

United States House of Representatives  
Committee on Oversight and Government Reform  
Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia

“H.R. 3579: A Bill to Facilitate the Temporary Reemployment of Federal Annuitants”

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Mr. Chairman and members of the subcommittee, my name is Patrick Purcell and I am a specialist in income security with the Congressional Research Service. Thank you for inviting me to speak to you today about reemployment of federal annuitants.

CSRS and FERS

Retirement income for federal employees is provided through the Civil Service Retirement System (CSRS) and the Federal Employees’ Retirement System (FERS). Most civilian federal employees who were hired before 1984 are enrolled in CSRS. Employees first hired in 1984 or later are enrolled in FERS. Both CSRS and FERS include a defined benefit pension, also called an annuity. The CSRS annuity is larger as a percentage of pay than the FERS annuity, but employees enrolled in FERS earn retirement credits under Social Security, while those enrolled in CSRS do not. Employees enrolled in either CSRS or FERS also may participate in the Thrift Savings Plan (TSP), which is a defined contribution plan. Only employees enrolled in FERS, however, are eligible for employer matching contributions to the TSP.

Reemployment of Federal Annuitants

Former federal employees who are receiving retirement annuities through CSRS or FERS may be reemployed by the federal government. In general, however, federal law prohibits annuitants who are reemployed by the government from simultaneously receiving a federal salary and a federal retirement annuity.<sup>1</sup> In most cases, a reemployed annuitant’s retirement annuity continues during the period of reemployment, and his or her pay is reduced by the amount of the annuity. The reemployed annuitant earns additional retirement benefits during the period of reemployment. If the period of reemployment lasts one year or more, the individual will be eligible for a supplemental annuity when he or she retires. If the period of reemployment lasts five years or more, the individual can elect a redetermined annuity.

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<sup>1</sup> See 5 U.S.C. §8344 (CSRS) and 5 U.S.C. §8468 (FERS).

## Federal Employees' Pay Comparability Act of 1990

Before 1990, there were no exceptions to the prohibition on concurrent receipt of a federal salary and federal retirement annuity. The *Federal Employees' Pay Comparability Act of 1990* delegated to the Director of the Office of Personnel Management (OPM) authority to waive this prohibition in certain exceptional circumstances, and thus allow a reemployed annuitant to receive both a federal salary and a federal retirement annuity concurrently.<sup>2</sup>

Under the 1990 law, the head of an executive branch agency may request that the Director of OPM waive the prohibition on concurrent receipt of a federal salary and a federal retirement annuity on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining qualified employees. The law also delegated to the Director of OPM authority to allow the head of an executive branch agency to grant such waivers on a case-by-case basis for employees serving on temporary appointments if the agency is dealing with an emergency that poses a direct threat to life or property, and in other unusual circumstances. If a federal annuitant is reemployed under a waiver that allows concurrent receipt of a federal annuity and a federal salary, he or she accrues no new retirement benefits under CSRS or FERS.

## National Defense Authorization Act for Fiscal Year 2004

Since the passage of the Federal Employees' Pay Comparability Act of 1990, the most significant change to federal law affecting reemployment of annuitants was included in the National Defense Authorization Act for Fiscal Year 2004.<sup>3</sup> This law delegated to the Secretary of Defense authority to hire federal annuitants without reducing their salaries by the amount of their annuities. The approval of the Director of OPM is not required. Under this law, a federal annuitant hired by the Department of Defense is entitled to receive both a federal annuity and the full salary for the position into which he or she is hired. The reemployed annuitant does not accrue additional retirement benefits during the period of reemployment, except for Social Security.

## H.R. 3579

H.R. 3579 of the 110<sup>th</sup> Congress, introduced by Representative Tom Davis on September 19, 2007, would amend chapters 83 and 84 of title 5 to allow the head of a federal agency to hire a federal annuitant on a temporary basis without reducing the annuitant's salary by the amount of his or her retirement annuity. The approval of the Director of OPM would not be required.<sup>4</sup>

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<sup>2</sup> The Federal Employees' Pay Comparability Act is section 529 of P.L. 101-509, enacted on Nov. 5, 1990.

<sup>3</sup> The National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136, div. A, title XI, Sec. 1101(a)(1), Nov. 24, 2003, 117 Stat. 1621) added a new section 9902(j) to title 5 of the United States Code.

<sup>4</sup> 5 U.S.C. §8344(b) requires, in the case of a CSRS annuitant whose annuity is based on an involuntary separation who is reemployed, that the individual's annuity terminates. H.R. 3579 would allow the annuity to continue during reemployment, subject to the specified conditions on temporary employment.

With respect to any reemployed annuitant, the authority of the head of his or her employing agency to waive the reduction in salary otherwise required by law would be limited to:

- 520 hours of service performed in the six months after the date when the annuity begins;
- 1,040 hours of service performed in any 12-month period; and,
- 6,240 hours of service performed over the individual's lifetime.

### Recent Trends in Reemployed Annuitants

In recent years, the number of reemployed federal annuitants has increased, but they continue to be a small fraction of all federal employees. Between 2000 and 2007, the number of reemployed CSRS annuitants increased from about 2,200 to more than 4,200.<sup>5</sup> Over the same period, the number of reemployed FERS annuitants increased from about 450 to just over 1,000. As a percentage of civilian executive branch employment, reemployed annuitants increased from less than 0.2% of total federal employment in 2000 to about 0.3% of total employment in 2007.

A more pronounced change between 2000 and 2007 was in the distribution of reemployed annuitants between those who were subject to the salary offset under sections 8344 and 8468 of title 5, and those who were not subject to the offset because of a waiver granted by the Director of OPM or by the head of the agency where the annuitant was employed. In 2000, 75 percent of reemployed annuitants were subject to salary offset, and 25 percent were employed under waivers allowing them to collect both a federal annuity and a federal salary. By 2007, just 40 percent of reemployed annuitants were subject to salary offset, while 60 percent were employed under waivers allowing them to collect both a federal annuity and a federal salary.

### Policy Considerations

A large number of federal employees will be eligible to retire over the next ten years. As of December 2007, more than 40 percent of all civilian executive branch employees were over the age of 50 and 35 percent of all employees had completed more than 20 years of federal service. Because many retirement-eligible employees have knowledge and skills that are essential for federal agencies to carry out their missions, managers in the federal government are seeking tools to delay the retirement of valued employees and to induce some retired employees to return to work. One of the tools that Congress has made available to federal agencies that are attempting to fill positions that require rare skills and abilities is authority to request from the Director of OPM a waiver of the federal statute that prohibits individuals from concurrently receiving a federal salary and a federal retirement annuity.

H.R. 3579 would give the heads of federal agencies greater flexibility in hiring retired federal employees into temporary employment by allowing them to grant waivers to the salary offset

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<sup>5</sup> Figures cited in this and the following paragraph are from the Office of Personnel Management's Central Personnel Data File.

required under current law without having to receive the consent of the Director of the Office of Personnel Management.

Providing federal agencies with the tools they need to recruit and retain skilled employees as older federal workers retire will be an important issue for Congress over the next several years. Nevertheless, the prohibition on concurrent receipt of a federal retirement annuity and a federal salary under current law reflects the judgment of previous Congresses that federal employment policies should not encourage workers to retire and then seek reemployment in a federal job in which they could receive both a salary and an annuity. Without the prohibition on simultaneous receipt of a federal salary and a federal retirement annuity, there would be a financial incentive for employees to retire at the earliest possible date and then seek reemployment with the federal government. This would present federal agencies with disruptions in staffing and it could result in increased total compensation costs to the federal government.<sup>6</sup>

The availability of waivers may create an incentive for some employees to retire and seek reemployment in a position to which such a waiver could be applied. In testimony before this Committee in 2006, the Associate Director of the Office of Personnel Management stated that “we are also cognizant of the fact that waivers may incentivize retirement. Because waivers result in compensation from both the retirement fund and salary, they must be used judiciously.”<sup>7</sup>

This concludes my testimony and I would be happy to answer any questions that members of the subcommittee may have.

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<sup>6</sup> It should be noted that retired federal employees can continue to receive their full federal retirement annuities if they are employed in the private sector or by a state or local government. The prohibition on concurrent receipt of a salary and an annuity applies only to the concurrent receipt of a federal salary and a federal retirement annuity.

<sup>7</sup> Statement of Nancy H. Kichak, Associate Director of the U.S. Office of Personnel Management, before the Subcommittee on the Federal Workforce and Agency Organization, Committee on Government Reform, U.S. House of Representatives, July 25, 2006.