

Editorial Notes

AMENDMENTS

1983—Subsec. (a)(2). Ex. Ord. No. 12446 inserted “, less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 4045(e) of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Ex. Ord. No. 12446 effective Oct. 17, 1983, see section 4(e) of Ex. Ord. No. 12446, set out under section 4067 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under subsec. (c) of this section is listed on page 127), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 4063. Annuity adjustment for recall service**(a) Full salary in lieu of annuity; contributions to Fund; resumption of annuity with cost-of-living adjustment**

Any annuitant recalled to duty in the Service under section 3948(a) of this title shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 4045 of this title. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 4065 of this title that became effective during the recall period.

(b) Refund of contributions to Fund; election for supplemental annuity or determination of annuity anew; prior service counted as recall service

If the recall service lasts less than one year, the contributions of the annuitant to the Fund during recall service shall be refunded in accordance with section 4055 of this title. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 4046 of this title on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least 5 years, the annuitant may elect to have his or her annuity determined anew under section 4046 of this title in lieu of any other benefits under this section. Any annuitant who is recalled under section 3948 of this title may upon written application count as recall service any prior service that is creditable under section 4056 of this title that was performed after the separation upon which his or her annuity is based.

(c) Annuitant subject to Foreign Service Pension System

If an annuitant becomes subject to part II of this subchapter by reason of recall service—

(1) subsections (a) and (b) shall not apply to such annuitant; and

(2) section 4064 of this title shall apply to the recall service as if such service were reemployment.

(Pub. L. 96-465, title I, §823, Oct. 17, 1980, 94 Stat. 2122; Pub. L. 99-335, title IV, §409, June 6, 1986, 100 Stat. 612.)

Editorial Notes

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-335 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§ 4064. Reemployment**(a) Termination of annuity; coverage under same retirement system or another contributory retirement system; rights and benefits**

(1)(A)¹ Except in the case of an annuitant who makes an election under subsection (b) or in the case of a waiver under subsection (g), if any former participant, who has retired and is receiving an annuity under this part or part II of this subchapter, becomes employed in an appointive or elective position in the Government, payment of any annuity under either part to the annuitant shall terminate effective on the date of the employment and the reemployment service shall be covered service under the rules of the system under which the appointment is made.

(B) If the annuity of an individual is terminated under subparagraph (A) and that individual becomes covered under the same retirement system from which that annuity is terminated, that individual shall be entitled to a re-determination of rights under that system upon termination of the employment.

(C) If the annuity is terminated and the individual becomes covered under another contributory retirement system for Government employees pursuant to paragraph (A), the individual shall be entitled to benefits under the rules of that system. In addition, the individual shall be entitled to a resumption of any annuity terminated by reason of the employment.

(b) Part-time, intermittent, or temporary employment; election to continue receiving annuity; reduction in amount of annuity; resumption of full annuity

(1) A participant who is entitled to an annuity under this part or part II of this subchapter and becomes employed in an appointive or elective position in the Government on a part-time, intermittent, or temporary basis may elect to continue to receive either or both annuities as provided in this subsection.

(2) The total annuity payable under this subchapter to an annuitant making an election under paragraph (1) shall be reduced during the part-time, intermittent, or temporary employment referred to in paragraph (1) as necessary to meet the requirements of paragraph (3).

¹ So in original. No par. (2) has been enacted.

(3)(A) The sum of—

(i) the total annuity payable under this subchapter to an annuitant making an election under paragraph (1), and

(ii) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the amount described in subparagraph (B).

(B) The amount referred to in subparagraph (A) is the greater of—

(i) the highest annual rate of basic pay which is payable during such year for full-time employment in the position in which the annuitant is employed, or

(ii) the basic pay the annuitant was entitled to receive under this chapter on the date of retirement from the Service.

(C) For purposes of this section, the term “annuity” means the annuity earned by the reemployed member based on his or her service irrespective of whether or not the amount payable is reduced by the amount of an annuity payable under section 4054 or 4060(b) of this title.

(4) Upon termination of the part-time, intermittent, or temporary employment referred to in paragraph (1), payment of the full annuity of an annuitant who has made an election under paragraph (1) of this subsection shall resume.

(c) Amount of annuity on resumption; amount resulting from redetermination of rights

The amount of annuity which has been terminated or reduced under this section by reason of the reemployment of the annuitant and is resumed under this section shall be the amount of the annuity which would have been payable if the annuitant had not accepted the reemployment. The amount of an annuity resulting from a redetermination of rights pursuant to subsection (a) shall not be less than the amount of an annuity resumed under the previous sentence.

(d) Annuity rights to be determined under this section

The annuity rights of any participant who is reemployed in the Government shall be determined under this section instead of section 8468 of title 5.

(e) Notice; direct payment of salary

When any such retired participant is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such participant the salary of the position in which he or she is serving.

(f) Recovery of overpayment

In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed participant or from any other moneys, including annuity payments, payable under this subchapter.

(g) Waiver of annuity limitations

(1) The Secretary of State may waive the application of subsections (a) through (d) on a

case-by-case basis for an annuitant reemployed on a temporary basis, or grant authority to the head of an Executive agency to waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis—

(A) if, and for so long as, such waiver is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances;

(B) if the annuitant is employed in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(C)(i) to provide assistance to consular posts with a substantial backlog of visa applications; or

(ii) to provide assistance to meet the demand resulting from the passport and travel document requirements set forth in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note), including assistance related to the investigation of fraud in connection with an application for a passport.

(2) The Secretary should prescribe procedures for the exercise of any authority under paragraph (1)(B), including criteria for any exercise of authority and procedures for a delegation of authority.

(h) Effects of waiver

A reemployed annuitant as to whom a waiver under subsection (g) is in effect shall not be considered a participant for purposes of this part or part II, or an employee for purposes of chapter 83 or 84 of title 5.

(Pub. L. 96-465, title I, §824, Oct. 17, 1980, 94 Stat. 2122; Pub. L. 99-335, title IV, §§402(a)(2), 410, June 6, 1986, 100 Stat. 609, 613; Pub. L. 99-556, title IV, §403, Oct. 27, 1986, 100 Stat. 3136; Pub. L. 105-277, div. C, title I, §103, Oct. 21, 1998, 112 Stat. 2681-585; Pub. L. 109-234, title I, §1602(a), June 15, 2006, 120 Stat. 440; Pub. L. 109-289, div. B, title II, §20941, as added Pub. L. 110-5, §2, Feb. 15, 2007, 121 Stat. 46; Pub. L. 110-50, §2, July 30, 2007, 121 Stat. 261; Pub. L. 110-321, §1, Sept. 19, 2008, 122 Stat. 3535; Pub. L. 111-32, title XI, §1115(c)(1), June 24, 2009, 123 Stat. 1905; Pub. L. 114-323, title IV, §405(a), Dec. 16, 2016, 130 Stat. 1929.)

Editorial Notes

AMENDMENTS

2016—Subsec. (g)(1)(B). Pub. L. 114-323, §405(a)(1), struck out “to facilitate the assignment of persons to Iraq, Pakistan, and Afghanistan or to posts vacated by members of the Service assigned to Iraq, Pakistan, and Afghanistan,” before “if the annuitant”.

Subsec. (g)(2), (3). Pub. L. 114-323, §405(a)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows:

“(2)(A) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (B) of paragraph (1), or to grant authority to the head of an Executive agency to waive the application of such subsections to an annuitant under such subparagraph, shall terminate on October 1, 2010. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

“(B) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (C)(i) of paragraph (1) shall terminate on September 30, 2009.

“(C) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (C)(ii) of paragraph (1) shall terminate on September 30, 2009.”

2009—Subsec. (g)(1)(B). Pub. L. 111-32 inserted “, Pakistan,” after “Iraq” in two places.

Subsec. (g)(2). Pub. L. 111-32, §1115(c)(1), which directed amendment of subsec. (g)(2) by substituting “2010” for “2009”, was executed by making the substitution in subpar. (A) only, to reflect the probable intent of Congress.

2008—Subsec. (g)(2)(A), (B). Pub. L. 110-321 substituted “2009” for “2008”.

2007—Subsec. (g)(1). Pub. L. 109-289, §20941(1)(A), as added by Pub. L. 110-5, substituted “The Secretary” for “To facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, the Secretary” in introductory provisions.

Subsec. (g)(1)(B). Pub. L. 109-289, §20941(1)(B), as added by Pub. L. 110-5, substituted “to facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, if” for “if”.

Subsec. (g)(1)(C). Pub. L. 110-50, §2(1), added subpar. (C).

Subsec. (g)(2). Pub. L. 110-50, §2(2), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Pub. L. 109-289, §20941(2), as added by Pub. L. 110-5, substituted “such subparagraph” for “subparagraphs (A) or (B) of such paragraph”.

Subsec. (g)(3). Pub. L. 109-289, §20941(3), as added by Pub. L. 110-5, substituted “paragraph (1)(B)” for “paragraph (1)”.

2006—Subsec. (g). Pub. L. 109-234 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “The Secretary of State may waive the application of the paragraphs (a) through (d) of this section, on a case-by-case basis, for an annuitant reemployed on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.”

1998—Pub. L. 105-277, which directed amendment of section 824 of the Foreign Service Act, in subsec. (a)(1)(A), by inserting “or in the case of a waiver under subsection (g)” after “subsection (b)”, and by adding subsecs. (g) and (h), was executed to this section, which is section 824 of the Foreign Service Act of 1980, to reflect the probable intent of Congress.

1986—Subsec. (a). Pub. L. 99-335, §410, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Notwithstanding any other law, any member of the Service who has retired and is receiving an annuity under this part, and who is reemployed in the Government service in any part-time or full-time appointive position, shall be entitled to receive the salary of the position in which he or she is serving plus so much of the annuity payable under this part which when combined with such salary does not exceed during any calendar year the basic salary the member was entitled to receive under this chapter on the date of retirement from the Service. Any such reemployed member of the Service who receives salary during any calendar year in excess of the maximum amount which he or she may be entitled to receive under this subsection shall be entitled to such salary in lieu of benefits under this part.”

Pub. L. 99-335, §402(a)(2), substituted “this part” for “this subchapter” in three places.

Subsec. (b). Pub. L. 99-335, §410, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “When any such retired member of the Service is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with

all pertinent information relating to such employment, and shall pay directly to such member the salary of the position in which he or she is serving.”

Subsec. (b)(3). Pub. L. 99-556, §403, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The sum of—

“(A) the total annuity payable under this subchapter to an annuitant making an election under paragraph (1), and

“(B) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1), may not exceed, in any calendar year, the highest annual rate of pay which is payable during such year for full-time employment in the position in which the annuitant is employed.”

Subsec. (c). Pub. L. 99-335, §410, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed member of the Service or from any other moneys, including annuity payments, payable under this part.”

Pub. L. 99-335, §402(a)(2), substituted “this part” for “this subchapter”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-556 effective Jan. 1, 1987, and applicable to any individual in a reemployed status on or after that date, see section 408 of Pub. L. 99-556, set out as a note under section 4046 of this title.

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EXTENSION OF AUTHORITY

Extensions of the waiver authority of the Secretary of State under former subsec. (g)(2) of this section (see 2016 Amendment note above) were contained in the following acts:

Pub. L. 114-113, div. K, title VII, §7034(k)(4), Dec. 18, 2015, 129 Stat. 2764.

Pub. L. 113-235, div. J, title VII, §7034(l)(4), Dec. 16, 2014, 128 Stat. 2625.

Pub. L. 113-76, div. K, title VII, §7034(m)(4), Jan. 17, 2014, 128 Stat. 515.

Pub. L. 112-74, div. I, title VII, §7034(m)(4), Dec. 23, 2011, 125 Stat. 1216.

§ 4065. Voluntary contribution account

(a) Composition; election and return

¹The voluntary contribution account shall be the sum of unrefunded amounts voluntarily contributed prior to February 15, 1981, by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

(1) returned in a lump sum;

(2) used to purchase an additional life annuity;

¹ See Amendment of Section note below.