



## NATIONAL FEDERATION OF FEDERAL EMPLOYEES, IAMAW, AFL-CIO



### NFFE-IAM Supports the Fair RETIRE Act (S. 29)

**Position:** Under current OPM guidance, employing agencies are not authorized to protect injured Federal Law Enforcement Officers and Firefighters from losing their 6c retirement if they are placed in a non-6c position. The Fair RETIRE Act (S. 29) will require that the term “equivalent position” in 5 USC 8151(b) will truly come to mean equivalent, *i.e.* that employees who were in the 6c retirement system prior to their injury be left in that system regardless of the job into which they are placed after debilitating injury. NFFE-IAM *strongly supports* the Fair RETIRE Act in the Senate and encourages a companion bill and co-sponsors in the House.

Federal firefighters (FF) and law enforcement officers (LEO) put their lives on the line for America every day. America needs and depends on brave men and women to fill these demanding, arduous and hazardous duty positions. For those men and women who accept the challenge they face the very real potential that an on-the-job injury could leave them disabled and unable to return to service.

In acknowledgement of the strenuous and hazardous nature of work, Congress created an accelerated retirement system for these positions. The hallmarks of this special system (nicknamed “6c” for the section of the law it is contained in) is a shorter length of service (20 years) and higher employee contributes to the retirement system. The higher contribution allows the employee to make the same contributions to the system over 20 years as would be made in the standard 30 year timeframe of CSRS/FERS retirement systems, to allow for the shorter career length of service.

This works when things go well. Unfortunately, this is not always the case. A disabling on the job injury is a daily fear for our Federal First Responders. Should that happen, these employees face losing benefits they were promised upon taking these hazardous duty positions. FFs and LEOs who become injured and unable to perform the duties of their position can be placed in other positions in an Agency – positions that are not covered by the 6c retirement system. When this happens, those employees involuntarily forfeit the job they love, the 6c retirement system, and the increased contributions they have already deposited into the 6c retirement promised them. The Fair RETIRE Act, S 29 seeks to fix this.

The Fair RETIRE Act addresses these inequities by allowing an ill/injured employee to stay in the “6c” retirement system if put into a position outside the “6c” retirement system (the employee would continue to make the higher contributions to the system), and to receive a refund of their accelerated contributions should they be separated from service before entitled to an annuity.

Current regulation, 5 USC 8151(b), requires an injured/ill employee to be placed in “equivalent positions” upon their return to work. Deferred compensation is—by definition—compensation. S 29 will allow this requirement to be honored for those who have given their health and well-being in service to the US Forest Service and other government agencies. The Fair RETIRE Act will keep these agencies from breaking the promise made to these employees.

For these reasons, the NFFE-IAM and the NFFE Forest Service Council strongly urges you to support the Fair RETIRE Act (S. 29), or to introduce or co-sponsor a companion bill in the House of Representatives.

## Below are a few examples of how this affects real people:

- Greg, a disabled veteran, got his first appointment with Forest Service in 2001 as a Recreation Technician. In 2004, he applied for and received a Law Enforcement Officer position. He was injured in the line of duty. In 2013, he was deemed unable to perform the duties of his position. He was assigned to a fleet management position. He lost his 6c retirement and 9 years of extra contributions into the 6c system.
- Bob, a smoke jumper, was assigned to fires in the Selway Bitterroot Wilderness area. After he jumped, the wind suddenly changed and he was taken into the top of a 120-foot tall Grand Fir. As trained, Bob started to rappel down the tree, but the top broke off the tree. Bob fell 80 feet to the ground, with the broken top landing on him. It took 5 hours to get him to emergency medical help. His back was broken in 5 places; he was told he might never walk again. Bob eventually recovered and was placed in an engineering technician position. He lost his 6c retirement and 12 years of extra contributions into the 6c system.
- Lana was just 5 years old when she decided she wanted to be a fire fighter. She got a position with the Forest Service in 2005 and she was on her way. During the 2009 season, Lana sustained a serious leg injury that left her unable to carry weight over 10 pounds. This ended her dream career, but she could still work. Lana was placed in an administrative support clerk position. She lost her 6c retirement and extra contributions.
- Walt was born and raised in a logging family living on the Klamath National Forest. Forest Service FFs were the heroes of his childhood. Much to the dismay of his parents, he always knew he was going to be a firefighter. Walt got out of the Army in 1978 and started in a temporary firefighting position with the Forest Service in 1980. In 1987 he got a permanent position in fire. He had achieved his dream. While working with the Lassen Hotshots in 1991, he was injured while fighting a fire in Alaska. As Walt says:  
*“My firefighting career was over. I was devastated, my life was over. I have talked to many employees who know what happens when they get hurt. They hide injuries that could have been treatable to not lose their jobs. I knew an engine captain that was given a job as a GS/4 mail room clerk. I know for a fact that he was considering suicide when he finally just quit the agency.”*  
Walt was placed in timber contracting position, losing his 6c retirement and his extra contributions into that system. After 7 years, he worked his way back to a position in fire dispatch, but it had taken too long; he was no longer eligible for firefighter retirement in the secondary position because of his break in service in a 6c position.
- Ernest started as a federal fire fighter in June 1991. In 2011 he exacerbated a previous injury to his back. In 2012 it was determined that he could no longer perform the duties of his position, and he was placed in a non-6c retirement position, issuing badges. Although he had 21 years of service, he had not yet reached age 50, so was not eligible to retire. Over time the damage from his injuries have deteriorated his physical condition such that he cannot perform his current job fulltime. He also has not yet reached the minimum retirement age for the standard retirement system. He lost his 6c retirement and 21 years of extra contributions into the 6c system, and has been forced into a 30 year career rather than the 20 year career promised him.