



Testimony

of the

National Treasury Employees Union

On

**H.R. 3579, "To Amend Title 5, U.S.C., to Facilitate the Temporary
Reemployment of Federal Annuitants"**

Before the

**Subcommittee on Federal Workforce, Postal Service
and the District of Columbia**

May 20, 2008

Chairman Davis, Ranking Member Marchant, members of the Subcommittee, thank you for the opportunity to present the views of the National Treasury Employees Union on H.R. 3579, a bill that would facilitate the reemployment of federal annuitants. The Administration has promoted this proposal as a solution for an anticipated lack of qualified federal employees needed to effectively accomplish the important missions of the federal government.

This potential shortfall of qualified employees is predicated in large measure on a possible large wave of federal retirements in the next several years. And, in fact, roughly one-third of federal career employees will be eligible to retire by 2012. Of equal concern to NTEU, however, is the fact that many federal agencies are today woefully understaffed and the training, mentoring and promotional opportunities needed to have experienced employees in place and prepared to take over, should we see large numbers of retirements in the next few years, is not being adequately addressed. The primary reason for this is not a lack of qualified employees or applicants, but a lack of funding. In addition, much critical expertise has been contracted out to private businesses.

The real solution to current and future personnel concerns is to focus now on the recruitment and retention of talented employees. Fundamental to this process is providing fair pay, adequate benefits, job security and rewarding work. In terms of improvements in these areas that we believe would have a definite impact on recruiting and retaining high quality employees, NTEU would recommend full funding and implementation of the Federal Employees Pay Comparability Act, passage of H.R.1256, a bipartisan bill introduced by Majority Leader Hoyer, that would make health care premiums under the Federal Employees Health Benefits Program (FEHBP) more affordable and reinstatement of Labor Management Partnerships as put forth in Chairman Davis' bill, H.R. 3892.

Current flexibilities that have been found in a recent GAO report (GAO-08-630T) to have real impact on recruitment and retention, especially of older workers include part time work, flexible schedules, and flexiplace options. NTEU strongly supports the expansion of these options throughout the federal workforce.

We also support Congressman Moran's bill, H.R. 2780, to make sure there is no penalty in terms of pension calculation if an employee moves to a part time schedule near retirement. In addition, NTEU believes that legislation introduced by Chairman Davis (H.R. 5550) that would allow FEHBP to cover dependent children to age 25, rather than age 22 would be a strong recruitment and retention tool for parents of young adults, the kind of experienced workers that the federal government needs. In fact, NTEU President, Colleen Kelley, received a letter from a retirement eligible NTEU member in New Jersey, where insurers are required to cover dependents to age30. This member stated that this was the one issue that is pushing him to retire from the federal government and find a new job where he can provide health coverage for his young adult children even though he would rather stay in his federal job.

One of the best recruitment and retention benefits that the federal government provides that is especially attractive to older workers is the ability to continue in the FEHBP program, with the government continuing to contribute toward premium costs, upon retirement. Yet, despite the Administration's rhetoric that it is focused on attracting and retaining older, experienced workers, it proposed to limit this FEHBP option in its last several budget submissions. Under these proposals, federal workers with less than 10 years of federal service, would not be eligible for the same government contribution to their health care premiums as other federal retirees. NTEU strongly opposed this proposal to limit one of the best incentives for hiring and retaining mid-career, experienced employees and we are pleased that the Congress took no action on it.

While NTEU does not oppose the federal government's use of reemployed annuitants, we do have some concerns with regard to H.R. 3579, which would significantly change the rules on this practice.

Currently, most agencies are allowed to waive statutory prohibitions on dual compensation, or paying salaries at the same time pension benefits are being received, under certain circumstances, with approval from the Office of Personnel Management. These circumstances include an emergency hiring need, severe recruiting difficulty and the need to retain a particular individual. Last fall, regulations were amended to expand the ability to waive the dual compensation rules for "unusual circumstances," which can include an "agency's need to conform to a congressional or other mandate to meet a new or expanded mission requirement by a particular date."

It is our understanding that the current authority was used successfully recently by the State Department to rehire annuitants without pension offsets to deal with the passport backlog caused by new proof of citizenship rules for air travelers entering the United States. We were told that the OPM approval process of the State Department's waiver request took only a few short weeks.

A small number of agencies, such as the Department of Defense (DOD), have been given statutory authority to reemploy annuitants without offsetting their pensions and without having to get OPM's approval. The DOD authority may be used only for positions deemed hard to fill as evidenced by historically high turnover, a severe shortage of candidates or other significant recruiting difficulty, positions critical to the agency's mission, where candidates have unique or specialized skills, or to provide continuity during critical organizational transition.

Unlike the current government-wide standards, or even those less restrictive rules that apply to DOD with regard to dual compensation waivers, H.R. 3579 does not set forth any standards that must be met in order to reemploy annuitants without pension offsets. In addition, OPM will have no approval authority, but rather agencies will be free to exercise this authority without any outside review.

While the main focus of discussion on reemploying annuitants is the so-called dual compensation waiver necessary to make reemployment attractive to retirees, it is not the waiver of offsetting annuities against pay that is the main concern for NTEU. In fact, if annuitants are rehired we see no reason that they should not only receive their full annuity and pay, but also be able to add to their retirement credit, participate in the Thrift Savings Plan and FEHBP (even if they did not participate previous to retirement), and be eligible for coverage under the Family and Medical Leave Act. However, the "limited time appointments" required for these reemployed annuitants under H.R. 3579 deny all of these benefits to reemployed annuitants. In addition, appointments under this hiring authority are basically at will employees, with few of the rights accorded permanent employees. It is also unclear whether these appointments would follow standard competitive hiring processes that enforce merit principles and veterans preference. Anecdotal evidence from DOD indicates that many annuitants rehired under its new authority do not undergo a competitive hiring process.

The fact that reemployed annuitants hired under the requirements of H.R. 3579 would not be eligible for most benefits that other employees receive would clearly put them at a budgetary advantage over other federal employees. Agencies would not make contributions toward their FEHBP premiums, retirement benefits or match TSP savings as they do for other employees, giving agencies powerful incentives to maximize the use of these annuitants rather than hiring and promoting the full time permanent employees needed to successfully steer agencies through the challenging times ahead.

Some have suggested that reemployed annuitants be used primarily for training and mentoring purposes. While that may sometimes be necessary, opportunities to provide training and mentoring are often the most valuable experience available to employees to prepare them for more challenging work and promotions to positions of increased responsibility. We should avoid limiting these opportunities for those we need to retain to keep our government functioning effectively.

Mr. Chairman, NTEU is not aware of any serious problems with the current rules that allow for reemployment of annuitants and for the most part we agree with the notion that if it's not broke, don't fix it. We are concerned that the proposal under consideration, while certainly intended to be used judiciously, could easily be subject to abuse, especially due to the financial incentives it will provide agencies, the lack of standards and the elimination of OPM approval.

As an example of a similarly limited proposal, that has been widely abused, I suggest that the committee review the use the Federal Career Intern Program, which has been in effect for seven years and was supposed to be used in rare instances where "interns" needing special training would be hired outside the normal competitive hiring processes and subjected to a minimum two year probationary period rather than the one year period applicable to those hired competitively. This authority has now become the

hiring process of choice throughout the federal government with thousands and thousands of employees hired under its rules, which among other things limit the application of veterans preference. You may be surprised to know that every single Customs and Border Protection Officer hired in the last four years by the Department of Homeland Security, well over 6,000 employees, has been hired as one of these misnamed "interns."

In conclusion, while NTEU has concerns about H.R. 3579 we do not believe that federal retirees should be at a disadvantage as compared to private sector retirees in terms of returning to work for the federal government. On the other hand, we do not believe that permanent employees should be at a disadvantage as compared to reemployed annuitants. One solution to that problem could be to drop the so called dual compensation prohibition rule altogether and allow federal annuitants to compete for full or part time positions along with private sector retirees, current employees and other applicants with the same eligibility for retirement, FEHBP, TSP and other benefits as other employees.

An even more promising action to make sure the government has the qualified employees that it needs would be for the Administration and Congress to work together to enact some of the legislation I have referenced earlier, provide funding for increased staffing and encourage the use of flexibilities like telework and flextime that have proven successful in attracting and retaining talented workers.

Thank you again for this opportunity to present this statement on behalf of the National Treasury Employees Union. I would be happy to answer any questions you might have.