

Public Law 94-397  
94th Congress

An Act

Sept. 3, 1976

[H.R. 3650]

To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

Civil service  
annuities.  
Reemployed  
annuitants.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

“(a) If an annuitant receiving annuity from the Fund, except—

“(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

“(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

“(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

“(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

“(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

“(B) his lump-sum credit may not be reduced by annuity paid during that employment.

Survivor annuity  
payments.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter.

5 USC 8341.

5 USC 8339.

5 USC 8334.

If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.”

5 USC 8341.

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

“(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

“(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.”

(c) Section 8344(d) of title 5, United States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out “8344(b)(1)” and inserting in lieu thereof “8344(d)(1)”.

SEC. 2. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of the enactment of this Act or October 1, 1976, whichever is later, and shall apply to annuitants serving in appointive or elective positions on and after such date.

Effective date.  
5 USC 8344 note.

(b) The amendment made by subsection (c) of the first section of this Act shall become effective on the date of the enactment of this Act or October 1, 1976, whichever is later, but shall not apply to any annuitant reemployed before such date.

Effective date.

Approved September 3, 1976.

#### LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-336 (Comm. on Post Office and Civil Service).

SENATE REPORTS: No. 94-877 (Comm. on Post Office and Civil Service) and No. 94-1030 (Comm. on Appropriations).

#### CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Aug. 9, considered and passed Senate, amended.

Aug. 25, House concurred in Senate amendments.