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Congressional Record S. 2324 - Senator Church's Record of Achievement for Older Americans

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CIRCUMVENTING THE CIVIL SERVICE RETIREMENT SYSTEM

Mr. MANSFIELD. Mr. President, over a year and a half ago, the Democratic Policy Committee adopted a resolution calling attention to an anomaly in the civil service retirement system. The anomaly arose out of the unforeseen high rate of inflation coupled with the automatic cost-of-living increases for annuitants and the freeze on salaries of Members of Congress, high-level appointees, and top-grade civil servants—including, incidentally, Federal judges, about which reference was made over the weekend—which has been enjoined by Congress for more than 5 years.

I bring in the appellation of Federal judges to point out that they are not the only ones, despite what the Chief Justice has said, who have not had a raise since the year 1969.

The situation to which I refer involves an unknown number of Federal employees who retire and thus qualify for automatic cost-of-living increases in annuities but are then reemployed by the Federal Government, sometimes immediately and for the identical job from which they retired. In this way, the reemployed annuitant receives from the retirement fund his annuity enriched whenever there is an automatic cost-of-living increase. Moreover, the rehiring agency need cover out of its appropriated funds only whatever amount is necessary to equal the rehired employee's previously frozen salary level.

Since the granting of automatic cost-of-living increases to annuitants has occurred every 6 months for the past 1½ years, for a total percentage of 25.3 percent, the advantage of retire-rehire to the annuitant is obvious. His pension for eventual retirement is permanently enriched by the cost-of-living increases. At the same time, by continuing to work for his full pay, he is not losing any of his current level of income. If a Senate aide or high executive official who retired June 1973, with an annuity which could be as high as $28,000, was rehired for the same or similar responsibilities by his agency, he could have reached an annuity of over $36,000 which would actually be in excess of the general executive salary freeze maximum of $36,000.

That, in one year and a half. If the cost of living increases continue at 5 percent per year for the next 3 years—that is at the limit President Ford asked for Federal salaries and annuities—this person's annual take from the Federal Government would still rise to almost $43,000 by 1978, or more than the present salary of Members of Congress. In some cases, the prospect is for a compounded 100 percent increase in annuities in less than 10 years.

There are actually several related employment problems in this situation which grows so largely out of the inflationary spiral. Nevertheless, the whole range of Federal retirement-rehire and other matters pertaining to the retirement system—both civilian and military—needs a thorough examination. One such question, for example, involves the impact of the automatic cost-of-living increases for annuitants. The Washington Post on Sunday, February 16, contained an article on the subject by Associated Press reporter Dick Barnes...
raising complex questions of how annuities pyramid under the present system. While I shall not go into these matters here, they clearly warrant further attention by the Post Office and Civil Service Committee.

The specific practice of retiring from the Federal service and being rehired for the same job, however, which the Democratic Policy Committee focused on a year and a half ago has again surfaced. On January 10, 1975, the Commissioner of the Civil Service Commission wrote to me stating that as a matter of policy the Commission intended no longer to discourage the rehiring of retired annuitants in the top grades for longer than 6 months. For the good of the Civil Service System and the Government that was the maximum time which the Majority Policy Committee had urged be adopted as a standard a year and a half ago.

I have replied to Mr. Hampton’s letter giving my reasons for disagreeing with this shift in policy by the Civil Service Commission. I can appreciate the considerations which may have led the Commission to give this incentive to top employees to go through the motions of retiring from the Federal Government and to return to work in the Federal Government. Nevertheless, it is my belief that the change constitutes a circumvention of the legal intent of Congress in establishing the freeze on their own salaries as well as on those of other higher officials. Moreover, if the Civil Service Commission permits the rehiring of retirees especially for the same or similar jobs to become extensive, the practice contains very grave implications for the maintenance of an alert and vigorous Federal career systems and a sound Federal administration, not to speak of the new financial drain on the already overladen Federal retirement fund. For the good of the Government, there must be a continuing flow of new faces and new ideas into the management levels of the Federal bureaucracy; regrettably, the new position of the Civil Service Commission moves precisely in the opposite direction.

Mr. President, I intend to bring this matter before the Senate majority policy committee in the near future. At that time, I will recommend that the policy committee urge the chairman of the Committee on Post Office and Civil Service to make a thorough examination of the particular practice to which reference is made in the exchange of correspondence between Commissioner Hampton and myself. In addition, there is a need for the latter committee to examine in a full investigation the broader related problems connected with Federal annuities notably those which emanate from the practice of rehiring by the Federal agencies and departments of growing numbers of civilian and military Federal retirees, in particular, the so-called double-dipping and triple-dipping practices.

As an immediate and, hopefully, at least partial deterrent to increasing numbers of “paper” retirements, however, I intend to recommend that the Post Office and Civil Service Committee report out promptly a bill which the Civil Service Commission is anxious to see passed and which I will introduce today. It would require agencies which have rehired persons receiving Federal annuities to deposit the savings which accrue to their budgets in the general fund of the U.S. Treasury. This would eliminate immediately an advantage to the rehiring agency whether it be a Senate committee, a Member of Congress or an executive department or agency. It would require the hiring agent to pay the full salary of the person and not merely the difference between his or her annuity and the listed salary of the position. This measure is essential if the retirement fund is not to be drained in order to pay part of the employment budgets of the agencies and departments who engage in this retire-rehire practice.

I ask unanimous consent, Mr. President, that the letters to which I have referred and related material to be inserted at this point in the Record.

There being no objection, the letters and related material were ordered to be printed in the Record, as follows:

U.S. CIVIL SERVICE COMMISSION,

Hon. Mike Mansfield,
U.S. Senate,
Washington, D.C.

Dear Senator Mansfield: I am writing further concerning your interest in the matter of reemployment by the Government of employees retired under the Civil Service
Retirement System which previously was discussed in our correspondence during June 1973 and my letter to you of March 8, 1974.

During the past few years we have seen a number of exceptionally able, high-level officials in the Executive, Legislative and Judicial branches leave the Government service at a date earlier than expected because of the ceiling on Federal salaries. Some of these officials with long service and eligibility for an immediate annuity might have been prevailed upon to continue their work as a reemployed annuitant, but we discouraged agencies from following this course. A few high-level officials were reemployed nonetheless, but the period of reemployment was generally only for a few months.

However, with the executive pay freeze now in its 6th year, we believe it is no longer in the interest of the Government to discourage the reemployment of recently retired high-level officials whose experience, knowledge and talent an agency needs to retain. The total number of such reemployed annuitants is expected to be quite small, but some may be retained for longer periods of time than heretofore.

There is one anomaly connected with the retirement and rehiring of retired Federal employees which the Commission thinks merits Congressional action. This anomaly is an omission in the retirement law which permits agencies to save the difference between a reemployed annuitant's salary and annuity. The Commission has recommended in the past and will do so again that the law be amended to require agencies to deposit savings on reemployed annuitant's salaries in the General Fund of the U.S. Treasury. We believe that correction of this anomaly would ensure that agencies will reemploy annuitants only where they are essential to carrying out the agency's mission.

Sincerely yours,

ROBERT E. HAMPTON,
Chairman.

WASHINGTON, D.C.,
February 21, 1975.

Hon. ROBERT E. HAMPTON,
Chairman, U.S. Civil Service Commission,
Washington, D.C.

DEAR MR. HAMPTON: This will acknowledge your letter of January 10 regarding the Commission's latest rulings on the rehiring of annuitants. Quoting from your letter, you state:

"We believe it is no longer in the interest of the Government to discourage the reemployment of recently retired high-level officials whose experience, knowledge and talent an agency needs to retain. The total number of such re-employed annuitants is expected to be quite small, but some may be retained for longer periods of time than heretofore."

While I can understand and share the motive of serving the interest of the Government, I must most respectfully disagree with the policy through which you expect to do so in this instance. To be sure, it is in the interest of the Government to retain competent personnel in the career service and, perhaps, in unusual circumstances even to rehire them for short periods after retirement. However, there are additional facets involved in your present approach which are not alluded to in your letter.

In the first place, the responsible elected officials of the Government—the President and the Congress have adopted a ceiling on Federal pay scales. The law is specific: maximum salaries of civil servants, no less than those of other appointed officials, Members of Congress and the Judiciary are frozen under present law. This freeze is related to the state of the economy. Because of the high rate of inflation and the existing system of reflecting that rate in automatic increases in annuities, your policy of permitting the rehiring of retirees could constitute a circumvention of the freeze. If a retired annuitant with maximum annuity is rehired for an indefinite period, he could be receiving in due course out of the annuity fund more than the pay ceiling. In so saying, I am not arguing for or against the existing ceilings on Federal pay. Whether or not they are desirable, it is the sole responsibility of the President and the Congress to change them. It seems to me, however, that it is not a prerogative of the Civil Service Commission to adopt administrative courses which could tend to circumvent or nullify those policies.

In the second place, whatever the shortcomings of the present ceilings, the fact is that when coupled with the automatic cost-of-living increases for annuitants, the effect has been to provide a very powerful incentive for retirement of employees when they reach eligibility for retirement. Prompt retirement, which provides openings in the higher grades, in turn, has the effect of encouraging the career concept and stimulating a flow of new blood into the management and direction of the Federal agencies. That, too, it seems to me, is in the interest of the Government. I very much fear that the Commission's present course regarding rehiring of retirees could act to increase immobility and atrophy, at least in the upper levels, in the management of the agencies.

Insofar as the Senate is concerned, as you know, the Majority Policy Committee adopted a resolution last year which states in relevant part, the following:

"The Majority Leader is directed to communicate, jointly with the Minority Leader or separately, to all Committees of the Sen-
ate, to the Civil Service Commission, and the Director of the Office of Management and Budget as an urgent recommendation, that pending clarification of the situation (of rehiring retirees), all reemployment of annuitants by the Federal government, by the same office, agency or department for the same or similar responsibilities from which they may be retired be limited to a period not to exceed six months."

That policy is being maintained in offices responsible to the Senate through the Majority Leadership and it has been encouraged throughout the entire personnel structure of the Senate.

So I must reiterate my personal disagreement with the course which the Civil Service Commission has adopted in this matter. It would seem to me that at the very least you should have and make available without delay the following information for the consideration of the Congress and the appropriate Committees:

1. The criteria or guidelines which have been communicated by the Commission to the Departments and Agencies concerning maximum numbers and permissible length of service for retired annuitants.

2. The present number of civilian employees who are rehired retirees, broken down by agency by which they are presently employed as well as the broad pay categories (i.e.: "above $30,000 salary;" "above $20,000 salary," etc.)

3. The number of retired military personnel now working as civilian employees of the federal government, analyzed on the same basis as the above.

For numbers (2) and (3) above, if it is feasible, the totals might be broken down further into those rehired by the same agency from which they retired and those hired by the agencies other than that from which they retired.

This exchange of letters will be called to the attention of the Majority Policy Committee with the suggestion that the Chairman of the Post Office and Civil Service Committee of the Senate be urged by the Committee to make a full and complete inquiry into all aspects of the Commission's present policies in connection with retirement-rehire. It would also be my intention to make this exchange of correspondence a matter of public record.

Sincerely,

MIKE MANSFIELD.

[From the Washington Post, Feb. 16, 1975]
HUGE BONUS FOUND IN U.S. PENSION PLAN
(By Dick Barnes)

Federal retirees can get billion of extra dollars at taxpayer expense because a formula designed to keep their pensions in step with inflation actually propels them ahead.

The unintended bonus could easily cost taxpayers $100 billion or more by 1990, according to projections by the Associated Press—projections that Congress failed to make before it approved the formula.

So many variable factors are involved that the exact cost of the bonanza for today's nearly 2 million federal pensioners cannot be determined.

But Associated Press calculations show that a typical federal employee who retired in January, 1973, could, during the rest of his life, draw more than $27,500 beyond what he would receive if his pension merely kept even, month by month, with the cost of living index.

Put another way, at a point when the cost of living had risen 46 percent since this employee's retirement day, his monthly pension check would have increased by 67 percent.

The pension overpayments come about because under a 1960 law, retirees are given an extra permanent 1 percent pension increase each time their checks are adjusted for changes in the consumer price index. That index is the standard measuring tool for the cost of living.

The extra 1 percent is supposed to compensate for money lost between the time living costs increase and the time retirement checks are adjusted to meet those increases.

But in reality, the extra 1 percent compounds over the years, pushing retirement checks farther and farther ahead of any rise in the cost of living.

In fact, the faster the cost of living increases, the farther and faster federal pensions move ahead.

Civil servants, congressmen and retired military personnel all benefit from the extra 1 percent formula, which Congress approved in 1969.

Although it is more than five years old, the lucrative retirement pay formula has never drawn significant public attention.

In his budget message to Congress on Feb. 3, however, President Ford called for a comprehensive evaluation of the federal retirement system. He referred briefly to "cost-of-living adjustments which over-compensate by providing for permanent annuity increases in excess of changes in the consumer price index."

Ralph J. Devlin, who was top staff assistant on the House subcommittee that first approved the formula, expressed surprise in an interview about how the plan was operating in practice.

But he acknowledged that in 1969 no detailed projections of its effect had been made. He characterized the formula as "a throw-in in a bill that had some goodies."
The General Accounting Office warned the committee of a spiral effect, but even GAO did not make long-range projections.

Referring to the recent rapid rise in the cost of living, Devlin said, "Nobody had a crystal ball that could tell what would happen."

But Associated Press calculations show that overpayments occur whether the cost of living rises slowly or rapidly.

Take an employee who retired in January, 1973 at $400 per month, at the average civil service retirement age of 57 and who lives the 18 years predicted by insurance industry tables.

If future inflation is at a low rate of 3-plus per cent a year, he will be overpaid $13,688.29. But if it continues at the present high rate of 12-plus per cent per year, his overpayment will total $78,388.59.

When Congress more recently tied Social Security benefits to the cost of living, it did not add in the extra 1 per cent factor.

Total costs of the federal retiree overpayments in future years depend on so many factors they are difficult to compute. Rates of retirement, age of retirement, federal pay levels and the cost of living all affect calculations.

But for just the 133,318 civil servants who retired in the year ended June 30, 1974, the cost of extra payments in their lifetimes could exceed $5 billion if the cost of living rose steadily at .05 per cent per month—a rate well below current levels.

Add in another 800,000 civilians already retired, try to estimate future retirements in the 2.5 million-person federal work force, figure in nearly 1 million retired military personnel, who tend to retire earlier and draw benefits longer, and the cost of these overpayments by 1990 could easily exceed $100 billion.

For several years before the 1969 change, federal retirees' pensions followed the cost of living this way: when the cost of living increased 3 per cent from the most recent base month and stayed at or above that level for three consecutive months, pension checks would be increased by the percentage rise in cost of living from the base month to the highest month during the three-month period.

The increase would take effect two months later. The high month during the three-month period would then become the new base for any subsequent increase.

By 1969, however, employee organizations were arguing that retirees were losing money because of the time lag between increases in the cost of living and the effective date of pension increases.

Congress settled on adding one percentage point to each increase generated by the cost of living.