

GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

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September 29, 1989

The Honorable Robert J. Dole
Member, United States Senate
636 Minnesota Avenue
Kansas City, Kansas 66101

Dear Senator Dole:

This responds to your letter of June 29, 1989, on behalf of Mr. [redacted]. In our letter to you dated June 8, 1989, we addressed Mr. [redacted] questions about a special provision in the United States Code allowing reemployed retired air traffic controllers to collect both a federal retirement annuity and a federal salary. Mr. [redacted] now asks who is responsible for extending the special provision and why the special provision was extended twice in 1986, but only once in other years.

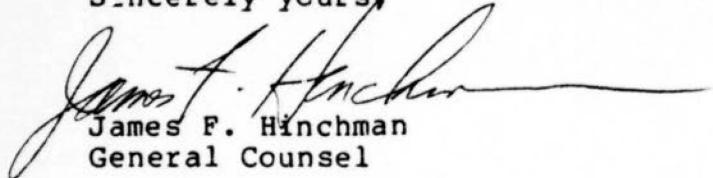
The special provision, codified at 5 U.S.C. § 8344(h), applies to air traffic controllers who retired before December 31, 1987. Only Congress can extend application of that provision to controllers who retired later by enacting additional legislation. Congress has extended the class of eligible controllers on several occasions. The most recent extension to December 31, 1987, became effective on September 30, 1988.

The Federal Aviation Administration has advised us that there were two different extension dates for the special provision in 1986 because of the following circumstances. Congress first included an extension through April 1, 1986, in a short-term appropriations bill that was passed in October 1986. Congress established the April 1 deadline in order to cover only air traffic controllers who had already retired. However, procedural defects in the way Congress enrolled the October 1986 bill raised questions about whether it actually became law. To cure the possible defect, Congress, as part of an appropriations bill passed in December 1987, ratified the extension through April 1, 1986, and provided an additional extension through December 31, 1986.

We note that future extensions of the special provision are possible. The 1990 appropriations bill for the Department of Transportation, which is currently pending, would extend the provision to controllers who retired before December 31, 1988. If the extension becomes law, it should become effective on October 1, 1989.

We hope this information enables you to respond to your constituent.

Sincerely yours,



James F. Hinchman
General Counsel