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APPROVED
OCT 3 - 1975

Signed
10/3

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: October 4

September 30, 1975

To archive
10/6

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: Enrolled Bill H.R. 1401 - For the Relief of Robert M. Johnston

Ported
10/6

Attached for your consideration is H.R. 1401, sponsored by Representative Holt, which provides that service performed by Robert M. Johnston as a civilian faculty member at the U.S. Navy Academy from July 1, 1946 through September 30, 1956, be creditable service for the purpose of Civil Service Retirement.

Detailed information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 1401 at Tab B.

Rec'd in Records Office 10/4/75 10:30 AM

Info to Press Office, Thym Smith's desk: 10/4/75 10:35 AM



OCT 6 1975



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 29 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1401 - For the relief of
Robert M. Johnston
Sponsor - Rep. Holt (R) Maryland

Last Day for Action

October 4, 1974 - Saturday

Purpose

Provides Mr. Johnston with the option of transferring to the Civil Service Retirement System his retirement coverage from July 1, 1946 through September 30, 1956 as a professor at the U.S. Naval Academy.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Navy
Civil Service Commission

Approval
Approval

Discussion

As of September 30, 1956, under provisions of P.L. 84-854, faculty members at the U.S. Naval Academy were brought under the Civil Service Retirement (CSR) System. Prior to that time, they had a special retirement program with the Teachers Insurance and Annuity Association (TIAA). At the time of the changeover, all faculty members were given the option of either retaining their vested rights under the earlier system for their previous service, or transferring to the CSR system full credit for their years of service and the contributions made under the previous retirement program. The deadline for this election was April 1, 1957.

Records of the Navy Department indicate that Professor Johnston was the only active faculty member in 1956 who did not elect to surrender his rights under the former program in return for credit in the CSR system. H.R. 1401 would retroactively provide Mr. Johnston with that option, providing he makes the appropriate deposit in the CSR fund within one year after enactment.

Background

According to the Navy Department, Mr. Johnston apparently attempted in 1956 to elect to surrender his rights under his TIAA retirement plan, but was unable to locate his policy. Consequently, it was necessary for him to complete an "Affidavit of Loss of Policy Contract" which required the witnessed signatures of all of his children over 14 years of age.

One of Professor Johnston's sons--an enlisted member of the Marine Corps on active duty at the time--signed the affidavit but failed to have his signature witnessed. Accordingly, Mr. Johnston returned the form to his son so as to have the signature witnessed, but his efforts to secure the necessary witnessed signature were complicated by the fact that during the period designated for making the election Mr. Johnston's son was transferred to sea duty.

Mr. Johnston has indicated that he cannot recall being advised of the passage of the April 1, 1957 cutoff date for making the transfer, and has claimed that he was unaware until May 1972 of his ineligibility to transfer the TIAA policy to CSR. In support of these assertions, the Navy Department has in its records an affidavit from Mr. Johnston as well as other supporting documents.

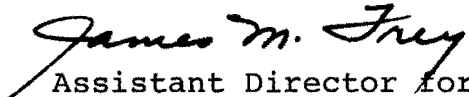
In reports to the Congress on predecessor bills, Navy supported enactment, based on the circumstances explained above. The Civil Service Commission (CSC), however, objected to the bill because of the undesirable precedent of allowing employees to revoke or revise previously irrevocable elections in benefit programs which, for various reasons, ultimately prove to be not to their advantage. Moreover, CSC was concerned about the "windfall" aspects due to the significantly greater value of the CSR annuity and the fact that there would be an additional net cost to the CSR fund, which would not be recouped as a result of the deposit Professor Johnston would be required to make.

Given the arguments on both sides, the Congress determined that this legislation is meritorious.

Recommendation

In its views letter on the enrolled bill, Navy continues support of Mr. Johnston's claim and recommends approval. CSC now also recommends approval.

Although we share CSC's objections to H.R. 1401, we do not believe the information available to us in Professor Johnston's case warrants disapproval and, accordingly, recommend approval.


Assistant Director for
Legislative Reference

Enclosures



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

September 25, 1975

Dear Mr. Lynn:

Your transmittal sheet dated September 24, 1975, enclosing a facsimile of an enrolled bill of Congress, H.R. 1401, "For the relief of Robert M. Johnston," and requesting comments of the Department of Defense, has been referred to this Department for appropriate action.

The purpose of H.R. 1401 is to include service performed by Mr. Johnston as a member of the civilian faculty of the U.S. Naval Academy from July 1, 1946, through September 30, 1956, as creditable service for purposes of the civil service retirement system.

Public Law 74-417 (approved on January 16, 1936) established the retirement system in effect for civilian members of the faculty at the U.S. Naval Academy when Mr. Johnston joined that faculty in 1946. Each such civilian faculty member participating in that retirement program was required to carry a deferred annuity policy which could not include a cash surrender or loan provision. Such faculty member paid the premium for the annuity policy through a monthly allotment in an amount equal to ten percent of his monthly basic salary. For each month the allotment was in force, the pay account of such faculty member was credited with an additional amount equal to five percent of his monthly basic salary. (See Chapter 607 of title 10, United States Code, and the annotations thereto.)

Pursuant to section 402 of P.L. 84-854 (approved on July 31, 1956), contributions under the retirement system established by P.L. 74-417 were discontinued as of September 30, 1956. Although P.L. 84-854 did not affect the rights of retired civilian faculty members, it did require then current civilian faculty members to elect either (1) to retain their vested rights under the retirement system created by P.L. 74-417 and commence participation in the civil service retirement program or (2) to transfer to the civil service retirement program with full credit for the years of service and the contributions made under the system created by P.L. 74-417.

From the information available to the Department of the Navy, it appears that Mr. Johnston attempted in 1956 to elect to surrender his rights under the system created by P.L. 74-417 in return for credit in the civil service retirement system. Because Mr. Johnston was unable to locate his policy with the association (Teachers Insurance and Annuity Association of America) providing coverage pursuant to P.L. 74-417, it was necessary for him to complete an "Affidavit of Loss of Policy Contract" which required the signatures of all of his children over 14 years of age. Unfortunately, one of Professor Johnston's sons, an active duty enlisted member of the Marine Corps at the time, signed the affidavit but failed

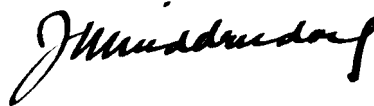


to have his signature witnessed. Mr. Johnston's attempt to obtain his son's witnessed signature prior to the April 1, 1957, deadline for making the election required by section 402 of P.L. 84-854 proved futile. Mr. Johnston's efforts to secure the necessary witnessed signature were complicated by the fact that, during the period designated for making the election, his son was transferred to sea duty. Professor Johnston has indicated that he is unable to recall that anyone advised him of the passing of the election cutoff date in 1957 when he could have made a more timely appeal. He has indicated further that he was unaware until May 1972 of his ineligibility for transfer of credit from TIAA to the civil service retirement system.

The principal effect of enactment of H.R. 1401 would be to permit Mr. Johnston presently to make the election which he apparently initiated in 1956 but was prevented from completing prior to the April 1, 1957, deadline because of administrative difficulties.

In view of the foregoing, the Department of the Navy supports approval of the enrolled enactment, H.R. 1401.

Sincerely yours,



J. William Middendorf II
Secretary of the Navy

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

September 26, 1975

Honorable James T. Lynn
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the Commission's views on enrolled bill H.R. 1401, "For the relief of Robert M. Johnston."

H.R. 1401 would include service performed by Mr. Johnston as a civilian faculty member at the U.S. Naval Academy from July 1, 1946, through September 30, 1956, as creditable service for Civil Service Retirement (CSR) providing Mr. Johnston makes the appropriate deposit in the Civil Service Retirement and Disability Fund within one year after the bill's enactment.

Originally, a retirement system was established for civilian members of the faculty of the U.S. Naval Academy by Public Law 74-417 (approved on January 16, 1936). Each participating member was required to purchase from the Teachers Insurance and Annuity Association a deferred annuity policy which could not include any provision for loan or cash surrender. Premiums were paid through a monthly allotment in an amount equaling ten percent of monthly basic salary. The Government shared the cost by adding five percent to the monthly basic salary of participants.

Then, in 1956, civilian faculty members were required by section 402 of Public Law 84-854 (approved on July 31, 1956) to elect either to retain their vested rights under the TIAA program acquired by past service or to transfer credit and contributions for that past service to the Civil Service Retirement and Disability Fund. Irrespective of the election, for all subsequent service participation in the CSR System was required. Apparently, Mr. Johnston was the only active faculty member in 1956 who did not take the necessary steps to surrender his vested rights under the TIAA program in exchange for CSR credit.

Inasmuch as the creditability of service in this case is contingent upon the making of the appropriate deposit in the Civil Service Retirement and Disability Fund, and inasmuch as Mr. Johnston appears to be the only faculty member active in 1956 who did not elect to exchange his vested rights under the former system for credit under the Civil Service Retirement System, we recommend that the President sign the enrolled bill.

By direction of the Commission:

Sincerely yours,

J. B. Spain
Acting
Chairman

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 408

Date: September 29, 1975

Time: 330pm

FOR ACTION: ~~None~~
Dick Parsons *pk*
Max Friedersdorf *pk*
Ken Lazarus *pk*

cc (for information): Jim Cavanaugh
Jack Marsh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: September 30

Time: noon

SUBJECT:

H.R. 1401 - For the Relief of Robert M. Johnston

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 29 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1401 - For the relief of
Robert M. Johnston
Sponsor - Rep: Holt (R) Maryland

Last Day for Action

October 4, 1974 - Saturday

Purpose

Provides Mr. Johnston with the option of transferring to the Civil Service Retirement System his retirement coverage from July 1, 1946 through September 30, 1956 as a professor at the U.S. Naval Academy.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Navy	Approval
Civil Service Commission	Approval

Discussion

As of September 30, 1956, under provisions of P.L. 84-854, faculty members at the U.S. Naval Academy were brought under the Civil Service Retirement (CSR) System. Prior to that time, they had a special retirement program with the Teachers Insurance and Annuity Association (TIAA). At the time of the changeover, all faculty members were given the option of either retaining their vested rights under the earlier system for their previous service, or transferring to the CSR system full credit for their years of service and the contributions made under the previous retirement program. The deadline for this election was April 1, 1957.

Records of the Navy Department indicate that Professor Johnston was the only active faculty member in 1956 who did not elect to surrender his rights under the former program in return for credit in the CSR system. H.R. 1401 would retroactively provide Mr. Johnston with that option, providing he makes the appropriate deposit in the CSR fund within one year after enactment.

Background

According to the Navy Department, Mr. Johnston apparently attempted in 1956 to elect to surrender his rights under his TIAA retirement plan, but was unable to locate his policy. Consequently, it was necessary for him to complete an "Affidavit of Loss of Policy Contract" which required the witnessed signatures of all of his children over 14 years of age.

One of Professor Johnston's sons--an enlisted member of the Marine Corps on active duty at the time--signed the affidavit but failed to have his signature witnessed. Accordingly, Mr. Johnston returned the form to his son so as to have the signature witnessed, but his efforts to secure the necessary witnessed signature were complicated by the fact that during the period designated for making the election Mr. Johnston's son was transferred to sea duty.

Mr. Johnston has indicated that he cannot recall being advised of the passage of the April 1, 1957 cutoff date for making the transfer, and has claimed that he was unaware until May 1972 of his ineligibility to transfer the TIAA policy to CSR. In support of these assertions, the Navy Department has in its records an affidavit from Mr. Johnston as well as other supporting documents.


In reports to the Congress on predecessor bills, Navy supported enactment, based on the circumstances explained above. The Civil Service Commission (CSC), however, objected to the bill because of the undesirable precedent of allowing employees to revoke or revise previously irrevocable elections in benefit programs which, for various reasons, ultimately prove to be not to their advantage. Moreover, CSC was concerned about the "windfall" aspects due to the significantly greater value of the CSR annuity and the fact that there would be an additional net cost to the CSR fund, which would not be recouped as a result of the deposit Professor Johnston would be required to make.

Given the arguments on both sides, the Congress determined that this legislation is meritorious.

Recommendation

In its views letter on the enrolled bill, Navy continues support of Mr. Johnston's claim and recommends approval. CSC now also recommends approval.

Although we share CSC's objections to H.R. 1401, we do not believe the information available to us in Professor Johnston's case warrants disapproval and, accordingly, recommend approval.


Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 408

Date: September 29, 1975

Time: 330pm

FOR ACTION: NSC/S
Dick Parsons
Max Friedersdorf
Ken Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: September 30

Time: noon

SUBJECT:

H.R. 1401 - For the Relief of Robert M. Johnston

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Recommend approval. -- Ken Lazarus 9/30/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 408

Date: september 29, 1975

Time: 330pm

FOR ACTION: NSC/S
Dick Parsons
Max Friedersdorf
Ken Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: September 30

Time: noon

SUBJECT:

H.R. 1401 - For the Relief of Robert M. Johnston

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Approved - RJP

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

THE WHITE HOUSE

WASHINGTON

September 30, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.F.*
SUBJECT: H.R. 1401 - For the Relief of Robert M. Johnston

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

Calendar No. 377

94TH CONGRESS }
1st Session }

SENATE }

REPORT
No. 94-384

ROBERT M. JOHNSTON

SEPTEMBER 18 (legislative day, SEPTEMBER 12), 1975.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 1401]

The Committee on the Judiciary, to which was referred the bill (H.R. 1401), for the relief of Robert M. Johnston, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to include service performed by Mr. Robert M. Johnston as a civilian faculty member at the U.S. Naval Academy from July 1, 1946, through September 30, 1956, as creditable service for Civil Service Retirement (CSR) providing Mr. Johnston makes the appropriate deposit in the Civil Service Retirement and Disability Fund within one year after the bill's enactment.

STATEMENT

In reporting on an identical bill which Senator Mathias sponsored in the 93d Congress, the Department of the Navy set out the facts of this case as follows:

Public Law 74-417 (approved on January 16, 1936) established the retirement system in effect for civilian members of the faculty at the U.S. Naval Academy when Mr. Johnston joined that faculty in 1946. Each such civilian faculty member participating in that retirement program was required to carry a deferred annuity policy which could not include a

cash surrender or loan provision. Such faculty member paid the premium for the annuity policy through a monthly allotment in an amount equal to ten percent of his monthly basic salary. For each month the allotment was in force, the pay account of such faculty member was credited with an additional amount equal to five percent of his monthly basic salary. (See Chapter 607 of title 10, United States Code, and the annotations thereto.)

Pursuant to section 402 of Public Law 84-854 (approved on July 31, 1956), contributions under the retirement system established by Public Law 74-417 were discontinued as of September 30, 1956. Although Public Law 84-854 did not affect the rights of retired civilian faculty members, it did require then current civilian faculty members to elect either (1) to retain their vested rights under the retirement system created by Public Law 74-417 and commence participation in the civil service retirement program or (2) to transfer to the civil service retirement program with full credit for the years of service and the contributions made under the system created by Public Law 74-417.

From the information available to the Department of the Navy, it appears that Mr. Johnston attempted in 1956 to elect to surrender his rights under the system created by Public Law 74-417 in return for credit in the civil service retirement system. Because Mr. Johnston was unable to locate his policy with the association (Teachers Insurance and Annuity Association of America) providing coverage pursuant to Public Law 74-417, it was necessary for him to complete an "Affidavit of Loss of Policy Contract" which required the signatures of all of his children over 14 years of age. Unfortunately, one of Professor Johnston's sons, an active duty enlisted member of the Marine Corps at the time, signed the affidavit but failed to have his signature witnessed. Mr. Johnston's attempt to obtain his son's witnessed signature prior to the April 1, 1959, deadline for making the election required by section 402 of Public Law 84-854 proved futile. Mr. Johnston's efforts to secure the necessary witnessed signature were complicated by the fact that, during the period designated for making the election, his son was transferred to sea duty. Professor Johnston has indicated that he is unable to recall that anyone advised him of the passing of the election cutoff date in 1957 when he could have made a more timely appeal. He has indicated further that he was unaware until May 1972 of his ineligibility for transfer of credit from TIAA to the civil service retirement system.

The principal effect of enactment of S. 2298 would be to permit Mr. Johnston presently to make the election which he did not make 18 years ago.

The Department of the Navy supports enactment of S. 2298.

Although an identical bill, S. 2298, passed the Senate in the 93d Congress, no action was taken in the House of Representatives. The

Committee believes that this legislation is meritorious, and accordingly, recommends that H.R. 1401 be favorably considered.

Attached to and made a part of this report are the agency reports on this legislation in the 93d Congress.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., September 25, 1974.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter to the Secretary of the Navy requesting comment on S. 2298, a bill "For the relief of Robert M. Johnston."

S. 2298 would include service performed by Mr. Johnston as a member of the civilian faculty of the U.S. Naval Academy from July 1, 1946, through September 30, 1956, as creditable service for purposes of the civil service retirement system.

Public Law 74-417 (approved on January 16, 1936) established the retirement system in effect for civilian members of the faculty at the U.S. Naval Academy when Mr. Johnston joined that faculty in 1946. Each such civilian faculty member participation in that retirement program was required to carry a deferred annuity policy which could not include a cash surrender or loan provision. Such faculty member paid the premium for the annuity policy through a monthly allotment in an amount equal to ten percent of his monthly basic salary. For each month the allotment was in force, the pay account of such faculty member was credited with an additional amount equal to five percent of his monthly basic salary. (See Chapter 607 of title 10, United States Code, and the annotations thereto.)

Pursuant to section 402 of Public Law 84-854 (approved on July 31, 1956), contributions under the retirement system established by Public Law 74-417 were discontinued as of September 30, 1956. Although Public Law 84-854 did not affect the rights of retired civilian faculty members, it did require then current civilian faculty members to elect either (1) to retain their vested rights under the retirement system created by Public Law 74-417 and commence participation in the civil service retirement program or (2) to transfer to the civil service retirement program with full credit for the years of service and the contributions made under the system created by Public Law 74-417.

From the information available to the Department of the Navy, it appears that Mr. Johnston attempted in 1956 to elect to surrender his rights under the system created by Public Law 74-417 in return for credit in the civil service retirement system. Because Mr. Johnston was unable to locate his policy with the association (Teachers Insurance and Annuity Association of America) providing coverage pursuant to Public Law 74-417, it was necessary for him to complete an "Affidavit of Loss of Policy Contract" which required the signatures of all of his children over 14 years of age. Unfortunately, one of Professor Johnston's sons, an active duty enlisted member of the Marine Corps at the time, signed the affidavit but failed to have his signature

witnessed. Mr. Johnston's attempt to obtain his son's witnessed signature prior to the April 1, 1959, deadline for making the election required by section 402 of Public Law 84-854 proved futile. Mr. Johnston's efforts to secure the necessary witnessed signature were complicated by the fact that, during the period designated for making the election, his son was transferred to sea duty. Professor Johnston has indicated that he is unable to recall that anyone advised him of the passing of the election cutoff date in 1957 when he could have made a more timely appeal. He has indicated further that he was unaware until May 1972 of his ineligibility for transfer of credit from TIAA to the civil service retirement system.

The principal effect of enactment of S. 2298 would be to permit Mr. Johnston presently to make the election which he did not make 18 years ago.

The Department of the Navy supports enactment of S. 2298.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

E. H. WILLETT,
Captain, U.S. Navy, Deputy Chief.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., September 20, 1974.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on S. 2298, a bill "For the relief of Robert M. Johnston."

S. 2298 would include service performed by Mr. Johnston as a civilian faculty member at the U.S. Naval Academy from July 1, 1946, through September 30, 1956, as creditable service for Civil Service Retirement (CSR) providing Mr. Johnston makes the appropriate deposit in the Civil Service Retirement and Disability Fund within one year after the bill's enactment.

Originally, a retirement system was established for civilian members of the faculty of the U.S. Naval Academy by Public Law 74-417 (approved on January 16, 1936). Each participating member was required to purchase from the Teachers Insurance and Annuity Association a deferred annuity policy which could not include any provision for loan or cash surrender. Premiums were paid through a monthly allotment in an amount equaling ten percent of monthly basic salary. The Government shared the cost by adding five percent to the monthly basic salary of participants.

Then, in 1956, civilian faculty members were required by section 402 of Public Law 84-854 (approved on July 31, 1956) to elect either to retain their vested rights under the TIAA program acquired by past service or to transfer credit and contributions for that past service to the Civil Service Retirement and Disability Fund. Irrespective of the

election, for all subsequent service participation in the CSR system was required. Apparently, Mr. Johnston was the only active faculty member in 1956 who did not take the necessary steps to surrender his vested rights under the TIAA program in exchange for CSR credit.

If S. 2298 is enacted and Mr. Johnston is permitted to exchange his credit under the TIAA system (for the period July 1, 1946 through September 30, 1956) for credit under the CSR system, we calculate his annuity, based on an assumed retirement date of October 1, 1974, would be \$1231 per month. If S. 2298 is not enacted and Mr. Johnston cannot receive CSR credit for that period, his annuity would be \$839 per month under CSR (effective October 1, 1974) plus \$100 per month from TIAA which would not be effective until age 65 (July 24, 1976).

Enactment of a private bill to give Mr. Johnston a second election after his original election which, with the passage of time, turned out to be to his disadvantage, could generate similar demands from other individuals for an opportunity to revoke or revise a previous irrevocable election which, for various reasons, ultimately proved to be not to their advantage.

For example, individuals who elect not to participate in the Federal Employees Health Benefits Program during periods of good health are not permitted to change that election immediately upon the onset of illness or injury. Similarly, retirees who decline life insurance coverage during their active service are not permitted to elect to begin such coverage after retirement. Enactment of S. 2298 would lend support to the efforts of people such as those cited in the examples to obtain another opportunity to acquire such benefits and would tend to put Federal benefit programs in the position of indemnifying employees against imprudent elections.

For these reasons, the Commission objects to the enactment of S. 2298.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON, *Chairman.*

ROBERT M. JOHNSTON

MARCH 19, 1975.—Committed to the Committee of the Whole House and
ordered to be printed

Mr. FLOWERS, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 1401]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1401) for the relief of Robert M. Johnston, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize the inclusion of service performed by Mr. Johnston as a member of the civilian faculty of the U.S. Naval Academy from July 1, 1946, through September 30, 1956, as creditable service for purposes of the civil service retirement system.

STATEMENT

The Department of the Navy in its report on the 93d Congress bill stated that it supported enactment of the bill.

As is outlined in the Navy Department report, Public Law 74-417 (approved on January 16, 1936) established the retirement system in effect for civilian members of the faculty at the U.S. Naval Academy when Mr. Johnston joined that faculty in 1946. Each civilian faculty member participating in that retirement program was required to carry a deferred annuity policy which could not include cash surrender or loan provision. The faculty member paid the premium for the annuity policy through a monthly allotment in an amount equal to ten percent of his monthly basic salary. For each month the allotment was in force, the pay account of the faculty member was credited with an additional amount equal to five percent of his monthly basic salary.¹

Under section 402 of P.L. 84-854 (approved on July 31, 1956), contributions under the retirement system established by P.L. 74-417 were discontinued as of September 30, 1956. Although P.L. 84-854 did not

¹ See Chapter 607 of Title 10, United States Code, and the annotations thereto.

affect the rights of retired civilian faculty members, it did require then current civilian faculty members to elect either (1) to retain their vested rights under the retirement system created by P.L. 74-417 and commence participation in the civil service retirement program or (2) to transfer to the civil service retirement program with full credit for the years of service and the contributions made under the system created by P.L. 74-417.

The Navy states that information it has obtained indicates that Mr. Johnston attempted in 1956 to elect to surrender his rights under the system created by P.L. 74-417 in return for credit in the civil service retirement system. Mr. Johnston was unable to locate his policy with the association (Teachers Insurance and Annuity Association of America) providing coverage pursuant to P.L. 74-417, so it was necessary for him to complete an "Affidavit of Loss of Policy Contract" which required the signatures of all of his children over 14 years of age.

Unfortunately, one of Professor Johnston's sons, an active duty enlisted member of the Marine Corps at the time, signed the affidavit but failed to have his signature witnessed. Mr. Johnston's attempt to obtain his son's witnessed signature prior to the April 1, 1957, deadline for making the election required by section 402 of P.L. 84-854 proved futile. Mr. Johnston's efforts to secure the necessary witnessed signature were complicated by the fact that, during the period designated for making the election, his son was transferred to sea duty. Professor Johnston has indicated that he is unable to recall that anyone advised him of the passing of the election cutoff date in 1957 when he could have made a more timely appeal. He has indicated further that he was unaware until May 1972 of his ineligibility for transfer of credit from TIAA to the civil service retirement system.

The Navy Department report summarizes the effect of the bill by stating: "The principal effect of enactment of H.R. 12186 would be to permit Mr. Johnston presently to make the election which he did not make 18 years ago."

It is recommended that the bill be considered favorably.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., September 25, 1974.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter to the Secretary of the Navy requesting comment on H.R. 12186, a bill "For the relief of Robert M. Johnston."

H.R. 12186 would include service performed by Mr. Johnston as a member of the civilian faculty of the U.S. Naval Academy from July 1, 1946, through September 30, 1956, as creditable service for purposes of the civil service retirement system.

Public Law 74-417 (approved on January 16, 1936) established the retirement system in effect for civilian members of the faculty at the U.S. Naval Academy when Mr. Johnston joined that faculty in 1946. Each such civilian faculty member participating in that retirement program was required to carry a deferred annuity policy which could

not include a cash surrender or loan provision. Such faculty member paid the premium for the annuity policy through a monthly allotment in an amount equal to ten percent of his monthly basic salary. For each month the allotment was in force, the pay account of such faculty member was credited with an additional amount equal to five percent of his monthly basic salary. (See Chapter 607 of title 10, United States Code, and the annotations thereto.)

Pursuant to section 402 of P.L. 84-854 (approved on July 31, 1956), contributions under the retirement system established by P.L. 74-417 were discontinued as of September 30, 1956. Although P.L. 84-854 did not affect the rights of retired civilian faculty members, it did require then current civilian faculty members to elect either (1) to retain their vested rights under the retirement system created by P.L. 74-417 and commence participation in the civil service retirement program or (2) to transfer to the civil service retirement program with full credit for the years of service and the contributions made under the system created by P.L. 74-417.

From the information available to the Department of the Navy, it appears that Mr. Johnston attempted in 1956 to elect to surrender his rights under the system created by P.L. 74-417 in return for credit in the civil service retirement system. Because Mr. Johnston was unable to locate his policy with the association (Teachers Insurance and Annuity Association of America) providing coverage pursuant to P.L. 74-417, it was necessary for him to complete an "Affidavit of Loss of Policy Contract" which required the signatures of all of his children over 14 years of age. Unfortunately, one of Professor Johnston's sons, an active duty enlisted member of the Marine Corps at the time, signed the affidavit but failed to have his signature witnessed. Mr. Johnston's attempt to obtain his son's witnessed signature prior to the April 1, 1957, deadline for making the election required by section 402 of P.L. 84-854 proved futile. Mr. Johnston's efforts to secure the necessary witnessed signature were complicated by the fact that, during the period designated for making the election, his son was transferred to sea duty. Professor Johnston has indicated that he is unable to recall that anyone advised him of the passing of the election cutoff date in 1957 when he could have made a more timely appeal. He has indicated further that he was unaware until May 1972 of his ineligibility for transfer of credit from TIAA to the civil service retirement system.

The principal effect of enactment of H.R. 12186 would be to permit Mr. Johnston presently to make the election which he did not make 18 years ago.

The Department of the Navy supports enactment of H.R. 12186.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

E. H. WILLETT,
Captain, U.S. Navy,
Deputy Chief.

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

For the relief of Robert M. Johnston.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That service performed by Robert M. Johnston, of Annapolis, Maryland, from July 1, 1946, through September 30, 1956, as a member of the civilian faculty of the United States Naval Academy, shall be included as creditable service for purposes of subchapter III of chapter 83 of title 5, United States Code (relating to civil service retirement annuities), if, within one year after the date of enactment of this Act, Robert M. Johnston deposits a sum equal to so much of the repurchase price of his annuity policy carried as required by the Act of January 16, 1936 (49 Stat. 1092), as amended, as is based on the monthly allotments which were registered with the Navy Allotment Office toward the purchase of that annuity. Such deposit shall be in lieu of the deposit provided under section 8334(c) of such title 5.

SEC. 2. The Secretary of the Navy shall certify to the Civil Service Commission the amount of the repurchase price of the annuity referred to in the first section of this Act. The Civil Service Commission shall provide Robert M. Johnston such information as may be necessary to carry out the purposes of this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

September 23, 1975

Dear Mr. Director:

The following bills were received at the White House on September 23rd:

H.R. 543
H.R. 1401

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.