

**STATEMENT OF
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before the

**SUBCOMMITTEE ON THE FEDERAL WORKFORCE, POSTAL SERVICE,
AND THE DISTRICT OF COLUMBIA
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES**

on

**H.R. 5600: THE DISTRICT OF COLUMBIA COURT, OFFENDER
SUPERVISION, PAROLE, AND PUBLIC DEFENDER EMPLOYEE EQUITY
ACT OF 2008**

July 15, 2008

Good afternoon, Mr. Chairman and members of the Subcommittee. I appreciate the opportunity to be here today to discuss H.R. 5600 the District of Columbia Court, Offender Supervision, Parole, and Public Defender Employee Equity Act of 2008.

The National Capital Revitalization and Self-Government Improvement Act of 1997, as amended, which was part of the Balanced Budget Act of 1997 (Public Law 105-33), stipulated that four groups of civil servants have their future retirement coverage provided by the Federal Employees' Retirement System. Previously, these employees received retirement coverage under the D.C. Retirement System. Some of the groups became employees of the Federal Government while others remained as employees of the District. The four employee groups covered by the 1997 law and the proposed H.R. 5600 include:

- Nonjudicial employees of the District of Columbia courts hired prior to the effective date of section 11246(b) of Public Law 105-33;
- Employees of an entity of the District of Columbia Government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Public Law 105-33;
- Employees of the District of Columbia Public Defender Service hired prior to the effective date of the District of Columbia Courts and Justice Technical Corrections Act of 1998, Public Law 105-274; and
- Individuals who were appointed to a position in the Federal Government under the priority consideration program established by the Bureau of Prisons under section 11203 of the Balanced Budget Act of 1997 and were previously employed by the District of Columbia Department of Corrections.

Prior to the passage of Public Law 105-33, all four groups of employees listed in H.R. 5600 were District of Columbia employees, covered by the District retirement system. These D.C. employees were covered by a defined contribution retirement plan, similar in nature and benefit level to the Thrift Savings Plan. At the time of the 1997 bill's enactment, these employees retained their defined contribution plan benefits from the District of Columbia. Those who did not have sufficient time for vesting under the D.C. defined contribution retirement plan were permitted to count their subsequent service so as to achieve vesting.

These employees lost none of the benefits earned under the D.C. retirement system, while gaining the prospective benefit of being covered by the Federal Employees Retirement System (FERS) for their subsequent service. FERS coverage provides both a defined benefit based on years of service and health benefits that continue into retirement. In addition, FERS covered employees also receive a defined contribution benefit via the Thrift Savings Plan (TSP) and earn Social Security credits.

Many of these employees entered into coverage under FERS during the middle of their careers. By reason of this change, while they did become covered under a more beneficial retirement program, their previous service with the District of Columbia Government did not count toward either eligibility to retire under FERS or in the computation of the defined benefit portion of the annuity. While they will receive benefits under FERS proportionate to their FERS-covered service, they will have to wait somewhat longer to be eligible for those benefits than if their service had been performed under a single plan. In particular, they would generally have to wait until they are 62 in order to retire with an unreduced immediate annuity.

Under FERS, individuals are eligible to retire with a minimum of 5 years of FERS-covered service at 62, without a reduction to their annuities. An individual with at least 10 years of FERS-covered service may retire at the minimum retirement age with a slight reduction. The minimum retirement age is between ages 55 and 57, depending on the individual's date of birth. As it's been 11 years since the passage of Public Law 105-33,

the individuals covered by H.R. 5600 presumably have more than 10 years of FERS-covered service. These individuals would be eligible to retire without a reduction upon reaching age 62 or they may retire earlier, at the minimum retirement age, with a slight reduction. All their post 1997 years of FERS-covered service would count in the computation.

H.R. 5600 will not modify the computational structure applicable to their employment under FERS, nor will it make their prior service creditable towards the computation of FERS benefits. However, it will permit that service to be creditable solely for the purpose of eligibility for an annuity, so that affected individuals will be permitted to retire at the time that they would have been eligible had all of their service been performed under a single system.

According to statistics provided by the D.C. Government two years ago, there are approximately 247 employees working for the D.C. Superior Court who are covered by the version of the bill introduced in the 109th Congress. Of the employees in this group, 39 have law enforcement officer coverage under section 8412(d) of title 5, United States Code, and 208 are regular FERS employees. However, recent information indicates that these numbers may be somewhat understated. We do not at this time have the number of individuals in the Public Defenders Office or those who employed by the Bureau of Prisons.

We calculate that there is no substantive change in the net present value of the annuity benefits paid to individuals under this proposal for regular employees, because although their benefits will begin earlier, they will not receive cost-of-living adjustments (COLAs) until age 62. Further, if they waited to retire, the portion of their annuities based upon this service would be computed using a larger high-3 average salary. However, because the Retirement Fund will not be receiving the 12 percent employee and employer contributions for the period during which individuals would have continued working, that amount represents an increase in costs under this bill. It is difficult to give an actual total cost estimate at this time because it is difficult to ascertain how much earlier individuals will actually retire, and we do not have complete and accurate figures for the covered individuals, most particularly the correctional officers at the Bureau of Prisons.

As noted earlier, a number of the individuals covered by this bill are currently employed in positions as Law Enforcement Officers. As drafted, H.R. 5600 would not make the prior District service creditable towards early retirement as a Law Enforcement Officer because it defines the service only as creditable under 5 U.S.C 8411, but does not provide that it will be deemed to have met the definition of Law Enforcement Officer contained in 5 U.S.C. 8401(17), nor is a provision made for funding the additional cost this enhanced benefit would entail. If law enforcement credit was granted, costs for these employees would be significantly higher due to the more liberal benefits structure, and the loss of employer and employees contributions at the higher rate of 26.2 percent. Full cost funding is an important principle of the Federal Employees Retirement System, to which we believe the provisions of H.R. 5600 should be in compliance.

In conclusion, as noted, we have both policy and financial concerns with aspects of this proposal. Accordingly, we cannot support it.

Thank you again for inviting me here to testify today, and I would be glad to answer any questions you may have.