

WZNR 110980

BY THE COMPTROLLER GENERAL

# Report To The Congress

OF THE UNITED STATES

## Minimum Benefit Provision Of The Civil Service Disability Retirement Program Should Be Changed

The minimum disability benefit provisions of the civil service retirement system were adopted to provide a reasonable income to employees who become disabled after short periods of Federal service. However, minimum benefits are being paid to many persons who are also receiving retirement benefits from former military careers.

GAO has issued several reports pointing out the seriousness of increasing civil service disability costs and the need for reform. The minimum benefit provisions will add an estimated \$54 million to civilian retirement costs for Air Force retirees alone who retired on disability from second careers in the civil service during 1976 to 1978.

Revising the minimum benefit formula for retirees with income from other Federal service would reduce retirement costs significantly.



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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-179810

c) To the President of the Senate and the  
Speaker of the House of Representatives

This report discusses the need for revising the minimum disability benefit provisions of the civil service retirement system. These provisions were intended to provide reasonable incomes to employees who become disabled after short periods of Federal service. In fact, minimum benefits are being paid to many disability retirees who are also receiving benefits from prior careers in the military.

We have issued several reports showing the need for disability retirement reform to reduce program costs and to assure greater equity for all Federal personnel. The changes recommended in this report will help achieve that needed reform.

Copies of this report are being sent to the Directors, Office of Personnel Management and Office of Management and Budget.

A handwritten signature in black ink, reading "Luther B. Stearns".

Comptroller General  
of the United States

COMPTROLLER GENERAL'S  
REPORT TO THE CONGRESS

MINIMUM BENEFIT PROVISIONS  
OF THE CIVIL SERVICE  
DISABILITY RETIREMENT  
PROGRAM SHOULD BE CHANGED

D I G E S T

Disability retirements represent a major element of civil service retirement system costs. At the end of fiscal year 1978, approximately 323,000, or about 28 percent, of all retirees under the system were retired on disability and receiving annuities totaling about \$2.2 billion annually.

Disability retirement costs could be reduced through changes to the minimum disability benefit provisions. About 153,000 disability retirees receive benefits under these provisions.

Disability benefits are payable to employees with 5 or more years of service and are calculated under the same formula as other benefits under the system. However, in 1956 minimums were established whereby disabled employees would receive at least the smaller of (1) 40 percent of their high 3-year average salary (equivalent to benefits that could otherwise be earned after about 22 years of service under the regular formula) or (2) the benefits that would have been earned had the employees worked to age 60. These provisions were intended to provide disabled employees with limited service a reasonable income--a laudable and humane objective.

GAO found that minimum benefits are being paid to many retirees who were not, in fact, short-term Federal personnel and who are receiving benefits from other programs.

Over 140,000 retired military personnel are employed in the Federal civilian work force and are subject to the civil service

retirement system. These employees are eligible for the guaranteed minimum disability annuities even though they are receiving benefits from their prior military service. These benefits may include

- military retirement pay based on a normal career or medical disqualification;
- Veterans Administration compensation for military service-connected disability payable in lieu of military retirement pay; and
- social security disability insurance benefits or old-age pensions, attributable in whole or part to military service.

During 1976 to 1978, 29,493 civil service employees retired under the minimum disability provisions. GAO found that 1,202 of them were also retired Air Force personnel. On the average, they were receiving monthly civil service disability annuities of \$415 along with military retirement and/or veterans' benefits of \$665 a month. Eighty of them were also receiving social security benefits averaging \$328 monthly.

GAO's review of a sample of the 1,202 Air Force/civil service retirees indicates they worked an average of 10.8 years in civilian jobs after retiring from their military careers. GAO estimates that, because of the guaranteed minimum annuity provisions, these retirees will receive about \$54 million <sup>1/</sup> more in lifetime civil service benefits than they would have received if their disability annuities had been based on their actual civilian service. Since this estimate applies only to Air Force retirees who

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<sup>1/</sup>This amount could range from \$43.8 million to \$64.2 million under accepted sampling procedures at the 95-percent confidence level.

retired from the civil service during 1976 to 1978, the total additional cost of the minimum benefit provisions for such retirees would be significantly greater when all Air Force retirees and other military service retirees (Army, Navy, Marine Corps, and Coast Guard) in the civil service are also considered.

GAO believes that the payment of minimum disability benefits to employees who are retiring from their second Federal career is inconsistent with the purposes of these provisions. The Congress has directed that entitlements in other Government programs be limited to preclude the accrual of excessive benefits from multiple programs.

#### RECOMMENDATION

GAO recommends that the Congress amend the civil service retirement law to limit disability retirement annuities to the amount earned during actual civilian service in those cases where the annuitants are also receiving retirement benefits from prior Federal service in the military.

In certain cases, the combination of benefits available from former military careers and the regular civil service formula may be less than the civil service guaranteed minimum. The law should allow for appropriate adjustments to be made to the civil service benefits to assure that these retirees receive total benefits at least equal to the civil service minimum.

2 / Officials of the Office of Personnel Management agreed with GAO's recommendation. G. 5

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## CHAPTER 1

### INTRODUCTION

The civil service retirement system covers most full-time Federal civilian personnel. <sup>1/</sup> The system is basically a program for providing a pension to retired employees for life, but it also provides benefits in the event of death, disability, or termination of covered employment.

Disability benefits are a major element of the system's costs. At the end of fiscal year 1978, the system was paying benefits to 1,148,142 retirees of whom 323,446 were retired on disability and receiving annuities amounting to about \$2.2 billion a year.

Disability provisions are a necessary and integral part of any responsible employer's compensation program. In general, a disability program provides financial support to the employee who suffers a partial or complete loss of earning capacity due to a physical or mental impairment. Disability benefits for most Federal employees consist of sick leave for short-term illnesses, workers' compensation for job-related disabilities, and disability retirement for long-term disabilities that are not necessarily job related.

The law on civil service retirement (5 U.S.C. ch. 83) provides that a covered employee may retire on disability after 5 years' civilian service if, because of disease or injury, the employee is unable to perform useful and efficient service in the grade or class of position last occupied. Conditions caused by "vicious habits, intemperance, or willful misconduct" within the last 5 years do not qualify as disabling. All disabled employees are retired on full disability because no provision exists for partial disability.

We have issued several reports which discuss major shortcomings in the disability provisions of various Federal and District of Columbia retirement programs. These reports are summarized in our report entitled "Disability Provisions of Federal and District of Columbia Retirement Systems

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<sup>1/</sup>Some Federal employees are covered by other retirement systems. See our report entitled "Need for Overall Policy and Coordinated Management of Federal Retirement Systems" (FPCD-78-49, Dec. 29, 1978) for information on these systems.

Need Reform" (FPCD-78-48, July 10, 1978). In general, we reported that many reforms were needed to reduce the growing costs of the disability programs and to insure that benefits were only paid to the truly disabled.

This report concerns the minimum disability benefit provisions of the civil service system. These provisions (5 U.S.C. 8339(g)) were adopted in 1956 to provide a reasonable income to employees who become disabled after completing a relatively few years of service and, who therefore, would have accrued very little disability benefits under the regular formula.

The general formula for calculating disability benefits is the same as the formula used for determining other benefits under the system--1.5 percent of the high 3-year average salary for each of the first 5 years of service, 1.75 percent for each of the next 5 years, and 2 percent for each year over 10. However, a disability retiree is guaranteed a minimum annuity equal to the lesser of (1) 40 percent of his high 3-year average salary (a percentage that would otherwise be attained under the general formula only after 21 years and 11 months of service) or (2) an annuity computed under the general formula after increasing actual service by the number of years elapsing between the date of separation and the date on which the employee would reach age 60. An annuity computed under the general formula is allowed if it is greater than the guaranteed minimum annuity. The minimum annuity provisions are applicable regardless of whether the retirees are receiving benefits from other Federal programs.

As of February 1979 guaranteed minimum disability annuities were being paid to 153,061 retirees, nearly one-half of all disability retirees under the system. Of these, 96,148 were receiving benefits based on the 40-percent minimum, and 56,913 were receiving benefits based on the age 60 minimum.

According to Office of Personnel Management records, over 140,000 military retirees are employed in the Federal civilian work force. Military personnel are eligible, under the uniformed services retirement system, to retire at any age after completing 20 years of service. Military personnel may also be awarded compensation by the Veterans Administration for service-connected disabilities. They must waive all or part of their military retirement benefits to receive the veterans' compensation. Military personnel are also covered by social security, which provides retirement or disability benefits.

Because military personnel tend to retire at early ages (enlisted personnel retire at an average age of 41, and officers retire at an average age of 46), many pursue second careers. As indicated above, these second careers are often found in the civil service. These retirees/employees may qualify for the guaranteed minimum disability benefits under the civil service retirement system.

Because of our concern and congressional interest over the increasing costs of the civil service disability program, we made this review to determine the cost impact on the civil service retirement system of providing minimum disability benefits to retirees who are also entitled to benefits under other Government programs.

#### SCOPE OF REVIEW

To examine the extent to which retired military personnel are also receiving minimum civil service disability benefits, we reviewed a sample of civil service disability retirees during 1976 to 1978 who had previously retired from careers in the Air Force. Our review included an analysis of retirement awards, disability compensation benefits, and social security benefits authorized under programs administered by the Office of Personnel Management, Department of Defense, Social Security Administration, and the Veterans Administration.

We also discussed the results of our review with officials of the Office of Personnel Management, which is the administrator of the civil service retirement system, and considered their views in preparing this report.

## CHAPTER 2

### CHANGES TO MINIMUM BENEFIT PROVISIONS

#### CAN REDUCE DISABILITY RETIREMENT COSTS

Minimum disability benefits are being paid to many retirees who were not, in fact, short-term Federal personnel. These retirees were already in receipt of Government benefits from military careers preceding Federal civilian service. Substantial reductions in civil service retirement costs could be achieved if such retirees' disability benefits were based on their actual civilian service.

#### IMPACT OF GUARANTEED MINIMUM ANNUITIES

During calendar years 1976 to 1978, 29,493 employees retired on disability with annuities calculated under the guaranteed minimum provisions. We found that 1,202 of these individuals were also military retirees from the Air Force. These retirees are receiving multiple benefits as follows:

- Civil service disability retirement annuities totaling \$499,235 monthly, an average of \$415 per individual.
- Monthly military retired pay and/or Veterans Administration compensation <sup>1/</sup> totaling \$799,245, an average of \$665 per individual.
- Of the 1,202 individuals, 80 are receiving monthly benefits totaling \$26,235 under the social security program. Social security old-age benefits are being paid to 21 of the 80 individuals at an average monthly benefit of \$211.50. The remaining 59 individuals are receiving social security disability insurance benefits averaging \$369.38 monthly. Another 136 individuals have filed for the disability insurance benefits; however, payments have not yet been authorized.

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<sup>1/</sup>Retired military personnel awarded veterans' disability compensation for service-connected disabilities must waive an equal amount of their retirement benefits. If the veterans' compensation is greater than the military retired pay, the latter may be waived in its entirety and the veterans' compensation may be paid. (38 U.S.C. 3105)

--Many of the 1,202 individuals will eventually qualify for social security old-age benefits upon reaching age 62. (All of the 29,493 individuals considered in our review were retired during the years 1976 to 1978 with the guaranteed minimum annuity provisions; therefore, such individuals had to be under age 60 at the time of retirement to qualify for a minimum annuity.) Most of these individuals will become eligible for social security benefits incident to their military service at age 62.

Our detailed examination of 56 random cases of the 1,202 Air Force/civil service retirees showed:

--The average age at time of retirement from the civil service was 53.93 years. Accordingly, these individuals received an average of about 6 years of constructive service to age 60 under the guaranteed minimum provisions.

--Actual Federal civilian service averaged 10.82 years, ranging from 5 years and 3 months to 20 years and 7 months.

--Ten persons were retired from military service because of physical disability.

--Twenty-five individuals were receiving veterans' disability compensation for service-connected disabilities with appropriate required waiver of military retired pay.

--Two of the 56 individuals were receiving social security old age or disability insurance benefits totaling \$884.60 monthly.

The guaranteed minimum provisions permitted these 56 individuals to collectively receive about \$109,000 more each year than they would have received if the annuities had been established solely on the actual civilian service performed. Based on a life expectancy of 16.652 years for disabled persons at age 54, 1/ we estimate these 56 individuals will receive, during their remaining lifetimes, about \$2.7 million

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1/50th Annual Report of the Board of Actuaries of the Civil Service Retirement System--fiscal year 1970, report issued January 1973.

more under the guaranteed minimum provisions than actual civilian service would have provided. (This estimate assumes that future cost-of-living adjustments for these retirees will average 6 percent a year.)

Under accepted auditing procedures and sampling methods, we estimate that the 1,202 Air Force/civil service retirees will receive about \$54 million <sup>1</sup>/ more under the guaranteed minimum provisions than they would have received under computations based on their actual civilian service. It must be noted that this amount covers only Air Force retirees who retired on disability from the civil service system during 1976 to 1978. Also, the amount would be much greater if the review were expanded to include retirees from the other military service branches (Army, Navy, Marine Corps, and Coast Guard) who are also receiving disability benefits under the civil service system.

The following chart shows the effect of the minimum annuity provisions for some of the retirees included in our review.

Military Service and Retirement					Civilian Service and Annuity						
Service		Age at	Rank	Retired pay (note a)	Service		Age at		Annuity as paid under guaranteed minimum	Annuity if based on actual service	Difference (note b)
Yrs.	Mos.	retirement			Yrs.	Mos.	Yrs.	Mos.			
22	11	43	Technical sergeant	\$ 524.75	7	11	52	5	\$422	\$193	\$229
23	0	44	Master sergeant	579.62	11	10	56	3	356	264	92
23	11	46	Colonel	1,511.79	10	10	57	10	562	457	105
8	5	26	Staff sergeant	858.00	9	4	42	11	517	195	322
20	0	37	Technical sergeant	469.15	7	10	45	0	495	154	341
28	7	50	Colonel	2,427.74	5	3	56	2	415	225	190
20	3	38	Technical sergeant	456.29	8	0	46	3	660	213	447
23	4	44	Lieutenant colonel	1,250.79	9	8	56	11	398	293	105
20	6	37	Staff sergeant	459.41	7	4	45	2	482	139	343

All amounts are monthly rates as of March 1, 1979.

a/Includes retired pay, retired pay and veterans' compensation, or veterans' compensation in lieu of retired pay.

b/This column represents the amounts of increases attributable to the guaranteed minimum provisions.

<sup>1</sup>/At the 95-percent confidence level this amount could range from \$43.8 million to \$64.2 million.

ADVANTAGES OF DISABILITY RETIREMENT  
TO MILITARY/CIVIL SERVICE RETIREES

In addition to the increased annuities under the guaranteed minimum provisions, disability retirement also provides employees with an immediate benefit in lieu of continued employment with retirement at a later date.

In the cases selected for our detailed examination, the individuals retired from the civil service at an average age of 53.93, with an average of 10.82 years of civilian employment. Accordingly, these individuals entered the civil service at an average age of about 43. Under the normal retirement provisions, new employees at this age would have to continue Federal employment until age 62 before they could retire on an immediate annuity. Similarly, if they left Federal employment after at least 5 years of service they could not receive a deferred annuity until age 62, and the annuity would be calculated on their actual Federal service.

It is not known if persons entering civilian employment following a military career contemplate the completion of a second Federal career, or if they are merely supplementing their retirement incomes. In either event, disability retirement is advantageous to them since the guaranteed minimum provisions permit their annuities to be based on the same service credits they would have accrued if they had continued working for the Government to age 60 or up to almost 22 years.

The following table shows the annuity percentage factors applicable under guaranteed minimum, regular optional retirement, and deferred retirement under various ages and periods of service.

<u>Current age</u>	<u>Years of civilian service</u>	<u>Guaranteed minimum annuity percentage</u>	<u>Additional years of service required to retire optionally</u>	<u>Annuity percentage if additional years were served</u>	<u>Annuity percentage for deferred retirement at age 62</u>
40	5	40.00	20	46.25	7.50
45	5	36.25	15	36.25	7.50
50	8	32.25	12	36.25	12.75
55	9	24.25	7	28.25	14.50
58	11	22.25	4	26.25	18.50

Note: Percentage factors are applied to the high 3-year average annual salary.

As shown by the table, the minimum benefit provisions provide little incentive for an employee who is eligible for disability retirement to continue working until normal retirement age. For example, the 45-year-old employee with 5 years' service could retire immediately with a guaranteed minimum annuity and the annuity percentage would be the same as if he or she had worked for an additional 15 years.

While civil service annuities may be escalated under the guaranteed minimum, such retirement authorizations may also form the basis for increases in Veterans Administration compensation awards. Veterans Administration regulations and 38 United States Code 314, provide that a veteran may be compensated as 100-percent disabled if it is determined that a service-connected disability renders the individual unemployable, notwithstanding the fact that he or she may not be totally disabled.

We found numerous instances where the veterans' compensation rates were increased to 100 percent shortly after the employees retired on disability under the civil service system (apparently on the basis that the disability retirement demonstrated unemployability).

#### PRIOR CONGRESSIONAL ACTIONS LIMITING MULTIPLE BENEFITS

The Congress has directed that rights and benefits be limited in several cases where multiple entitlements accrue under Government programs. For example:

- Not more than one award of Veterans Administration pension, compensation, or military retirement benefits may be authorized, except where retirement benefits are waived under other provisions of law (38 U.S.C. 3104).
- In general, military service time is creditable toward a civilian employee's rate of annual leave accrual. However, credits for annual leave accrual purposes are allowed to military retirees only for wartime service or if they had retired on disability from injuries incurred during periods of armed conflict (5 U.S.C. 6303). Similar limitations are applied in determining job retention rights during reductions-in-force (5 U.S.C. 3502).

--The survivor benefit plan for military personnel requires that survivors' annuities shall be offset by the amount of any survivors' benefits awarded by the Veterans Administration and/or by the amount of social security survivor benefits attributable to the deceased retiree's military service (10 U.S.C. 1448 and 1451).

### CONCLUSIONS

The guaranteed minimum annuity provisions provide reasonable incomes to Federal employees who are required to prematurely terminate their Federal careers because of disability. We believe, however, that such increased annuities are inappropriate for individuals who are already receiving full benefits from previous careers in the military service. Such retirees are not, in fact, the short-service personnel that the provisions were designed to protect.

The Congress has previously limited rights and benefits under multiple Government programs, and we believe that the guaranteed minimum disability annuity benefits should be similarly restricted.

### RECOMMENDATION

We recommend that the Congress amend the civil service retirement law to exclude former military personnel who are receiving military retirement benefits, or veterans' compensation in lieu of retirement benefits, from the guaranteed minimum disability annuity provisions. In the event that the combination of benefits available from former military careers and the regular civil service formula are less than the civil service guaranteed minimum, the law should allow for appropriate adjustments to be made to the civil service benefits to assure that these retirees receive total benefits at least equal to the civil service minimum.

We will provide suggested legislative language to implement this change upon request.

### AGENCY COMMENTS

Officials of the Office of Personnel Management agreed with this recommendation.

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