

1 **SEC. ____.** **ENHANCED RETIREMENT BENEFITS FOR CERTAIN EMPLOYEES OF**
2 **THE PENTAGON FORCE PROTECTION AGENCY.**

3 (a) **FEDERAL EMPLOYEES RETIREMENT SYSTEM.**—Section 8401(17) of title 5, United
4 States Code, is amended—

- 5 (1) by striking “and” at the end of subparagraph (C);
6 (2) by inserting “and” at the end of subparagraph (D); and
7 (3) by adding at the end the following new subparagraph:

8 “(E) an employee appointed to perform law enforcement and security
9 functions under section 2674(b) of title 10 whose permanent duty station is the
10 Pentagon Reservation and who occupies a position in job series 0083, or any
11 successor position, for which the rate of basic pay is fixed in accordance with
12 paragraph (2) of such section;”.

13 (b) **CIVIL SERVICE RETIREMENT SYSTEM.**—Section 8331(20) of such title is amended by
14 inserting before the period at the end of the first sentence the following: “and including an
15 employee described in section 8401(17)(E)”.

16 (c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to
17 service performed on or after the first day of the first pay period beginning at least six months
18 after the date of the enactment of this Act.

Section-by-Section Analysis

This section would provide enhanced retirement benefits for Pentagon Force Protection Agency (PFPA) civilian personnel appointed to perform law enforcement and security functions under the authority of 10 U.S.C. 2674 by amending the provisions of Title 5 that define “law enforcement officer” under the Civil Service Retirement System (CSRS) and Federal Employee Retirement System (FERS). The proposed amendments limit such benefits to PFPA officers employed in job series 0083 whose permanent duty station is the Pentagon Reservation.

PFPA is the premier protection and law enforcement provider for the Department of Defense (DoD), charged with protecting and safeguarding the occupants, visitors, and infrastructure of the Pentagon, Navy Annex and other assigned DoD facilities. This critical mission is accomplished with police officers, criminal investigative and protective services agents; threat management agents; chemical, biological, radiological, nuclear and explosive technicians; and anti-terrorism/force protection and physical security personnel. PFPA's mission of protecting DoD officials and facilities is closely aligned with competitor agencies, such as the U.S. Capitol Police, who protect members of Congress and the U.S. Capitol, as well as the U.S. Secret Service, who protect the President, Vice President, and the White House.

Prior to the creation of PFPA on May 3, 2002, the Defense Protective Service (DPS) served as the protective agency for the Pentagon and other DoD facilities. Almost exactly one year before the 9/11 attack on the Pentagon, the Deputy Assistant Secretary of Defense for Civilian Personnel Policy approved a 10% group retention allowance for DPS police officers. This action was in response to an abnormally high attrition rate in the agency and the serious impact that continued losses would have in DoD's ability to protect Defense employees working at the Pentagon and affiliated facilities. The high attrition rate was partly attributed to the low salary that DPS police officers made compared to competitor similar federal agencies in the National Capital Region (NCR), such as the U.S. Park Police, U.S. Capitol Police, Bureau of Engraving and Printing, and the U.S. Secret Service Uniformed Division.

A permanent solution to the pay disparity was addressed when Congress authorized the Secretary of Defense to fix rates of basic pay for civilian law enforcement and security personnel to make them comparable to personnel of other similar Federal law enforcement and protection organizations in the vicinity of the Pentagon, not to exceed the basic pay for personnel performing similar duties in the U.S. Secret Service Uniformed Division or the United States Park Police. (*See* 10 U.S.C. 2674(b)(2)). Although pay rates have been adjusted, PFPA officers have not been provided enhanced retirement benefits available to the majority of its competitor agencies.

This situation is unconscionable in view of the fact that the duties of PFPA officers are virtually the same as employees of competitor agencies. For example, PFPA officers are armed and have the same powers as sheriffs and constables. They routinely protect senior DoD officials both on and off the Pentagon Reservation, including the Secretary and Deputy Secretary of Defense, Under Secretaries of Defense, and members of the Joint Chiefs of Staff. PFPA officers also protect United States officials who visit the Pentagon, including the President, Vice President and members of the Cabinet. They conduct investigations of criminal activity on and around the Pentagon Reservation, including investigations of suspected surveillance and suspicious persons. Finally, they make arrests and detain suspects. These duties are identical to those performed by PFPA's competitor agencies.

In February 2004, PFPA implemented medical and physical fitness standards for its police officers. The same standards were later applied to its criminal investigators. This was to address the need for a physically fit workforce that can perform arduous and hazardous duties performed under variable and unpredictable working conditions. PFPA officers must be able to successfully demonstrate essential protection and law enforcement duties to include the use of a firearm and taking decisive and immediate action in emergency situations. Medical and fitness standards assist

PFPA in recruiting and retaining physically fit individuals. Enhanced retirement will function as an added incentive to join PFPA, because potential recruits will understand that the rigorous requirements of their work will be balanced by an enhanced retirement benefit when they can no longer meet the required fitness standards. This will help ensure that the individuals protecting the Pentagon, one of three highly sensitive and high profile buildings in the NCR, are fit and vigorous. Competitor agencies in the NCR impose fitness standards and offer enhanced retirement benefits as well. PFPA needs to be able to attract the same quality of potential applicants.

Enhanced retirement benefits will significantly improve PFPA’s ability to manage its work force into the future. The current disparity between PFPA and its competitor agencies places PFPA at a severe disadvantage with respect to recruiting and retaining high quality, experienced personnel. The lack of enhanced retirement coverage contributes to PFPA attrition rates. The majority of PFPA’s attrition has resulted in transfers to competitor agencies that provide enhanced retirement benefits, including TSA Federal Air Marshals, U.S. Park Police, U.S. Capitol Police, Supreme Court Police, and the Federal Bureau of Investigation. We can achieve significant cost avoidance by lowering the attrition rate, because PFPA spends an approximate average of \$25,000 per person in overall accession costs for new officers, which include training at the Federal Law Enforcement Training Center, medical examinations, physical fitness testing, security clearance processing and drug testing. Not including officer salaries, PFPA spent \$4,070,982 in FY 2009 just for recruitment, accession and training. Providing enhanced retirement benefits for PFPA officers would minimize attrition, encourage the retention of experienced personnel, and eliminate the incongruity between PFPA and its competitor agencies.

Budget Implications: Based on data collected in FY 2009, the costs associated with attrition include an average of \$25,000 in overall accession costs for each new officer and an additional \$35,700 for non-recoverable labor costs during training. Avoiding these costs will help significantly to offset the costs of this proposal.

Eligible employees generally will be required to have 20 years of law enforcement service before the age of 57 in order to receive enhanced retirement benefits. DoD’s cost estimates assume all eligible personnel will participate in the new retirement coverage. However, it is likely that a significant number of senior officers, such as those who are approaching retirement from Federal service, will not participate, thereby reducing the overall cost.

RESOURCE REQUIREMENTS (\$MILLIONS)					
Appropriation to:	Pentagon Reservation Maintenance Revolving Fund (PRMRF), PFPA funding line: 97X4950.2015				
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Number of Personnel Affected	429	479	529	579	629
Program Cost	+3.328	\$3.778	+3.865	+3.954	+4.045
Cost for Existing Officers	+2.100	+2.100	+2.000	+2.000	+2.000
Cost Avoidance	-3.074	-3.145	-3.217	-3.291	-3.367
Net Cost	+2.354	+2.733	+2.648	+2.663	+2.678

Changes to Existing Law: This proposal will make the following changes to sections 8331 and 8401 of title 5, United States Code:

Changes to 5 U.S.C. § 8401

United States Code, Title 5, Government Organization and Employees

§ 8401. Definitions

For the purpose of this chapter--

...

(17) the term “law enforcement officer” means--

(A) ...

(B) ...

(C) an employee who is transferred directly to a supervisory or administrative position after performing duties described in subparagraph (A) and (B) for at least 3 years; ~~and~~

(D) an employee--

- (i) of the Bureau of Prisons or Federal Prison Industries, Incorporated;
- (ii) of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated; or
- (iii) in the field service at Army or Navy disciplinary barracks or at any other confinement and rehabilitation facility operated by any of the armed forces;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniform Code of Military Justice (chapter 47 of title 10) require frequent direct contact with these individuals in their detention and are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the head of the employing agency;

and

(E) an employee appointed to perform law enforcement and security functions under section 2674(b) of title 10 whose permanent duty station is the Pentagon Reservation and who occupies a position in job series 0083, or any successor position, for which the rate of basic pay is fixed in accordance with paragraph (2) of such section.

Changes to 5 U.S.C. § 8331

United States Code, Title 5, Government Organization and Employees

§ 8331. Definitions

For the purpose of this subchapter--

...

(20) “law enforcement officer” means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position and including an employee described in section 8401(17)(E). For the purpose of this paragraph, “detention” includes the duties of—

(A) employees of the Bureau of Prisons and Federal Prison Industries, Incorporated;

(B) employees of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated;

(C) employees in the field service at Army or Navy disciplinary barracks or at confinement and rehabilitation facilities operated by any of the armed forces; and

(D) employees of the Department of Corrections of the District of Columbia, its industries and utilities; whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniformed Code of Military Justice (chapter 47 of title 10) require frequent (as determined by the appropriate administrative authority with the concurrence of the Office) direct contact with these individuals in their detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation;