

112TH CONGRESS
1ST SESSION

S. 1649

To amend the provisions of title 5, United States Code, relating to the methodology for calculating the amount of any Postal surplus or supplemental liability under the Civil Service Retirement System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2011

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the provisions of title 5, United States Code, relating to the methodology for calculating the amount of any Postal surplus or supplemental liability under the Civil Service Retirement System, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Postal
5 Service Pension Obligation Recalculation and Restoration
6 Act of 2011”.

1 **SEC. 2. MODIFIED METHODOLOGY.**

2 (a) IN GENERAL.—Section 8348(h) of title 5, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 “(4)(A) To the extent that a determination under
6 paragraph (1), relating to benefits attributable to civilian
7 employment with the United States Postal Service, is
8 based on any provision of law described in subparagraph
9 (C), such determination shall be made in accordance with
10 such provision and any otherwise applicable provisions of
11 law, subject to the following:

12 “(i) The ‘average pay’ used in the case of any
13 individual shall be a single amount, determined in
14 accordance with section 8331(4), taking into account
15 the rates of basic pay in effect for such individual
16 during the periods of creditable service performed by
17 such individual. Nothing in this subsection shall be
18 considered to permit or require—

19 “(I) one determination of average pay with
20 respect to service performed with the United
21 States Postal Service; and

22 “(II) a separate determination of average
23 pay with respect to service performed with its
24 predecessor entity in function.

25 “(ii) In determining the portion of an annuity
26 attributable to civilian employment with the United

1 States Postal Service, with respect to any period of
2 employment with the United States Postal Service
3 that follows any other period of employment cred-
4 itable under section 8332 (without regard to whether
5 such employment was with an entity referred to in
6 clause (i)(II)), the total service of an employee for
7 purposes of any provision of law described in sub-
8 paragraph (C) shall be the sum of—

9 “(I) any period of employment with the
10 United States Postal Service; and

11 “(II) any period of employment creditable
12 under section 8332 that precedes the period de-
13 scribed in subclause (I).

14 “(B)(i) Not later than 6 months after the date of en-
15 actment of this paragraph, the Office shall determine (or,
16 if applicable, redetermine) the amount of the Postal sur-
17 plus or supplemental liability as of the close of the fiscal
18 year most recently ending before such date of enactment,
19 in conformance with the methodology required under sub-
20 paragraph (A).

21 “(ii)(I) If the result of the determination or redeter-
22 mination under clause (i) is a surplus, the Office shall
23 transfer the amount of such surplus to the Postal Service
24 Retiree Health Benefits Fund not later than 15 days after
25 the date of such determination or redetermination.

1 “(II) If a determination or redetermination under
2 clause (i) for a fiscal year is made before the Office makes
3 a redetermination under paragraph (2)(B) with respect to
4 the fiscal year, the Office may not make a determination
5 under paragraph (2)(B) with respect to the fiscal year.

6 “(C) The provisions of law described in this subpara-
7 graph are—

8 “(i) the first sentence of section 8339(a); and

9 “(ii) section 8339(d)(1).

10 “(5) For purposes of this subsection—

11 “(A) the term ‘Postal Service Retiree Health
12 Benefits Fund’ means the fund established under
13 section 8909a; and

14 “(B) the term ‘Postal Service Fund’ means the
15 fund established under section 2003 of title 39.”.

16 (b) COORDINATION PROVISIONS.—

17 (1) AMENDMENT.—Section 8909a of title 5,
18 United States Code, is amended by adding at the
19 end the following:

20 “(e) Notwithstanding any other provision of law, the
21 amount payable by the Postal Service under subsection (d)
22 in any fiscal year ending on or before September 30, 2021,
23 shall be determined without regard to the requirements
24 under section 8348(h)(4).”.

1 (2) **RULE OF CONSTRUCTION.**—Nothing in this
2 Act, or an amendment made by this Act, shall be
3 construed to affect the amount of any benefits other-
4 wise payable from the Civil Service Retirement and
5 Disability Fund to any individual.

6 (c) **TECHNICAL AMENDMENT.**—The heading for sec-
7 tion 8909a of title 5, United States Code, is amended by
8 striking “**Benefit**” and inserting “**Benefits**”.

9 **SEC. 3. ADDITIONAL PROVISIONS.**

10 (a) **IN GENERAL.**—Section 8348(h)(2) of title 5,
11 United States Code, is amended by adding at the end the
12 following:

13 “(F) Notwithstanding any other provision of this sub-
14 section, for purposes of determining the Postal surplus or
15 supplemental liability for each of fiscal years 2016, 2017,
16 2018, 2019, and 2020—

17 “(i) paragraph (4)(A) shall not apply to a de-
18 termination under paragraph (1); and

19 “(ii) the determination under paragraph (1)
20 shall be made by applying the methodology that was
21 used to carry out this paragraph with respect to the
22 fiscal year preceding the fiscal year referred to in
23 paragraph (4)(B)(i).”.

1 (b) RELATING TO A POSTAL SURPLUS.—Section
2 8348(h)(2)(C) of title 5, United States Code, is amend-
3 ed—

4 (1) by inserting “2021,” after “2015,”; and

5 (2) by striking “if the result is” and all that
6 follows through “terminated.” and inserting the fol-
7 lowing: “if the result is a surplus—

8 “(i) that amount shall be transferred—

9 “(I) to the Postal Service Retiree Health
10 Benefits Fund, if the surplus is for fiscal year
11 2020 or a preceding fiscal year; and

12 “(II) to the Postal Service Fund, if the
13 surplus is for fiscal year 2021 or a subsequent
14 fiscal year; and

15 “(ii) any prior amortization schedule for pay-
16 ments shall be terminated.”.

17 **SEC. 4. TREATMENT OF CERTAIN SURPLUS RETIREMENT**
18 **CONTRIBUTIONS.**

19 Section 8423(b) of title 5, United States Code, is
20 amended—

21 (1) by redesignating paragraph (5) as para-
22 graph (6); and

23 (2) by inserting after paragraph (4) the fol-
24 lowing:

1 “(5) If, for fiscal year 2010, the amount computed
2 under paragraph (1)(B) is less than zero (in this section
3 referred to as ‘surplus postal contributions’), the amount
4 of such surplus postal contributions shall be transferred—

5 “(A) to the Postal Service Retiree Health Bene-
6 fits Fund to pay any liability to the Postal Service
7 Retiree Health Benefits Fund for fiscal year 2011;

8 “(B) if all liability to the Postal Service Retiree
9 Health Benefits Fund for fiscal year 2011 has been
10 paid, to the Employees’ Compensation Fund estab-
11 lished under section 8147; and

12 “(C) if all liability of the United States Postal
13 Service to the Employees’ Compensation Fund has
14 been paid, to the United States Postal Service for
15 the repayment of any obligation issued under section
16 2005 of title 39.”.

17 **SEC. 5. RURAL POST OFFICES.**

18 Section 404(d) of title 39, United States Code, is
19 amended by adding at the end the following:

20 “(7) Notwithstanding any other provision of this sub-
21 section, in making any determination under subsection
22 (a)(3) as to the necessity for the closing or consolidation
23 of any post office, the Postal Service may not close any
24 post office which is located more than 10 miles from any
25 other post office.”.

1 **SEC. 6. EFFECTIVE DATE.**

2 (a) IN GENERAL.—This Act and the amendments
3 made by this Act shall take effect on the date of enactment
4 of this Act.

5 (b) INTENT OF CONGRESS.—It is the intent of Con-
6 gress that this Act apply with respect to the allocation
7 of past, present, and future benefit liabilities between the
8 United States Postal Service and the Treasury of the
9 United States.

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