

112TH CONGRESS
1ST SESSION

S. 1688

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 12, 2011

Ms. MIKULSKI 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 “Save Our Postal Work-
5 er Jobs Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Inspector General of the United States
2 Postal Service has reported that—

3 (A) the Postal Service has overpaid into
4 the Civil Service Retirement System by as much
5 as \$75,000,000,000; and

6 (B) the Postal Service has overpaid into
7 the Federal Employees' Retirement System by
8 as much as \$6,800,000,000.

9 (2) The Postal Service announced that it may
10 have lost as much as \$10,000,000,000 in fiscal year
11 2011.

12 (3) The Postal Service has proposed reducing
13 the number of employees of the Postal Service by
14 more than 200,000 through attrition and layoffs.

15 **SEC. 3. MODIFIED METHODOLOGY.**

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

19 “(4)(A) To the extent that a determination under
20 paragraph (1), relating to benefits attributable to civilian
21 employment with the United States Postal Service, is
22 based on any provision of law described in subparagraph
23 (C), such determination shall be made in accordance with
24 such provision and any otherwise applicable provisions of
25 law, subject to the following:

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

8 “(I) one determination of average pay with
9 respect to service performed with the United
10 States Postal Service; and

11 “(II) a separate determination of average
12 pay with respect to service performed with its
13 predecessor entity in function.

14 “(ii) In determining the portion of an annuity
15 attributable to civilian employment with the United
16 States Postal Service, with respect to any period of
17 employment with the United States Postal Service
18 that follows any other period of employment cred-
19 itable under section 8332 (without regard to whether
20 such employment was with an entity referred to in
21 clause (i)(II)), the total service of an employee for
22 purposes of any provision of law described in sub-
23 paragraph (C) shall be the sum of—

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

1 “(II) any period of employment creditable
2 under section 8332 that precedes the period de-
3 scribed in subclause (I).

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

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

16 “(II) If a determination or redetermination under
17 clause (i) for a fiscal year is made before the Office makes
18 a redetermination under paragraph (2)(B) with respect to
19 the fiscal year, the Office may not make a determination
20 under paragraph (2)(B) with respect to the fiscal year.

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

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

24 “(ii) section 8339(d)(1).

25 “(5) For purposes of this subsection—

1 “(A) the term ‘Postal Service Retiree Health
2 Benefits Fund’ means the fund established under
3 section 8909a; and

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

6 (b) COORDINATION PROVISIONS.—

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

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

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

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

1 **SEC. 4. ADDITIONAL PROVISIONS.**

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

5 “(F) Notwithstanding any other provision of this sub-
6 section, for purposes of determining the Postal surplus or
7 supplemental liability for each of fiscal years 2016, 2017,
8 2018, 2019, and 2020—

9 (i) paragraph (4)(A) shall not apply to a de-
10 termination under paragraph (1); and

11 (ii) the determination under paragraph (1)
12 shall be made by applying the methodology that was
13 used to carry out this paragraph with respect to the
14 fiscal year preceding the fiscal year referred to in
15 paragraph (4)(B)(i).”.

16 (b) RELATING TO A POSTAL SURPLUS.—Section
17 8348(h)(2)(C) of title 5, United States Code, is amend-
18 ed—

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

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

23 (i) that amount shall be transferred—

24 (I) to the Postal Service Retiree Health
25 Benefits Fund, if the surplus is for fiscal year
26 2020 or a preceding fiscal year; and

1 “(II) to the Postal Service Fund, if the
2 surplus is for fiscal year 2021 or a subsequent
3 fiscal year; and

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

6 **SEC. 5. TREATMENT OF CERTAIN SURPLUS RETIREMENT**
7 **CONTRIBUTIONS.**

8 Section 8423(b) of title 5, United States Code, is
9 amended—

10 (1) by redesignating paragraph (5) as para-
11 graph (6); and

12 (2) by inserting after paragraph (4) the fol-
13 lowing:

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

18 “(A) to the Postal Service Retiree Health Bene-
19 fits Fund to pay any liability to the Postal Service
20 Retiree Health Benefits Fund for fiscal year 2011;

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

1 “(C) if all liability of the United States Postal
2 Service to the Employees’ Compensation Fund has
3 been paid, to the United States Postal Service for
4 the repayment of any obligation issued under section
5 2005 of title 39.”.

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

7 (a) **IN GENERAL.**—This Act and the amendments
8 made by this Act shall take effect on the date of enactment
9 of this Act.

10 (b) **INTENT OF CONGRESS.**—It is the intent of Con-
11 gress that this Act apply with respect to the allocation
12 of past, present, and future benefit liabilities between the
13 United States Postal Service and the Treasury of the
14 United States.

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