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Statement of

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Before the

Subcommittee on Civil Service and General Services
of the Committee on Governmental Affairs
United States Senate

SEN060610

on

[Proposed Revisions to the Civil Service Retirement System
(S. 2449, S. 2450, H.R. 2583, and S. 358)]

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here to present the General Accounting Office's views on the several bills now being considered by this Subcommittee to make certain changes to the civil service retirement system.

In general, we believe each of the proposed changes merits the Subcommittee's approval. In most cases, the proposals represent needed revisions that we have fully supported in reports on Federal retirement issues over the past few years. I will briefly discuss our views on each of the bills and provide information that the Subcommittee may find useful in its deliberations.

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S. 2449

S. 2449 would make certain changes to the civil service system's disability retirement provisions. These include (1) prohibiting employees who are eligible for optional retirement from retiring on disability, (2) revising the test period for earning-capacity restoration from 2 years to 1 year, and (3) allowing the Office of Personnel Management (OPM) limited access to social security earnings information so that income reported by disability annuitants can be confirmed.

We believe these changes could help in reducing the growing costs of the disability retirement program and precluding payments to retirees who no longer need the disability protection.

Disability provisions are a necessary and integral part of any responsible employer's compensation program. Employees who suffer physical or mental impairments causing a partial or complete loss of income need the financial protection that disability programs provide.

We have become concerned through our work on the civil service disability program that benefits may be paid unnecessarily to many retirees. We have reported that (1) some disability retirees were probably capable of performing other types of work at the time of retirement, (2) some were receiving disability benefits while performing jobs similar to their prior Government jobs, and (3) some had been able to earn more than the pay for their prior Government jobs but continued to receive disability benefits because of the program's liberal economic recovery provisions.

At the end of fiscal year 1978, approximately 323,000, or about 28 percent, of all retirees under the system were retired on disability and receiving annuities totaling about $2.2 billion annually. By the end of fiscal year 1979, these numbers had increased to 333,000 disability retirees receiving annual benefits of $2.5 billion.

According to OPM, these statistics may be misleading because many disability retirees meet the age and service requirements for optional retirement and would have been able to retire anyway if their disability retirement applications had not been approved.

Under S. 2449, employees who have reached normal retirement eligibility would not be allowed to retire on disability. With such a change, disability retirements would be granted only when working careers have been shortened by disabling conditions--a circumstance that would seem to be consistent with the reasons why disability provisions are included in the retirement system. This change should result in a refinement of the statistics to reflect a more realistic disability retirement rate and should also mean that the administrative costs associated with processing disability retirements would be reduced.

While the proposed change has merit, it should be recognized that the overall effect on retirement costs may be neglible because the amount of benefit payments to retirees would not be affected. Disability and optional retirement benefits are calculated under the same formula. Also, disability retirement provides certain advantages that would no longer be available

to the affected employees if this provision of S. 2449 were enacted. Disability retirees may be able to qualify for the sick pay exclusion of $5,200 a year for tax purposes; in several States, they may be eligible for unemployment benefits; and, under OPM regulations, they are allowed to exhaust their sick leave balances before retiring.

The bill's provision to change the test period for earning-capacity restoration from 2 years to 1 year would close a loophole in the law. Under current law, economic recovery is assumed if, in each of 2 consecutive years, annuitants' earnings equal or exceed 80 percent of the current rate of pay for their last Government job. Some annuitants have been able to earn more than the pay for their prior Government jobs while receiving sizeable annuity payments because they did not exceed the 80 percent maximum in each of the 2 years.

OPM now has to depend on the disability retirees themselves to report their earnings in order to determine if earning capacity has been restored. By allowing OPM to have access to social security earnings data to confirm disability retirees' earnings reports, S. 2449 should assist considerably in effective monitoring of the disability roll.

We would also like to mention some other shortcomings of the disability retirement program that we believe should be corrected.

We have recommended, and continue to believe, that legislation should be enacted to encourage retention of potentially productive employees, who are now being retired on disability,

by requiring agencies to assign such employees to vacant positions in jobs they are capable of performing. Under current law, employees are considered to be disabled if they are unable, because of disease or injury, to perform usefully and efficiently in the grade or class of position last occupied. As interpreted by OPM, this means that an employee unable to do one essential function of his or her job is entitled to disability retirement.

If a disabled employee can perform in other positions and the agency can find a position for which the employee is qualified, we believe the agency should have reassignment authority and actively seek an alternative position. We have found little evidence of agency efforts to use job details, job restructuring, or job reassignments so that the employee may continue productive employment. Even if such actions were attempted, the law does not require employees to comply.

Another change to the disability retirement program that we have proposed concerns the minimum benefits that are guaranteed to all disability retirees under the system. In 1956, the Congress adopted an amendment to provide disabled employees at least the smaller of (1) 40 percent of their high-3 average salary or (2) the benefits that would have been earned under the regular formula had the employees worked to age 60. These minimum benefit provisions were adopted in recognition of the fact that the regular formula would provide a very limited income to employees who became disabled early in their Federal careers.

About 153,000 disability retirees now receive benefits under the guaranteed minimum provisions. In a report issued on November 30, 1979, entitled "Minimum Benefit Provision of the Civil Service Disability Retirement Program Should Be Changed," (FPCD-80-26), we reported that many of these retirees are not, in fact, the short-term personnel that the law was intended to serve as they are also receiving benefits from prior careers in the military.

We limited our examination to Air Force retirees and found that, of the 29,493 civil service employees who retired with guaranteed minimum disability benefits during 1976 to 1978, 1,202 were also receiving military retirement pay and/or Veterans Administration compensation in lieu of retirement pay from earlier careers in the Air Force. On the average, these Air Force/civil service retirees were receiving $415 a month in civil service disability payments; $665 a month in military retirement and veterans' compensation; and 80 of them were also receiving social security payments averaging $328 a month. Many of the remainder will eventually qualify for social security upon reaching age 62.

On the average, the retirees receiving both military and civil service benefits had entered the civil service at age 43 and worked about 11 years before retiring on disability. Nearly all of them had spent 20 years or more in the Air Force. We estimated that the minimum benefit provisions will add about $54 million to their lifetime civil service annuity payments over

what they would receive if their annuities were based solely on their actual civilian service. If all military retirees who are also receiving minimum civil service disability benefits are considered, the additional amount could be as high as about $50 million a year. Moreover, approximately 140,000 military retirees are now employed in civil service jobs, so it is likely that the numbers will continue to grow if the law is not changed.

The minimum annuity provisions were designed to protect employees who are required to prematurely terminate their Federal careers because of disability. We believe that such increased annuities are inappropriate for individuals who are already receiving full benefits from prior careers in the military. Our report, therefore, recommended that the Congress amend the civil service retirement law to provide that only the benefits earned under the regular formula be given to military retirees, with adjustments, if necessary, where the benefits available from former military careers and the regular civil service formula are less than the civil service guaranteed minimum.

Legislation to implement our recommendation has been introduced in the House. We would urge that similar action be taken in the Senate, perhaps as an amendment to S. 2449.

S. 2450

S. 2450 would amend the cost-of-living adjustment process for civil service retirees by repealing the provisions of law

which allow new retirees to benefit from increases in the Consumer Price Index (CPI) that occurred before they retired. It would pro-rate the initial adjustment for new retirees to reflect only the increase in the CPI after retirement and eliminate the so-called "look back" provision enacted in 1973 under which new retirees are now able to benefit from CPI increases that occurred as much as a year or more before their retirement.

GAO fully support these changes which are consistent with its recommendations we have made. Under current law, new retirees can receive a higher starting annuity which reflects the last cost-of-living adjustment granted before their retirement and, depending on the timing of their retirement, may be eligible for another adjustment immediately. These features under current law are unnecessarily costly. They inflate the basic annuity upon which succeeding adjustments are applied and can encourage valuable, experienced employees to retire rather than to keep working.

This situation was graphically displayed this past February when thousands of employees who were eligible to retire found themselves in the quandary of having to decide whether to retire and receive a 6 percent adjustment on March 1 and also have last September's adjustment of 6.9 percent considered in their annuity calculations or to continue working and forego these increases in their future annuities. The decision was especially difficult for high-level civil servants whose pay had been adjusted infrequently and in smaller amounts than others since a decision to continue working would mean they could lose hundreds and maybe thousands of dollars a year in their eventual retirement annuities.

The revised adjustment mechanism proposed by S. 2450 will insure higher basic retirement annuities for continued Federal service and should encourage valuable employees who are considering retirement to remain. It would also be much less costly. We estimated in a November 1977 report that these changes would save the retirement fund over $800 million in annuity payments over the remaining lifespans of the 92,000 civil service employees who were expected to retire in 1978 alone. We have not updated this estimate, but with double digit inflation, current estimates would be even higher.

H.R. 2583

H.R. 2583 would discontinue civil service benefit payments to annuitants during periods of employment as a justice or judge of the United States.

Federal justices and judges are covered by the Federal judiciary retirement system--a retirement plan separate and apart from the civil service retirement system. Civil service system participants are often appointed to the Federal judiciary and thus may become eligible for benefit payments from both systems.

As a rule, annuitants under the civil service system may not receive both their annuity and full salary when they are reemployed in a Government position. Employing agencies are required to deduct annuity payments from their 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 judges' salaries shall not be diminished during their continuance in office. They are allowed to receive civil service annuities in addition to their full salaries.

A retired Member of Congress receiving a civil service annuity who becomes reemployed in a Government position is required by law to have his annuity discontinued during reemployment. Thus, during active service as a 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.

S. 358

S. 358 is intended to correct a perceived inequity in the retirement program for Secret Service personnel. It would allow them to count prior service with the District of Columbia police, U.S. Park Police, or Executive Protective Service toward the service requirements for participation in the District's police and firemen's retirement system.

When initially employed, most Secret Service personnel are covered by the civil service retirement system. By legislation

enacted in 1940, however, non-clerical Secret Service employees with 10 years' service directly related to protecting the President may elect coverage under the District's police and firemen's retirement system--a much more generous plan than civil service retirement. Employees of the Secret Service Uniformed Division (known prior to November 15, 1977, as the Executive Protective Service) are covered by the District system immediately upon employment without having to first participate in the civil service system.

Personnel covered by the District system may retire earlier with higher retirement annuities and contribute less toward their benefits than other similarly employed Federal personnel under the civil service system.

The Secret Service now recruits Nation-wide, but, for several years, Secret Service agents assigned to protect the President were generally recruited from the Executive Protective Service and the District police force. Because of this and to facilitate recruiting, the 1940 legislation was amended in 1964 to allow members of the Secret Service who had been appointed from the Executive Protective Service to credit periods of prior service with the District Police, Park Police, and Executive Protective Service toward the 10-year requirement. (Park Police also participate in the District system.)

The 1964 amendment applied only to personnel who were recruited from the Executive Protective Service. Personnel recruited directly from the District police force were not included.

S. 358 is intended to correct this apparent inequity. It would allow Secret Service personnel appointed from the District police force prior to January 1, 1972, to count any prior service with the District police, Park Police, or Executive Protective Service toward the 10-year requirement.

In a January 1978 report entitled, "Federal and District of Columbia Employees Need to Be in Separate Pay and Benefit Systems," (FPCD-77-71), we recommended, among other things, that Federal personnel be removed from the District retirement system and included under the civil service system so that their benefits would be consistent with those provided to other Federal law enforcement personnel. Such action has become even more important since the passage last year of the District of Columbia Retirement Reform Act. That law made significant changes to certain provisions of the police and firemen's retirement system which had been widely acknowledged to be too generous. However, the law specifically excluded Federal personnel from the system changes. They continue to be covered by the system's old provisions.

We could not ascertain from the history of the 1940 legislation why 10 years' service directly related to protecting the President was determined to justify covering Secret Service personnel in a retirement system administered and controlled by the District of Columbia with benefits far superior to those received by other Federal personnel. We believe this situation is very inequitable. Nevertheless, we can appreciate the fact that the

1964 amendment is also perceived to be inequitable by not affording the same benefits to Secret Service employees appointed from the District police force as those received by appointees from the Executive Protective Service.

~~Therefore, while~~ GAO believes the proper course of action would be to remove Federal personnel from the District system, we do not oppose the enactment of S. 358 as long as this participation continues.

GAO could find no rationale for limiting the benefits of S. 358 to persons appointed from the District police force prior to January 1, 1972. It seems to us that, if the bill is favorably considered, the benefits should be extended to all persons hired from the District police regardless of when they were recruited./

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That concludes my statement, Mr. Chairman. My colleagues and I will be pleased to answer questions.