

109th CONGRESS

1st Session

**H. R. 1276**

To amend title 5, United States Code, to make creditable for civil service retirement purposes certain periods of service performed with Air America , Incorporated, Air Asia Company Limited, or the Pacific Division of Southern Air Transport, Incorporated, while those entities were owned or controlled by the Government of the United States and operated or managed by the Central Intelligence Agency.

**IN THE HOUSE OF REPRESENTATIVES**

**March 14, 2005**

Ms. BERKLEY (for herself and Mr. VISCLOSKY) introduced the following bill; which was referred to the Committee on Government Reform

**A BILL**

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENTS.**

(a) In General- Section 8332(b) of title 5, United States Code, is amended--

- (1) by striking 'and' at the end of paragraph (16);
- (2) by striking the period at the end of paragraph (17) and inserting `; and';
- (3) by adding after paragraph (17) the following:

`(18) any period of service performed before 1977, while a citizen of the United States, in the employ of Air America , Incorporated, Air Asia Company Limited (a subsidiary of Air America , Incorporated), or the Pacific Division of Southern Air Transport, Incorporated, at a time when that corporation (or subsidiary) was owned or controlled by the Government of the United States and operated or managed by the Central Intelligence Agency.';

and

(4) by adding at the end the following: 'For purposes of this subchapter, service of the type described in paragraph (18) of this subsection shall be considered to have been service as an employee, and the Office of Personnel Management shall accept the certification of the Director of Central Intelligence or his designee concerning any such service.'

(b) Exemption From Deposit Requirement- Section 8334(g) of title 5, United States Code, is amended--

(1) by striking 'or' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting '; or'; and

(3) by adding after paragraph (6) the following:

'(7) any service for which credit is allowed under section 8332(b)(18) of this title.'

## **SEC. 2. APPLICABILITY.**

(a) In General- Except as otherwise provided in this section, the amendments made by this Act shall apply with respect to annuities commencing on or after the effective date of this Act.

(b) Provisions Relating to Current Annuitants- Any individual who is entitled to an annuity for the month in which this Act becomes effective may, upon application submitted to the Office of Personnel Management within 2 years after the effective date of this Act, have the amount of such annuity recomputed as if the amendments made by this Act had been in effect throughout all periods of service on the basis of which such annuity is or may be based. Any such recomputation shall be effective as of the commencement date of the annuity, and any additional amounts becoming payable for periods before the first month for which the recomputation is reflected in the individual's regular monthly annuity payments shall be payable to such individual in the form of a lump-sum payment.

(c) Provisions Relating to Individuals Eligible for (but not Currently Receiving) an Annuity-

(1) IN GENERAL- Any individual (not described in subsection (b)) who becomes eligible for an annuity or for an increased annuity as a result of the enactment of this Act may elect to have such individual's rights under subchapter III of chapter 83 of title 5, United States Code, determined as if the amendments made by this Act had been in effect, throughout all periods of service on the basis of which such annuity is or would be based, by submitting an appropriate application to the Office of Personnel Management within 2 years after--

(A) the effective date of this Act; or

(B) if later, the date on which such individual separates from service.

(2) COMMENCEMENT DATE, ETC-

(A) IN GENERAL- Any entitlement to an annuity or to an increased annuity resulting from an application under paragraph (1) shall be effective as of the commencement date of such annuity (subject to subparagraph (B), if applicable), and any amounts becoming payable for periods before the first month for which regular monthly annuity payments begin to be made in accordance with the amendments made by this Act shall be payable to such individual in the form of a lump-sum payment.

(B) RETROACTIVITY- Any determination of the amount, or of the commencement date, of any annuity, all the requirements for entitlement to which (including separation, but disregarding any application requirement) would have been satisfied before the effective date of this Act if this Act had then been in effect (but would not then otherwise have been satisfied absent this Act) shall be made as if application for such annuity had been submitted as of the earliest date that would have been allowable, after such individual's separation from service, if such amendments had been in effect throughout the periods of service referred to in the first sentence of paragraph (1).

(d) Right to File on Behalf of a Decedent- The regulations under section 4(a) shall include provisions, consistent with the order of precedence set forth in section 8342(c) of title 5, United States Code, under which a survivor of an individual who performed service described in section 8332(b)(18) of such title (as amended by section 1) shall be allowed to submit an application on behalf of and to receive any lump-sum payment that would otherwise have been payable to the decedent under subsection (b) or (c). Such an application shall not be valid unless it is filed within 2 years after the effective date of this Act or 1 year after the date of the decedent's death, whichever is later.

### **SEC. 3. FUNDING.**

(a) Lump-Sum Payments- Any lump-sum payments under section 2 shall be payable out of the Civil Service Retirement and Disability Fund.

(b) Unfunded Liability- Any increase in the unfunded liability of the Civil Service Retirement System attributable to the enactment of this Act shall be financed in accordance with section 8348(f) of title 5, United States Code.

### **SEC. 4. REGULATIONS AND SPECIAL RULE.**

(a) In General- Except as provided in subsection (b), the Director of the Office of Personnel Management, in consultation with the Director of Central Intelligence, shall prescribe any regulations necessary to carry out this Act. Such regulations shall include provisions under which rules similar to those established pursuant to section

201 of the Federal Employees' Retirement System Act of 1986 shall be applied with respect to any service described in section 8332(b)(18) of title 5, United States Code (as amended by section 1) that was subject to title II of the Social Security Act.

(b) Other Regulations- The Director of Central Intelligence, in consultation with the Director of the Office of Personnel Management, shall prescribe any regulations which may become necessary, with respect to any retirement system administered by the Director of Central Intelligence, as a result of the enactment of this Act.

(c) Special Rule- For purposes of any application for any benefit which is computed or recomputed taking into account any service described in section 8332(b)(18) of title 5, United States Code (as amended by section 1), section 8345(i)(2) of such title shall be applied by deeming the reference to the date of the `other event which gives rise to title to the benefit' to refer to the effective date of this Act, if later than the date of the event that would otherwise apply.

## **SEC. 5. DEFINITIONS.**

For purposes of this Act--

(1) the terms `unfunded liability', `survivor', and `survivor annuitant' have the meanings given to them by section 8331 of title 5, United States Code; and

(2) the term `annuity', as used in subsections (b) and (c) of section 2, includes a survivor annuity.

## **SEC. 6. EFFECTIVE DATE.**

This Act shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.