such former employee
10 or Member under subsection (h).”.

11 **SEC. 3. EFFECTIVE DATES.**

12 (a) AMENDMENTS MADE BY SECTION 1.—

13 (1) IN GENERAL.—The amendments made by
14 section 1 shall apply to any annuity or survivor an-
15 nuity commencing before, on, or after the date of
16 the enactment of this Act, subject to paragraph (2).

17 (2) RECOMPUTATIONS.—In the case of any in-
18 dividual who is entitled to an annuity or survivor an-
19 nuity based on a separation from service which oc-
20 curred before the date of the enactment of this
21 Act—

22 (A) such annuity or survivor annuity shall
23 be recomputed to take into account the amend-
24 ments made by section 1 only if application
25 therefor is made within 12 months after the ef-

1 fective date of regulations prescribed by the Of-
2 fice of Personnel Management to carry out such
3 amendments; and

4 (B) any change in an annuity or survivor
5 annuity resulting from a recomputation under
6 subparagraph (A) shall be effective only with
7 respect to amounts accruing for months begin-
8 ning on or after the date of the enactment of
9 this Act.

10 (b) AMENDMENT MADE BY SECTION 2.—The amend-
11 ment made by section 2 shall take effect as of the date
12 of the enactment of this Act. Upon timely application to
13 the Office of Personnel Management, such amendment
14 shall also apply to the widow or widower of a former em-
15 ployee or Member who died before such date of enactment,
16 except that no amount shall be payable—

17 (1) for any period beginning before such date of
18 enactment; or

19 (2) in any case in which all annuity rights
20 under subchapter III of chapter 83 of title 5, United
21 States Code, have been voided due to the lump-sum
22 credit having been taken.

23 (c) SAVINGS PROVISION.—Nothing in section 2 shall
24 affect the right of an individual to a survivor annuity,
25 based on a death occurring on or after the date of the

1 enactment of this Act, if such individual would (upon filing
2 claim therefor) have been entitled to such annuity had sec-
3 tion 2 not been enacted.

4 (d) DEFINITIONS.—For purposes of this section—

5 (1) the terms “widow” and “widower” have the
6 respective meanings given them by section 8341 of
7 title 5, United States Code; and

8 (2) the term “lump-sum credit” has the mean-
9 ing given such term by section 8331(8) of such title.

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