CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 29, 2018

H.R. 1364
Official Time Reform Act of 2017

As ordered reported by the House Committee on Oversight and Government Reform on March 10, 2017

SUMMARY

H.R. 1364 would reduce retirement benefits for current and former federal employees who spend large portions of their work days representing federal unions and union members. In some circumstances, the bill also would require federal employees who spent time representing unions to repay bonuses and would prohibit federal employees from engaging in political or lobbying activities during the time they spend representing federal unions while on the job. CBO estimates that the bill would reduce direct federal spending on retirement annuities and health benefits by $30 million over the 2019-2028 period. We also estimate that implementing the bill would cost $100 million over that same period, assuming the necessary funds are appropriated.

Because enacting H.R. 1364 would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 1364 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 1364 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would impose private-sector mandates on certain federal employees by reducing the value of earned pension benefits and by retracting certain bonuses. CBO estimates that the cost of the mandates would fall well below the private-sector threshold established in UMRA ($160 million in 2018, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 1364 is shown in the following table. Payments for federal retirement benefits are considered direct spending and fall within budget functions 550 (health) and 600 (income security). The costs of implementing the legislation, which are subject to appropriation, fall within all budget functions except 900 (net interest) and 950 (undistributed offsetting receipts).

	By Fiscal Year, in Millions of Dollars											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019-2023	2019-2028
DECREASES IN DIRECT SPENDING												
Estimated Budget Authority	-1	-2	-2	-2	-3	-3	-4	-4	-4	-4	-11	-30
Estimated Outlays	-1	-2	-2	-2	-3	-3	-4	-4	-4	-4	-11	-30
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	15	15	9	9	9	9	9	9	8	8	57	100
Estimated Outlays	14	15	10	9	9	9	9	9	8	8	57	100

Components may not sum to totals because of rounding.

BASIS OF ESTIMATE

CBO assumes that the bill would be enacted before the end of calendar year 2018 and that the estimated amounts would be appropriated each year.

Background

Under current law, agencies can pay federal employees for the time they perform union-related work, which is referred to as official time. For purposes of calculating retirement benefits, official time is included in creditable service, which is used to determine a retiree’s eligibility for and the amount of those benefits.

Under H.R. 1364, only the first 365 of the work days in which an employee spends 80 percent or more on official time would count as creditable service; any days beyond 365 would be excluded. Because the exclusion applies retroactively to October 1, 2017, some current employees and some annuitants who retired on or after that date would see their retirement benefits reduced. Going forward, CBO expects, no additional reductions would accrue if H.R. 1364 was enacted because employees probably would structure their work to have official time constitute less than 80 percent of any day.

Direct Spending

Enacting H.R. 1364 would reduce direct spending on retirement annuities for current and former federal employees by $30 million over the 2019-2028 period, CBO estimates.

Reductions in Retirement Annuities. H.R. 1364 would reduce direct spending by that amount because creditable service for certain federal employees and retirees would decline. Most of that reduction—a little over $24 million—would stem from reduced benefits for future retirees. Using data from a Government Accountability Office (GAO) report in 2014 and information collected from several smaller federal agencies, CBO estimates that less than 0.1 percent of the federal workforce—about 1,600 employees—spent between 50 percent and 100 percent of their work year on official time.[1] Applying that estimate to an analysis of the length of service of current federal employees, CBO estimates that the bill would eliminate about 13,000 years' worth of creditable service once the affected employees retired. Under its baseline projections for federal rates of retirement over the next decade, CBO estimates H.R. 1364 would eliminate the equivalent of about 20 full pensions, on average, in 2019, rising to 140 pensions by 2028.

H.R. 1364 also would reduce direct spending for the annuities of workers who retired after October 1, 2017, and who spent a large part of their careers on official time by nearly $5.5 million. CBO estimates that between 10 and 20 full pensions' worth of creditable service among current retirees would be eliminated, saving a little less than $5 million over the next ten years. Further, the Office of Personnel Management (OPM) has indicated that it would require affected annuitants to repay the portion of annuities received in 2018 that they would not have been eligible for had H.R. 1364 been enacted before October 1, 2017. Those recoveries would reduce outlays by a little more than $500,000 over the next two years, CBO estimates.

Effects on Health Benefits. Implementing H.R. 1364 could reduce direct spending on health benefits for retirees because, as a result of losing creditable service, some annuitants would become ineligible for retiree health benefits. CBO estimates that the budgetary effects would be negligible because current law allows OPM to waive those eligibility requirements in certain circumstances. OPM has indicated that it would likely grant such a waiver to affected annuitants.

Repayment of Bonuses. In addition to reducing retirement benefits, H.R. 1364 would, in certain circumstances, require employees to repay bonuses received while working on official time. Those repayments would be classified as a reduction in direct spending. Because of the small number of people affected, CBO expects that enacting the provision would reduce direct spending by an insignificant amount.

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1. See Government Accountability Office, *Actions Needed to Improve Tracking and Reporting of the Use and Cost of Official Time,* GAO-15-9 (October 2014), www.gao.gov/products/GAO-15-9.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 1364 would increase spending subject to appropriation by $100 million over the 2019-2028 period because it would require federal agencies to collect and analyze the information in order to recalculate the annuities of affected employees. OPM and other federal agencies have indicated that the detailed records required to fully implement the bill are not readily available. Given the need to locate, extract, and parse at least 20 years' worth of timesheets for affected federal employees, CBO expects that the average cost of processing a retirement would double under H.R. 1364. That additional administrative burden would require agencies to spend about $90 million over the 2019-2028 period. OPM and federal agencies also would need to reprocess some retirements that have occurred since the beginning of fiscal year 2018. Using the number of retirement claims made since the beginning of 2018, CBO expects implementing that requirement would cost another $10 million over the next two years.

Uncertainty

In the absence of the detailed historical payroll data that would be needed to inform a complete analysis this estimate is subject to considerable uncertainty. Information in several GAO reports indicates some uncertainty about the past use of official time. If the actual use of official time is different than CBO estimated, the amount of accrued creditable service also be different. In addition, there is some uncertainty about whether the retroactive provisions could be applied to people who have already retired. In that case, the estimated reductions in direct spending would be smaller.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 1364, the Official Time Reform Act of 2017, as Ordered Reported by the House Committee on Oversight and Government Reform on March 10, 2017

	By Fiscal Year, in Millions of Dollars											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019-2023	2019-2028
NET DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Effect	-1	-2	-2	-2	-3	-3	-4	-4	-4	-4	-11	-30

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 1364 would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2029.

MANDATES

H.R. 1364 contains no intergovernmental mandates as defined in UMRA.

H.R. 1364 would impose private-sector mandates on certain federal employees. The bill would exclude some employees' service on official time from counting as creditable service for the purpose of calculating retirement benefits. Because the bill would retroactively reduce the value of earned pensions, it would impose a private-sector mandate on any current or former federal employees who would lose creditable service. Furthermore, the bill would impose a mandate by retracting recruitment and relocation bonuses in certain circumstances, which would similarly reduce an earned benefit. Because only a small number of employees would be affected by the bill, CBO estimates that the cost of the mandates would fall well below the private-sector threshold established in UMRA ($160 million in 2018, adjusted annually for inflation).

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