

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON 25, D. C.

August 3, 1959

Honorable Tom Murray
Chairman
Committee on Post Office
and Civil Service
House of Representatives
Room 213, Old House Office Building

Dear Mr. Murray:

This refers further to your requests for Commission report on 19 bills (listed at the close of this letter) to amend section 9(e) of the Civil Service Retirement Act to increase the percentage of salary base payable as annuity for each year of service under the special annuity formula for law enforcement personnel.

Employees whose duties are primarily the investigation, apprehension, or detention of persons suspected or convicted of Federal crimes are afforded preferential retirement treatment in two ways, as follows:

1. They may, with agency consent and Commission approval, voluntarily retire on immediate full annuity (no age reduction) as early as age 50, after a minimum of 20 years' service in law enforcement positions.

Employees in general may not similarly retire until age 60 with 30 years' service, or until age 62 with between 5 and 30 years. A general provision permits 30-year employees to retire as early as age 55, but the immediate annuity is reduced--1% for each full year the retiring employee is under age 60.

2. Their annuities (and the automatic survivor annuities of their spouses, if the 50-20 age-and-service conditions are met upon death in service) are computed under a higher than regular formula: 2% of highest 5-year average salary multiplied by all years of creditable Federal service, the total not to exceed 80% of the high-5 average salary.

The regular formula for employees generally, as liberalized effective October 1, 1956, affords annuity (not exceeding 80% of high-5 average salary) comprising--

a) $1\frac{1}{2}\%$ (or 1% plus \$25) of high-5 average salary multiplied by 5 years of service; and

- b) 1 3/4% (or 1% plus \$25) of high-5 average salary multiplied by years of service between 5 and 10; and
- c) 2% (or 1% plus \$25) of high-5 average salary multiplied by years of service over 10.

These preferential provisions were enacted by the Congress to help assure a staff of active, vigorous, and capable men to carry out the police operations involved in the enforcement of the criminal laws of the United States. The aim is to allow the earlier retirement, and replacement by younger men, of employees primarily engaged in police operations who, because of the physical requirements of their positions and the hazardous activities involved, are no longer capable of carrying on efficiently, so far as physical vigor is concerned.

The more generous method of computing annuity amounts in these cases is provided, not as a special reward for the type of service performed or for hazards incident to the employment, but strictly because a more liberal formula is usually necessary to make such earlier retirements (with resultant shorter service) economically possible.

These bills proceed on the assumption that a rise in the annuity formula for this purpose is warranted. All of them propose revising the formula upward to pay 2 1/2% of high-5 average salary for each year of creditable service, with retention of the existing 80% maximum. All but one of the bills would confer the 25% formula increase retroactively, dating it back to October 1, 1956, to coincide with the effective date of the 1956 Retirement Act liberalizations.

The number of employees currently serving in law enforcement positions, i. e., primarily engaged in police operations, is not known. The Committee on Retirement Policy for Federal Personnel, in connection with its 1952-1954 study of all Federal retirement systems and benefits, made a survey from which it estimated that there were between 17,000 and 20,000 such employees as of 1953. No similar survey has been made since then, however, and two factors--the six years elapsed and a change in the Retirement Act--render the Committee estimate unacceptable for present purposes. The 1956 Retirement Act added an indeterminate number of positions to the group theretofore covered by the special law enforcement retirement provisions by declaring certain non-custodial prison personnel as primarily engaged in police operations if exposed to frequent direct contacts with persons in detention in the performance of their regular duties.

During the 5 fiscal years 1954-1958, retirements under the law enforcement provisions averaged 284. In view of the increased coverage described above, it is reasonable to expect an average of at least 300 per year in the future. Based on data pertaining to those retired in fiscal year 1958 (amount of annuity, age at retirement, percentage electing survivor benefits, age of wife, and amount of survivor annuity), the estimated added cost for each employee retiring under the law enforcement provisions, assuming the computation formula were changed from 2% to 2 1/2%, would be about \$13,000. For 300 such retirements per year, the added annual cost would be \$3,900,000.

The Commission does not concur in this proposal. The existing law enforcement formula not only serves its intended purpose in full, but does so in a manner that can only be described as liberal. Enactment of any of these bills would produce several undesirable results: (1) the special formula would be made overly liberal; (2) the present disparity between benefits allowed law enforcement employees and those accorded employees generally would be heightened, and without good reason; and (3) the Government would itself be creating a situation conducive to competition between various groups within the retirement system for ever higher annuity formulas, without regard to such sound considerations as good personnel management and retirement policy or mutuality of benefits as regards the Government as employer.

Our position in this regard coincides with the conclusion reached by the 84th Congress. While these bills imply by their retroactive feature (and this is widely claimed by advocates of the 2½% proposal) that Congress overlooked the 2% formula in liberalizing the Retirement Act in 1956, the record shows precisely to the contrary. Far from overlooking this formula, Congress at that time specifically considered all aspects of law enforcement benefits. It even modified the formula, but it deliberately reenacted the 2% factor.

In House Report No. 2854, dated July 21, 1956, your Committee stated--

"Annuities of employees in hazardous occupations will continue to be computed at 2 percent of the high average salary multiplied by years of service, but the present limitations of 30 years of creditable service for these employees is replaced by the more liberal maximum on annuities of 80 percent of average salary. These employees also will receive the other benefits of the reported bill, as discussed hereafter. Eligibility for such retirement is extended to employees of the Bureau of Federal Prisons and Federal Prison Industries, Incorporated; to Public Health Service officers and employees assigned to the field service of the Bureau of Prisons or the field service of Federal Prison Industries, Incorporated; civilian employees in the field service at military disciplinary barracks, and to officers and employees of the District of Columbia Department of Corrections, its industries and utilities, whose duties require frequent direct contact with persons in criminal detention."

In its Report No. 1787, dated April 18, 1956, the Senate Committee on Post Office and Civil Service observed as follows:

"The bill retains the existing special annuity formula of 2 percent of high 5-year average salary times years of service for early optional retirement of investigative employees, but changes the maximum annuity provision under it from a limitation of 30 years on allowable service, to the 80 percent of high 5-year average salary maximum applicable to employees generally."

The table below showing average annuities, as well as age and service characteristics, of all employee annuitants retired in fiscal year 1958 under the various provisions of the 1956 Retirement Act demonstrates factually (a) that the 84th Congress acted wisely in retaining the 2% formula, (b) that law enforcement retirees do indeed receive not just adequate but highly liberal annuities at young ages, and (c) that the Commission is fully justified in its view that no rise in the law enforcement special formula is warranted.

PROVISIONS UNDER WHICH RETIRED	NUMBER ADDED TO ROLL	AVERAGE MONTHLY ANNUITY	AVERAGE AGE (1958)	AVERAGE YEARS' SERVICE
Mandatory (Age), 15 years' service	4,181	\$161	71.6	22.5
Optional, 30 years' service, age 55 & over	12,878	283	62.3	36.3
Optional, 15-29 years' service, age 62	8,465	147	65.7	20.5
Optional, 20 years' law-enforcement service, age 50	212	285	58.9	27.8
Disability	16,717	123	56.6	15.6
Discontinued-Service, 5 years' service	4,395	57	66.6	10.2
Involuntary, 20 years' service, age 50	454	168	56.8	22.2
Involuntary, 25 years' service	487	210	54.4	28.6
TOTAL	47,789	170	62.0	22.4

As may be seen, the law enforcement group fares extremely well. The only group with comparable benefits (and their average rate is slightly lower) are the full career employees--30 years and over--retired under the regular optional provisions who had to wait until at least age 55 to retire and had to serve an average of $8\frac{1}{2}$ years longer in order to qualify for their benefits. Benefits of law enforcement retirees averaged 68% greater than the \$170 average rate of benefits for all annuitants.

While the foregoing discussion covers and disposes of the central issues raised by the proposal embodied in these bills, the Commission is aware of certain side issues which have been raised and argued by advocates of the 2½% proposal. Though the arguments in question are not strictly relevant to the matter at hand, the Commission feels that commenting on them will clarify the situation and possibly be of assistance to your Committee. The arguments (in substance) with attendant comments follow.

CLAIM

Law enforcement employees are under an inequity because their retirement deduction rate was increased in 1956, with no addition in their benefits as for regular employees who received a raise in their annuity formula.

COMMENT

It is true that the Retirement Act amendments of 1956 increased the rate of deductions from basic salary from 6 to 6½ percent for all employees (from 6 to 7½ percent for Members of Congress) regardless of differences in annuity formulas. Yet it may hardly be said that law enforcement personnel suffered any inequity through lack of added benefits under the amendments.

The 1956 law still provides them with a more liberal annuity formula than for employees generally. Moreover, it still provides them with the special privilege of retiring voluntarily on full annuity at the early age of 50 after a minimum of 20 years' service. This is a privilege not available to any other type of official or employee under the Retirement Act.

Aside from preserving their preferred position in these respects, the 1956 retirement law has afforded law enforcement employees substantial additions in benefits. Some of the more important of these liberalizations are:

1. A raise in the maximum on their annuities. Previously their maximum was 60% of high-5 average salary. This was raised to 80%, thus materially increasing annuity benefits available to the employees and their survivors.
2. An extension of the special 2% formula to computation of automatic spouse's survivor annuity on death in service. Formerly only the standard annuity formula (applicable to employees generally) could be used in computing the spouse's annuity in death-in-service cases. Now the special formula applies if the deceased meets the age-50, 20-year requirements.
3. Children's survivor annuities, payable automatically on death before or after retirement, were increased by an average of 150%.
4. A drastic cut in the annuity reduction applied for election of survivor annuity to spouse at the time of retirement. The reduction for such election previously was 5% of the first \$1,500, and 10% of the annuity over that amount, plus an added reduction of ¾ of 1% for each full year the named spouse was

under the age of 60. The reduction now is a flat $2\frac{1}{2}\%$ of the first \$2,400 and 10% of the balance, regardless of how young the named spouse may be. Moreover, the named spouse now is paid her survivor annuity immediately, whereas formerly she could not receive it until age 50 if no dependent children survived.

5. All of the added benefits conferred upon employees generally by the 1956 amendments are available to law enforcement employees in case of separation, retirement, or death before meeting the 50-20 age-and-service conditions for preferential benefits. These include a higher benefit formula, minimum disability annuity, and a lowered reduction factor for age-and-service retirement before reaching age 60.

This is an impressive array of special privileges and benefit additions. It certainly does not bespeak any neglect of law enforcement employees in the 1956 Retirement Act liberalizations, nor offer the slightest justification for a further increase in their already preferential annuity formula.

CLAIM

Law enforcement employees are less favored than Congressional employees who have a $2\frac{1}{2}\%$ formula.

COMMENT

Congress provided this special annuity formula for its own employees to fit the circumstances peculiar to their employment status, i. e., their lack of assured tenure of office, making establishment of an adequate retirement program under a career-type annuity formula highly problematical for them. Such considerations are unique to Congressional employees and do not apply to law enforcement employees.

In addition, the $2\frac{1}{2}\%$ factor is somewhat limited in its operation. The formula affords Congressional employees annuity (not exceeding 80% of high-5 average salary) comprising--

- a) $2\frac{1}{2}\%$ of high-5 average salary multiplied by years of congressional employee and military service not exceeding 15; and
- b) $1\frac{1}{2}\%$ of high-5 average salary multiplied by years of other service not exceeding 5; and
- c) $1\frac{3}{4}\%$ of high-5 average salary multiplied by years of other service between 5 and 10; and
- d) 2% of high-5 average salary multiplied by years of other service over 10.

Congressional employees have no special early retirement option; the conditions for their retirement are the same as for employees generally. The only way a Congressional employee might retire on immediate annuity at age 50 with 20 years' service would be in case of involuntary separation. The annuity

in such case would be immediate but subject to an age reduction. They may retire voluntarily after 30 years' service as early as age 55 with reduced annuity, or on full annuity at age 60 with at least 30 years. Following is a brief comparison of benefits available to the two types of employees (\$8,000 average salary assumed for each) upon retirement under these conditions. As may be seen the Congressional employee may receive less and has no marked advantage until retirement at the normal age of 60 after a full 30 years of service.

LAW ENFORCEMENT EMPLOYEE			CONGRESSIONAL EMPLOYEE		
AGE	SERVICE	ANNUITY	AGE	SERVICE	ANNUITY
50	20	\$3,200	50	20 (Invol.)	\$3,060
55	30	\$4,800	55	30	\$4,845
60	30	\$4,800	60	30	\$5,100

CLAIM

Benefits under the retirement system for Policemen and Firemen of the District of Columbia were liberalized by the Act of August 21, 1957, Public Law 85-157. Law enforcement employees should be granted similar liberalizations.

COMMENT

The purpose of this legislation was to give members of the municipal system benefits comparable to those already available to law enforcement employees under the 1956 Retirement Act and the Federal Employees' Compensation Act. Liberalizations under it were made effective October 1, 1956 to complete the Retirement Act parallel. Reports of the Committees on the District of Columbia verify this rationale.

House Report No. 1016, dated August 6, 1957, stated--

"The purpose of that bill (H. R. 6517) is to completely overhaul the police and fire pension system, the beneficial effects of which have remained substantially unchanged since 1916, and to give to the members coming under it benefits substantially similar to benefits given by hazardous occupation under the Civil Service Retirement Act Amendments of 1956, as well as benefits substantially similar to benefits to Federal employees under the Federal Employees Compensation Act."

Senate Report No. 699, dated July 23, 1957, stated--

"The purpose of this bill [H. R. 6517] is to increase retirement and disability benefits to officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, and of certain officers and members of the United States Secret Service. The bill would provide benefits for these members substantially similar to benefits available to persons who are engaged in hazardous occupations under the Civil Service Retirement Act Amendments of 1956, as well as benefits substantially similar to benefits available to Federal employees under the Federal Employees Compensation Act."

The lack of logic in this claim is manifest. It starts with the premise that A should be equal to B, but proceeds to contend that because B has been made equal to A, an addition should be made to A to equalize it with B.

In the light of the foregoing, the Commission strongly recommends that adverse action be taken on the following bills: H. R. 1091, 1169, 1183, 2364, 2887, 3014, 3049, 3345, 3612, 3920, 4263, 4359, 4499, 4525, 4789, 4914, 4994, 5340, 6125.

Five of these bills (H. R. 3014, 4359, 4499, 4525, and 4914) contain provisions exempting resulting benefits from the restriction on use of the retirement fund imposed by the paragraph headed "Civil Service Retirement and Disability Fund" in section 101 of Title I of the Act of August 28, 1958, Public Law 85-844, 72 Stat. 1064. The remaining 14 bills contain no such exempting provisions.

The Bureau of the Budget advises that there would be no objection to the submission of this report to your Committee.

By direction of the Commission:

Sincerely yours,

(Signed) ROGER W. JONES

Chairman