

111TH CONGRESS
1ST SESSION

S. 794

To amend title 10, United States Code, to modify certain retirement pay and grade authorities for service performed after eligibility for retirement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2009

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to modify certain retirement pay and grade authorities for service performed after eligibility for retirement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ELECTION TO RECEIVE RETIRED PAY FOR NON-**
 2 **REGULAR SERVICE UPON RETIREMENT FOR**
 3 **SERVICE IN AN ACTIVE RESERVE STATUS**
 4 **PERFORMED AFTER ATTAINING ELIGIBILITY**
 5 **FOR REGULAR RETIREMENT.**

6 (a) ELECTION AUTHORITY; REQUIREMENTS.—Sub-
 7 section (a) of section 12741 of title 10, United States
 8 Code, is amended to read as follows:

9 “(a) AUTHORITY TO ELECT TO RECEIVE RESERVE
 10 RETIRED PAY.—(1) A person may elect to receive retired
 11 pay under this chapter, instead of receiving retired or re-
 12 tainer pay under chapter 65, 367, 571, or 867 of this title,
 13 if—

14 “(A) the person satisfies the requirements spec-
 15 ified in paragraphs (1) and (2) of section 12731(a)
 16 of this title for entitlement to retired pay under this
 17 chapter;

18 “(B) the person served in an active status in
 19 the Selected Reserve of the Ready Reserve after be-
 20 coming eligible for retirement under chapter 65,
 21 367, 571, or 867 of this title (without regard to
 22 whether the person actually retired or received re-
 23 tired or retainer pay under one of those chapters);

24 “(C) the person completed not less than two
 25 years of service in such active status (excluding any
 26 period of active service); and

1 “(D) the service of the person in such active
 2 status is determined by the Secretary concerned to
 3 have been satisfactory.

4 “(2) The Secretary concerned may reduce the two-
 5 year service requirement specified in paragraph (1)(C) in
 6 the case of a person who—

7 “(A) completed at least six months of service in
 8 a position of adjutant general required under section
 9 314 of title 32 or in a position of assistant adjutant
 10 general subordinate to such a position of adjutant
 11 general; and

12 “(B) failed to complete the minimum two years
 13 of service solely because the appointment of the per-
 14 son to such position was terminated or vacated as
 15 described in section 324(b) of title 32.”.

16 (b) ACTIONS TO EFFECTUATE ELECTION.—Sub-
 17 section (b) of such section is amended by striking para-
 18 graph (1) and inserting the following new paragraph:

19 “(1) terminate the eligibility of the person to
 20 retire under chapter 65, 367, 571, or 867 of this
 21 title, if the person is not already retired under one
 22 of those chapters, and terminate entitlement of the
 23 person to retired or retainer pay under one of those
 24 chapters, if the person was already receiving retired
 25 or retainer pay under one of those chapters; and”.

1 (c) CONFORMING AMENDMENT TO REFLECT NEW
 2 VARIABLE AGE REQUIREMENT FOR RETIREMENT.—Sub-
 3 section (d) of such section is amended—

4 (1) in paragraph (1), by striking “attains 60
 5 years of age” and inserting “attains the eligibility
 6 age applicable to the person under section 12731(f)
 7 of this title”; and

8 (2) in paragraph (2)(A), by striking “attains 60
 9 years of age” and inserting “attains the eligibility
 10 age applicable to the person under such section”.

11 (d) REPEAL OF RESTRICTION ON ELECTION TO RE-
 12 CEIVE RESERVE RETIRED PAY.—Section 12731(a) of
 13 such title is amended—

14 (1) by inserting “and” at the end of paragraph
 15 (2);

16 (2) by striking “; and” at the end of paragraph
 17 (3) and inserting a period; and

18 (3) by striking paragraph (4).

19 (e) CLERICAL AMENDMENTS.—

20 (1) SECTION HEADING.—The heading for sec-
 21 tion 12741 of such title is amended to read as fol-
 22 lows:

1 **“§ 12741. Retirement for service in an active status**
 2 **performed in the Selected Reserve of the**
 3 **Ready Reserve after eligibility for reg-**
 4 **ular retirement”.**

5 (2) TABLE OF SECTIONS.—The table of sections
 6 at the beginning of chapter 1223 of such title is
 7 amended by striking the item relating to section
 8 12741 and inserting the following new item:

“12741. Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement.”.

9 (f) RETROACTIVE APPLICABILITY.—The amend-
 10 ments made by this section shall take effect as of January
 11 1, 2008.

12 **SEC. 2. RECOMPUTATION OF RETIRED PAY AND ADJUST-**
 13 **MENT OF RETIRED GRADE OF RESERVE RE-**
 14 **TIREES TO REFLECT SERVICE AFTER RE-**
 15 **TIREMENT.**

16 (a) RECOMPUTATION.—Section 10145 of title 10,
 17 United States Code, is amended by adding at the end the
 18 following new subsection:

19 “(e)(1) If a member of the Retired Reserve is recalled
 20 to an active status under subsection (d) in the Selected
 21 Reserve of the Ready Reserve and completes not less than
 22 two years of service in such active status, the member is
 23 entitled to—

1 “(A) the recomputation of the retired pay of
2 the member determined under section 12739 of this
3 title; and

4 “(B) in the case of a commissioned officer, an
5 adjustment in the retired grade of the member in
6 the manner provided in section 1370 of this title.

7 “(2) The Secretary concerned may reduce the two-
8 year service requirement specified in paragraph (1) in the
9 case of a member who—

10 “(A) is recalled to serve in a position of adju-
11 tant general required under section 314 of title 32
12 or in a position of assistant adjutant general subor-
13 dinate to such a position of adjutant general;

14 “(B) completes at least six months of service in
15 such position; and

16 “(C) fails to complete the minimum two years
17 of service solely because the appointment of the
18 member to such position is terminated or vacated as
19 described in section 324(b) of title 32.”.

20 (b) RETROACTIVE APPLICABILITY.—The amendment
21 made by this section shall take effect as of January 1,
22 2008.

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