

a qualified operator for operation under the American flag. The depreciated cost of the vessel to the owner shall be computed on the schedule adopted by the Internal Revenue Service for income tax purposes. Such determination shall be final. The Secretary of Commerce shall require the owner of the vessel to agree that it will pay all existing private obligations related to the vessel, and that it will commit an amount equal to the net proceeds received from such sale in excess of existing obligations and expenses incident to the sale, within a reasonable period not to exceed twelve months of receipt, as equity capital for the construction of new vessels which the Secretary determines are built to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended.

Depreciated  
cost computation.

49 Stat. 1985.  
46 USC 1245.

Approved May 16, 1972.

Public Law 92-297

AN ACT

May 16, 1972  
[H. R. 8083]

To amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) chapter 21 of title 5, United States Code, is amended by adding the following new section at the end thereof:

Air traffic con-  
troller career  
programs.  
80 Stat. 408.  
5 USC 2101.

**“§ 2109. Air traffic controller**

“For the purpose of this title, ‘air traffic controller’ or ‘controller’ means an employee of the Department of Transportation who is actively engaged in the separation and control of air traffic, or who is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility. The Secretary of Transportation may prescribe regulations to determine the application of this section.”

(b) The analysis of chapter 21 of title 5, United States Code, is amended by adding the following new item at the end thereof:

“2109. Air traffic controller.”

SEC. 2. (a) Section 3307 of title 5, United States Code, is amended to read as follows:

**“§ 3307. Competitive service; maximum-age entrance requirements; exceptions**

“(a) Except as provided in subsections (b) and (c) of this section, appropriated funds may not be used to pay an employee who establishes a maximum-age requirement for entrance into the competitive service.

“(b) The Secretary of Transportation may, with the concurrence of such agent as the President may designate, determine and fix the maximum limit of age within which an original appointment to a position as an air traffic controller may be made.

“(c) The Secretary of the Interior may determine and fix the minimum and maximum limits of age within which original appointments to the United States Park Police may be made.”

(b) Item 3307 of the analysis of chapter 33 of title 5, United States Code, is amended to read as follows:

5 USC 3301.

“3307. Competitive service; maximum-age entrance requirements; exceptions.”  
 SEC. 3. (a) Chapter 33 of title 5, United States Code, is amended by adding the following new subchapter at the end thereof:

“SUBCHAPTER VII—AIR TRAFFIC CONTROLLERS

“§ 3381. Training

“(a) An air traffic controller with 5 years of service as a controller who is to be removed as a controller because the Secretary of Transportation has determined—

“(1) he is medically disqualified for duties as a controller;

“(2) he is unable to maintain technical proficiency as a controller; or

“(3) such removal is necessary for the preservation of the physical or mental health of the controller;

is entitled to not more than the full-time equivalent of 2 years of training.

“(b) During a period of training under this section, a controller shall be—

“(1) retained at his last assigned grade and rate of basic pay as a controller;

“(2) entitled to each increase in rate of basic pay provided under law; and

“(3) excluded from staffing limitations otherwise applicable.

“(c) Upon completion of training under this section, a controller may be—

“(1) assigned to other duties in the Department of Transportation;

“(2) released for transfer to another Executive agency; or

“(3) involuntarily separated from the service.

The involuntary separation of a controller under this subsection is not a removal for cause on charges of misconduct, delinquency, or inefficiency for purposes of section 5595 or section 8336 of this title.

“(d) The Secretary, without regard to section 529 of title 31, may pay, or reimburse a controller for, all or part of the necessary expenses of training provided under this section, including expenses authorized to be paid under chapter 41 and subchapter I of chapter 57 of this title, and the costs of other services or facilities directly related to the training of a controller.

“(e) Except as provided by subsection (d) of this section, the provisions of chapter 41 of this title, other than sections 4105(a), 4107(a) and (b), and 4111, shall not apply to training under this section.

“(f) The provisions of this section shall not otherwise affect the authority of the Secretary to provide training under chapter 41 of this title or under any other provision of law.

“§ 3382. Involuntary separation for retirement

“An air traffic controller who is eligible for immediate retirement under section 8336 of this title may be separated involuntarily from

81 Stat. 201.  
 Post, p. 144.  
 Expense reimbursement.

5 USC 4101.  
 5 USC 5701.

the service if the Secretary of Transportation determines that the separation of the controller is necessary in the interest of—

- “(1) aviation safety;
- “(2) the efficient control of air traffic; or
- “(3) the preservation of the physical or mental health of the controller.

Chapter 75 of this title does not apply to a determination or action under this section. Separation under this section shall not become final, without the consent of the controller, until the last day of the second month following the day the controller receives a notification of the determination by the Secretary under this section, or, if a review is requested under section 3383 of this title, the last day of the month in which a final decision is issued by a board of review under section 3383(c) of this title, whichever is later. A controller who is to be separated under this section is entitled to training under section 3381 of this title. Separation of such a controller who elects to receive training under section 3381 shall not become final until the last day of the month following the completion of his training.

5 USC 7501.

### “§ 3383. Determinations; review procedures

“(a) An air traffic controller subject to a determination by the Secretary of Transportation under section 3381(a) or section 3382 of this title, shall be furnished a written notice of the determination and the reasons therefor, and a notification that the controller has 15 days after the receipt of the notification within which to file a written request for reconsideration of the determination. Unless the controller files such a request within the 15 days, or unless the determination is rescinded by the Secretary within the 15 days, the determination shall be final.

“(b) If the Secretary does not rescind his determination within 15 days after his receipt of the written request filed by the controller under subsection (a) of this section, the Secretary shall immediately convene a board of review, consisting of—

Review board.

“(1) a person designated by the controller;

Membership.

“(2) a representative of the Department of Transportation designated by the Secretary; and

“(3) a representative of the Civil Service Commission, designated by the Chairman, who shall serve as chairman of the board of review.

“(c) The board of review shall review evidence supporting and inconsistent with the determination of the Secretary and, within a period of 30 days after being convened, shall issue its findings and furnish copies thereof to the Secretary and the controller. The board may approve or rescind the determination of the Secretary. A decision by the board under this subsection is final. The Secretary shall take such action as may be necessary to carry out the decision of the board.

Findings, copies to Secretary and controller.

“(d) Except as provided under section 3382 of this title, the review procedure of this section is in addition to any other review or appeal procedures provided under any other provision of law, but is the sole and exclusive administrative remedy available to a controller within the Department of Transportation.

### “§ 3384. Regulations

“The Secretary of Transportation is authorized to issue regulations to carry out the provisions of this subchapter.

### “§ 3385. Effect on other authority

“This subchapter shall not limit the authority of the Secretary of Transportation to reassign temporarily an air traffic controller to other duties with or without notice, in the interest of the safe or efficient separation and control of air traffic or the physical or mental health

of a controller; or to reassign permanently or separate a controller under any other provision of law.”

(b) The analysis of chapter 33 of title 5, United States Code, is amended by adding the following new items at the end thereof:

“SUBCHAPTER VII—AIR TRAFFIC CONTROLLERS

“Sec.

“3381. Training.

“3382. Involuntary separation for retirement.

“3383. Determinations; review procedures.

“3384. Regulations.

“3385. Effect on other authority.”

Mandatory  
separation.  
80 Stat. 571.

SEC. 4. Section 8335 of title 5, United States Code, is amended by inserting the following new subsection at the end thereof:

Exemption.

“(f) An air traffic controller shall be separated from the service on the last day of the month in which he becomes 56 years of age. The Secretary of Transportation, under such regulations as he may prescribe, may exempt a controller having exceptional skills and experience as a controller from the automatic separation provisions of this subsection until that controller becomes 61 years of age. The Secretary of Transportation shall notify the controller in writing of the date of separation at least 60 days before that date. Action to separate the controller is not effective, without the consent of the controller, until the last day of the month in which the 60-day notice expires.”

Notification.

Effective date.

SEC. 5. Section 8336 of title 5, United States Code, is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections “(f)”, “(g)”, and “(h)”, respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

Annuity qualifi-  
cation.

“(e) An employee who is voluntarily or involuntarily separated from the service, except by removal for cause on charges of misconduct or delinquency, after completing 25 years of service as an air traffic controller or after becoming 50 years of age and completing 20 years of service as an air traffic controller, is entitled to an annuity.”

Annuity compu-  
tation.  
80 Stat. 574;  
83 Stat. 139.

SEC. 6. Section 8339 of title 5, United States Code, is amended—

(1) by redesignating subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m) as subsections “(f)”, “(g)”, “(h)”, “(i)”, “(j)”, “(k)”, “(l)”, “(m)”, and “(n)”, respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

Supra.  
Limitation.

“(e) The annuity of an employee retiring under section 8336(e) of this title is computed under subsection (a) of this section. That annuity may not be less than 50 percent of the average pay of the employee.”

Civil Service  
Retirement.  
80 Stat. 564.  
5 USC 8331.  
84 Stat. 1191.

SEC. 7. Subchapter III of chapter 83 of title 5, United States Code, is amended—

(1) by striking out the reference “8339(h)” each place it appears in section 8332(b) (3) and (8), and by inserting the reference “8339(i)” in place thereof;

83 Stat. 138.

(2) by striking out the reference “section 8339(m)” in section 8334(g)(5), and inserting the reference “section 8339(n)” in place thereof;

Supra.

(3) by amending section 8339—

(A) by striking out the reference “subsections (a)–(d)” in redesignated subsection (f), and inserting the reference “subsections (a)–(e)” in place thereof;

(B) by striking out the references “subsections (a), (b), and (e)”, “subsections (c) and (e)”, and “section 8336(f)”, in redesignated subsection (h), and by inserting the references “subsections (a), (b), and (f)”, “subsections (c) and (f)”, and “section 8336(g)”, respectively, in place thereof;

(C) by striking out the reference "subsections (a)-(g)" in redesignated subsection (i), and inserting the reference "subsections (a)-(h)" in place thereof;

(D) by striking out the reference "subsections (a)-(h)" in redesignated subsection (j), and inserting the reference "subsections (a)-(i)" in place thereof;

(E) by striking out the references "subsections (a)-(h)" and "subsection (i)" in redesignated subsection (k), and inserting the references "subsections (a)-(i)" and "subsection (j)", respectively in place thereof;

(F) by striking out the reference "subsections (a)-(j)" in redesignated subsection (l), and inserting the reference "subsections (a)-(k)" in place thereof; and

(G) by striking out the references "subsections (a)-(d)" and "subsection (e)", in redesignated subsection (n), and inserting the references "subsections (a)-(e)" and "subsection (f)", respectively, in place thereof;

(4) by amending section 8341—

(i) by striking out the references "section 8339 (a)-(h)", "section 8339(i)", and "section 8339(j)" in subsection (b), and inserting the references "section 8339 (a)-(i)", "section 8339(j)", and "section 8339(k)" respectively, in place thereof;

(ii) by striking out the reference "section 8339(j)" in subsection (c), and inserting the reference "section 8339(k)" in place thereof; and

(iii) by striking out the reference "section 8339 (a)-(e) and (h)" in subsection (d), and inserting the reference "section 8339 (a)-(f) and (i)" in place thereof; and

(5) by amending section 8344(a)—

(A) by striking out the reference "section 8339 (a), (b), (d), (g), and (h)" in subparagraph (A) and inserting the reference "section 8339 (a), (b), (d), (e), (h), and (i)" in place thereof; and

(B) by striking out the references "section 8339(i) of section 8339(j)(2)" in the sentence following immediately below clause (ii), and inserting the references "section 8339 (j) or section 8339(k)(2)" in place thereof.

SEC. 8. Section 8335(f) of title 5, United States Code, as added by this Act, does not apply to a person appointed as an air traffic controller by the Department of Transportation before the date of enactment of this Act.

SEC. 9. The Secretary of Transportation shall make a report to the Congress of his operations under the amendments made by this Act. The report shall include a detailed statement of the effectiveness of this Act in meeting the needs of the air traffic controller career program and of the air traffic control system, and any recommendations which the Secretary considers necessary or desirable for sound management of the program or the system. The Secretary shall make his report not later than 5 years after the date of enactment of this Act.

SEC. 10. This Act shall become effective at the beginning of the ninetieth day after the date of enactment of this Act.

SEC. 11. The Act of September 26, 1969 (Public Law 91-73; 83 Stat. 116), relating to age limits in connection with appointments to the United States Park Police, is repealed effective at the end of the eighty-ninth day after the date of enactment of this Act.

Approved May 16, 1972.

Survivor annuities.

80 Stat. 577;

84 Stat. 1961.

Ante, p. 144.

Nonapplicability.  
Ante, p. 144.

Report to Congress.

Effective date.

Repeal.

5 USC 3307

note.

Effective date.