



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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Phm: 11
Mr. Agazarian

B-197173

February 6, 1980

The Honorable Abraham Ribicoff^A
Chairman, Committee on Governmental
Affairs
United States Senate

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Dear Mr. Chairman:

Subject: [Comments on H.R. 2583] (FPC-96-1-28)

This is in response to your request for our comments on H.R. 2583, 96th Congress, 1st Session, a bill "To amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes."

Federal judges and justices are covered by the Federal judiciary retirement system under sections 371 to 376 of title 28 of the United States Code. Retirement benefits are payable under this system when a judge or justice attains age 65 with 15 years of service or age 70 with 10 years of service. The amount of benefits payable depends on whether active service is terminated through retirement or resignation. Retired justices and judges may be assigned to perform such judicial duties as they are willing and able to perform, and they continue to receive the full salary of the office, including any subsequent pay increases. Justices and judges who resign are limited to their full salary at the time of resignation with no subsequent increases.

Annuitants under the civil service retirement system who are reemployed by a department or agency may not receive both their annuity and full salary during a period of reemployment. Employing agencies are required (section 8344, title 5, United States Code) to deduct annuity payments from the reemployed annuitants' salaries and deposit these amounts in the Treasury to the credit of the civil service retirement fund. This requirement does not apply to justices and judges who may be receiving civil service annuities earned before their judicial service since Article III of the Constitution provides that a judge's salary shall not be diminished during his continuance in office. Justices and judges are allowed to receive civil service annuities in addition to their full salaries.

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On the other hand, a retired Member of Congress receiving a civil service annuity who becomes reemployed is required by statute to have his annuity discontinued during reemployment. Thus, during active service as justice or judge, a retired Member of Congress is not entitled to receive a civil service annuity. H.R. 2583 would, in effect, apply this requirement to any civil service retiree who becomes a justice or judge.

We support enactment of H.R. 2583 as it would result in more consistent treatment of retirees under the civil service retirement system. In our opinion, both full salary and full retirement benefits should not be paid during active service to a Federal employee.

Sincerely yours,

R. F. Keller
Deputy Comptroller General
of the United States