

American Federation of Government Employees, AFL-CIO

AFGE FIREFIGHTERS COUNCIL

"Serving Federal Firefighters through Knowledge and Strength"



2011 LEGISLATIVE INITIATIVES

OVERVIEW

During the past decade, the federal government has followed the lead of cities and local communities by demanding increasing more services from its fire departments. This has resulted in radical changes in the profession and even in its name. No longer do federal fire departments provide fire suppression services only. In addition to that service, many now provide emergency medical services; provide responses to hazardous materials incidents; conduct confined space and swift water rescues, maintain air crash response capability; and provide a full range of fire inspection and safety duties. Because of this expansion of service, it is not surprising that most federal fire departments are now known as Fire and Emergency Services Departments or simply as Emergency Service Centers.

This increase in responsibility has required that all federal firefighters have a broader range of knowledge, skills and corresponding certifications indicating satisfactory completion of relevant educational and training courses necessary to perform the additional duties.

During this period of time when there has been a radical change in the scope of services demanded of federal fire departments, none of the statutory and regulatory provisions pertaining to federal firefighters have been changed. Further, the monies allocated by the agencies for the provision of federal fire and emergency services have been constantly reduced. This has forced the adoption of unsound, unsafe and in some instances, unlawful policies and practices.

Further, the fire and emergency services profession is the only federal profession that has a legal requirement for maintaining a **minimum** number of staff on duty at all times¹. The method for determining how many firefighters must be employed to meet this requirement has not been changed for over several decades.² It does not reflect the need for additional staff when firefighters use leave under the Family Friendly, Family Medical or other provisions of the law. Hence, firefighters are constantly required to work “mandatory” overtime shifts to meet the legal minimum staffing requirements. This results in firefighters being denied requests to take annual leave or to attend training courses. Efforts to help each other out by “trading time” are thwarted by the policy that all trade time requests must be accomplished within one pay period.

Firefighters are the only group of federal employees who receive neither pay nor time for working on legal holidays.

For all of these reasons and many more, it is easy to see that the federal employment conditions as applied to firefighters are inequitable and do not meet the merit principles upon which the Civil Service is predicated. This has led to a serious morale problem and continues to be one of the reasons why it is becoming increasingly difficult to fill vacant federal firefighter positions.

¹ NFPA 1710 – Use mandated by the National Technology Transfer and Advancement Act.

² Staffing for fire departments where firefighters work 24-hour shifts is determined by multiplying the minimum number of staff required by law by a factor determined by each agency. The factor is used to recognize that the number employed must exceed the number needed in order to permit firefighters to take annual and sick leave and to attend training courses, etc.

And, for these and many other reasons, the AFGE Firefighter Council strongly urges the Obama administration and the 112th Congress to:

1. Increase federal funding to those federal agencies that provide fire and emergency services at their facilities³ for the specific purpose of meeting all relevant standards particularly those that pertain to staffing as mandated by national consensus standards.⁴
2. Direct agencies to use staffing factors for firefighters that recognize all purposes for which firefighters are entitled to leave as well as requisite training.
3. Provide for firefighters to trade time with a completion of the trade within a period of up to one year.
4. Amend the CSRS and FERS retirement provisions applicable to federal firefighters by (a) changing the definition of a “firefighter” to reflect the full range of duties performed, (b) cover all employees occupying positions under the GS-081 Fire Protection and Prevention Series, (c) insure that any employee who occupies a GS-081 position at an installation or facility is subject to the mandatory retirement age of 57.
5. Provide for the equitable treatment of firefighters by insuring that they are permitted to take time off in the same amount of granted to all other federal employees in recognition of federal holidays.
6. In recognition of the contracting-in efforts of fire departments by DoD and other agencies because the provision of fire and emergency is deemed an “inherently governmental function” and the profession recognized as a “mission critical occupation”, provide for (a) a waiver of the maximum entry age so that firefighters employed by a contractor at an installation can be hired by that installation to provide its fire and emergency services and (b) permit those firefighters to buy service credit for retirement purposes in the same manner as employees may buy service credit for military time.
7. Exempt federal firefighters who must mandatorily separate from government service at age 57 from the present 10% additional tax penalty for early withdrawals from the Thrift Savings Plan (the third component of the Federal Employees Retirement System or FERS).

³ DoD (employs approximately 98% of all federal firefighters and has designated fire and emergency services as a Mission Critical Occupation; Department of Veterans Affairs; Department of Homeland Security (FEMA and Coast Guard), and National Institutes of Health)

⁴ National Fire Protection Association (NFPA) 1500 and 1710

GENERAL LEGISLATIVE PROPOSALS CONCERNING PAY AND BENEFITS

Federal firefighters are just as troubled as all other federal employees by some lawmakers' suggestions with respect to federal employees' pay and benefits. But, some of the proposals are even more ludicrous when one considers the services provided by fire and emergency responders. For example,

- Mandate a furlough for all federal employees. That would mean abandoning all federal fire departments and leaving, for example, military personnel at various installations and veterans in veterans' hospitals, and those at sea who rely on the Coast Guard, with no one to respond to an emergency call. How could anyone consider this a serious proposal?
- Reducing the number of federal employees across the board by up to 10%. That would mean that federal fire departments could not meet the **minimum** staffing required by law and firefighters could not even perform their jobs safely if they could perform them at all. Has any lawmaker tried to single-handedly drag a charged hose line or thought about entering a burning building alone knowing that there was no other firefighter who could come to his rescue should he be overcome by smoke, be injured or lost in the melee?
- Freeze federal pay for up to five years. Aside from the fact that it is patently unfair to punish federal employees for the high national debt, such a proposal is particularly onerous to those at the lower end of the general schedule salary range. The vast majority of federal firefighters are paid at the GS-5 (\$31,315) to GS-9 (\$47,448) level and the live in communities throughout the United States that are experiencing unprecedented increases in the cost for just the basics of food, clothing and shelter. Have lawmakers whose salaries start at \$174,000 per year, ever considered how they could live on just 22% of their starting salaries which would be equivalent to the average of the firefighters' salary range set forth above, with no increase for up to five years?
- Increase the federal employee contributions for health insurance and retirement. This is equivalent to a salary reduction. The same points made in the preceding paragraph are relevant here too but more importantly, with a salary reduction, many employees including many firefighters will be unable to continue paying their current mortgages or rent. Have lawmakers considered what impact that would have on the economy?

For all of these reasons and many more, the AFGE Firefighters Council strongly objects to any proposal that would adversely impact the current pay and benefits of federal employees including federal fire and emergency services providers. It urges both the Obama Administration and the Congress to oppose any measure to address the current deficit by targeting federal employees as the single group to provide additional revenues to the U.S. treasury through a reduction in spending for their justly desired salary and benefits.

THE ISSUE OF HOLIDAYS AND FIREFIGHTERS

Firefighters Are The Only Group Of Federal Employees That Receive Neither Time Nor Money In Recognition Of Federal Holidays

Agencies can schedule employees to work on days and at times when other employees are not regularly scheduled to work. There are many federal employees who must work on holidays, weekends or at night because the functions they perform must be carried out on those days. For example, medical personnel and law enforcement officers and firefighters must often work at night, on the weekends and on holidays. However, in all of those instances, the employees receive additional pay either annual standby pay, night differential or Sunday premium pay, or they receive a day in lieu of the actual holiday.

Current statutory provisions specify which days are holidays. They do not provide that employees are “entitled” to holidays. However, other provisions within title 5 lead to the sound conclusion that all employees are entitled to either time equivalent to the number of designated holidays per year or additional pay for working on holidays. This rationale is supported by the provisions of 5 U.S.C. §6103(b) (2). That provision provides that if a holiday falls on a day when an employee is not scheduled for work, his holiday shall be the scheduled workday immediately before the holiday. On the one hand, it is clear that employees who work on holidays are entitled to some sort of pay for the holidays. On the other hand, it is clear that when holidays fall on employees’ non-workdays, the employees are entitled to another day as a holiday. The inference then is that employees are entitled to either time or money. Most firefighters are now barred from receiving additional pay for working on a holiday so it is reasonable to assert that they are entitled to the time.

Prior to passage of the Federal Fire Fighters Overtime Pay Reform Act of 1998, (FFOPRA) firefighters received annual premium pay primarily for working periods of standby time but ostensibly to compensate them for holidays as well but FFOPRA eliminated annual and all other types of premium pay for firefighters.

FFOPRA set forth a methodology for compensating firefighters for all hours in the tour of duty including time and one-half for hours worked in a week over 53. The compensation amounts to about 75% of the General Schedule hourly rate for their position. As a result of devising a methodology for calculating pay based on all of the hours in the tour of duty, the act specifically precluded firefighters from receiving “premium pay” under title 5 which includes the annual standby premium pay they previously received (ostensibly for working long periods of overtime, week-ends and holidays) as well as additional pay for working on holidays. Therefore, at the present time, firefighters receive neither additional pay for working on a holiday nor another day off in lieu of the holiday.

The AFGE Firefighter Council has drafted legislation that would provide a day in lieu of a holiday to be granted to all firefighters. This is an equitable measure and the AFGE Firefighters Council believes it necessary that such a measure be enacted to insure that firefighters receive the same

rights and benefits provided to all other federal employees. The legislation can be obtained by contacting Sandra Adams-Choate, Legal Counsel to the AFGE Firefighter Council at: sandychoate@comcast.net or 540-751-1634 or (cell) 703-403. 3361.

TRADE TIME

Treatment of Hours Worked Under a Trade-of-Time Arrangement

Background: Federal firefighters are permitted to trade-time but it must be done within a pay period. In 1974 the FLSA was amended and then the Department of Labor issued regulations that permitted fire fighters to trade time for periods of up to one year. IAFF Local F-48 challenged the Navy's refusal to permit trading time beyond a single pay period. (28 FLRA No. 137 (1987)) The Authority ruled that OPM is authorized to administer the FLSA for federal employees not the Department of Labor and therefore, the regulations providing authority for trading time for periods over one year did not apply to federal firefighters.

Problem: It is not always possible for firefighters to complete a trade within one pay period particularly since so often they have to work unscheduled overtime in order to meet minimum manning levels.

Previous Legislative Attempts to Correct Problem: H.R. 3243 was introduced in the 111th Congress and it was identical to a bill introduced in the previous Congress. Those bills were intended to make it possible for federal firefighters to trade time in the same manner as the Fair Labor Standards Act permits firefighters to trade time so long as the trade is accomplished within one-year time frame.

While the AFGE Firefighters Council supports the intent of the legislation, it believes that the bill fails to fully accomplish that objective. In fact, the bill may raise more questions than it answers particularly since it does make it unequivocally clear that firefighters could trade time outside the now permitted two-week time frame. Agencies could still argue that not paying back with the two weeks leaves open the key question as to how to administer this. In other words, how would you complete time cards, etc? Currently, with trade time paid back within the two-week pay period, the time cards for both firefighters involved reflect the actual correct number of hours worked. Under the bill and without saying more, if the trade-time is not paid back within the two-week time period, time cards would be submitted and they would reflect one firefighter has having worked 120 hours and the other working 168 hours and this would, of course, dramatically impact both firefighters' pay check for that two week period.

Although the bill specifically provides that no overtime is to be paid meaning no additional overtime but it doesn't specifically state "additional" overtime. How would the payroll offices know to pay both firefighters for only 144 hours or the total hours they normally work? All the bill says is that the firefighter working 168 hours would receive overtime for 38 hours only (overtime is paid after 53 hours per week or after 106 hours per pay period)? And, would that firefighter get regular time for the additional hours 24 hours he worked? As to the other firefighter, would he only get overtime for 14 hours rather than his usual 38 and how would the payroll offices know this?

Further, the bill as introduced would be applicable to firefighters as defined under either CSRS or FERS. This too could be limiting particularly with respect to FERS because of the primary/secondary position dichotomy in the definition. There are firefighters who are not covered under these provisions for a variety of reasons. Thus, as was done with the Federal Firefighters Overtime Pay Reform Act, at the very least any measure addressing this issue should be applicable "to an employee whose position is classified in the firefighting occupation in conformance with the GS-081 standard published by the Office of Personnel Management.

AFGE Firefighters Council's Position on Trade Time: The AFGE Firefighters Council urges Congress to enact a measure that would statutorily give federal firefighters the right to trade time to be accomplished within a time-frame of one year. It has drafted legislation that would accomplish this. This is an equitable measure and one that entails virtually no cost. The legislation can be obtained by contacting Sandra Adams-Choate, Legal Counsel to the AFGE Firefighter Council at: sandychoate@comcast.net or 540-751-1634 or (cell) 703-403. 3361.

RECIPROCAL FIRE PROTECTION AGREEMENTS

(Reimbursements to DoD Fire Departments)

The FY 2008 DoD Authorization bill provided that monies paid by cities and other locales to the U.S. Government as reimbursement for fire and emergency services provided will be returned to the federal fire department that provided the services (and spent the money to provide those services). However, the manner in which the bill was drafted only allows repayment to the fire department if the reimbursement is received in the same fiscal year as when the services were provided. So fire departments are losing out. For example, if a fire department at a DoD installation responds to an emergency off the installation under a Mutual Aid Agreement, the costs of responding to that call are borne by the installation fire department. This may mean there is less money for equipment, apparatus, training, etc. Needless to say, it is only fair that any money reimbursed by the local jurisdiction be returned to the responding federal fire department. But, under the current language contained in the FY 2008 DoD Authorization bill that will only happen if the reimbursement is received in the same year as the one in which the response was made. Otherwise, it is returned to the General Treasury.

DoD has drafted language to correct this so that no matter when the reimbursement is received, it will be returned to the fire department. However, that language failed to be included in either DoD's 2010 or 2011 legislative packages.

The AFGE Firefighters Council supports the efforts of DoD to correct this situation. Enactment would help protect federal firefighters from the consequences that the loss of funds might mean to them such as available funds for equipment, protective clothing, apparatus and training. It simply is common sense that when a DoD installation expends funds to respond to an emergency under a Mutual Aid Agreement that any reimbursement goes directly to that fire department rather than be placed in the General Treasury.

The language to correct this drafted by the DoD General Counsel would make the following change:

Amend subsection (b) of Section 1856d, Chapter 15A of Title 42, United States Code, by inserting "the fiscal year current at the time the sums are received" after "the appropriation fund or account." And before "Amounts so received...."

Section 1856d, Chapter 15A of Title 42, United States Code, subsection (b) would then read as follows:

"(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account for the fiscal year current at the time the sums are received. Amounts so credited shall be merged with funds

in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.”

CONTRACTING-IN FIRE AND EMERGENCY SERVICES

DOD has been precluded from contracting for fire and emergency services for quite some time under 10 USC 2465. That section prohibits the use of appropriated funds for the purpose of entering into a contract for the provision of fire and emergency services. Other agencies have not been constrained from contracting-out fire and emergency services. Now, DOD and other agencies are finding that the contractors are costing far more than what the cost would be if fire and emergency services were provided by civilian employees. More importantly however, is that DoD has recognized that the provision of fire and emergency services is an inherently governmental function and in its 2010 Human Capital Management Report, it identified the fire fighting profession as being a Mission Critical Occupation.

With DOD's announced intention to contract-in many services, the Air Force expects to contract-in fire departments at 22 locations and the Navy intends to contract in services at 2 locations. It is expected that the other service components under DoD and possibly the Department of Veterans Affairs, will also seek to contract-in the provision of fire and emergency services that have been provided by contractors since prior to the prohibition on contracting for such services (10 U.S.C. 2465).

It is anticipated that there will not be enough applicants to fill these positions and it is known that many of the firefighters now employed by a contractor desire to continue to work at the same location but (a) they would be deemed ineligible unless the maximum entry age of 37 is waived and (b) they would be reluctant to enter a profession that has a mandatory retirement age unless they could be eligible for retirement at that age.

The AFGE Firefighter Council has drafted legislation that would permit contractor-employees to be hired regardless of their age and to receive service credit for the years they were employed by the contractor provided they made the requisite retirement contributions. It can be obtained by contacting Sandra Adams-Choate, Legal Counsel to the AFGE Firefighter Council at: sandychoate@comcast.net or 540-751-1634 or (cell) 703-403. 3361.

The AFGE Firefighter's Council supports this bill. It believes that this measure is necessary to insure that minimum manning levels are met at every installation.

ELIMINATE 10% TAX PENALTY FOR EARLY WITHDRAWAL OF TSP CONTRIBUTIONS

Under present law, a federal employee who receives a distribution from a qualified retirement plan such as the Thrift Savings Plan (TSP) prior to age 59½ is subject to a 10% early withdrawal tax on that distribution, unless an exception to the tax applies.

Among other exceptions, the early withdrawal tax does not apply to TSP distributions made to a federal employee who separates from government service after age 55. Present law also provides that firefighters, BOP correctional officers and staff, as well as other federal law enforcement officers, who complete 20 years of service in a “hazardous duty” firefighter or law enforcement position are eligible to retire at age 50 or they can retire at any age with 25 years of service (FERS) and they must retire at age 57. This provision is intended to help the federal government recruit and retain a young, physically strong firefighter work force.

As a result, firefighters, BOP correctional officers and staff and law enforcement officers who retire prior to age 55, cannot – under present law – withdraw their TSP funds without incurring the 10% early withdrawal tax penalty yes the TSP is a large part of their retirement plan and many must rely on it to have sufficient retirement income to meet their basic needs. These retirees must wait until age 55 to withdraw their TSP monies if they want to avoid incurring this penalty.

This is grossly unfair to firefighters and others who protect our nation’s installations and facilities, employees and others from the risks from fire, hazardous materials incidents and who respond to medical emergencies.

Until a few years ago, police and firefighters who worked for State and local governments experienced a similar problem. Those who retired after age 50 but before age 55 were unable to withdraw money from their defined benefit plans without incurring the 10% additional tax penalty. However, section 828 of the Pension Protection Act of 2006 (P.L. 109-280) resolved the problem for these State and local public safety employees. This section amended section 72(t) of the Internal Revenue Code of 1986 (which exempts certain individuals from the 10% early withdrawal penalty) by adding the following new paragraph:

“(10) Distributions to qualified public safety employees in governmental plans.

(A) In general. - In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414 (d)) which is a defined benefit plan, paragraph (2) (A) (v) shall be applied by substituting “age 50” for “age 55”.

(B) Qualified public safety employee. - For purposes of this paragraph, the term “qualified public safety employee” means any employee of a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.”

The AFGE Firefighters Counsel strongly urges the Obama administration and the 112th Congress to support legislation that would modify the section 72(t)(10) language to benefit those federal firefighters and law enforcement officers, including federal correctional officers and staff, who want to retire at age 50 and withdraw their TSP monies without incurring the 10% additional tax penalty. This legislation would:

- Strike the language “which is a defined benefit plan” from subparagraph (A).

Thus, firefighters and federal law enforcement officers including federal correctional officers and staff who participate in a defined contribution plan like the TSP would also be granted relief from the 10% early withdrawal penalty.

- Amend subparagraph (B) to provide as follows:

“(B) Qualified public safety employee. - For purposes of this paragraph, the term “qualified public safety employee” means an individual employee of a public agency, as defined in 42 U.S.C. 3796(b)(8) who is performing duties in an official capacity, as a law enforcement officer, as a federal correctional officer or staff employed by the Federal Bureau of Prisons, as a firefighter or an emergency medical services provider.”

Subparagraph (B) as now written only applies to state and local police, firefighters, and EMS personnel and this amendment would broaden the provision to apply also to federal firefighters, emergency medical services providers and law enforcement officers including Bureau of Prison Personnel.

FERS AND CSRS RETIREMENT PROVISIONS APPLICABLE TO FEDERAL FIREFIGHTERS

Both the CSRS and the FERS retirement systems contain special provisions applicable to federal firefighters. But, both systems were enacted almost three decades ago. Since that time, the profession has changed drastically and the current provisions no longer achieve what they were intended to achieve. Specifically:

- The definition of a firefighter. A “firefighter” is defined as “an employee, the duties of whose position – are primarily to perform work directly connected with the control and extinguishment of fires....” This is no longer true. Federal firefighters are employees whose duties encompass responses not only to fires but to hazardous materials incidents and emergency medical calls. This expansion of duties was recognized by OPM over seven years ago when it amended the GS-081 classification standard (The Fire Protection and Prevention Series). It was also recognized by Congress in 2007 when enacted amendments pertaining to reimbursements for services rendered by federal firefighters under mutual aid agreements by its use of the following language:

42 USC 1856

“...(b) The term “fire protection” includes personal services and equipment required for fire prevention, the protection of life and property from fire,^[1] fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions; and....”

Because the definition of a firefighter has not been changed, the result is that agencies are now determining what percentage of time a firefighter spends responding to fire calls. This is absurd. A firefighter(paramedic) is on duty to respond to either a fire or to an emergency medical situation. He is trained and certified to perform both functions. If the majority of his responses happen to be medical emergencies rather than a response to a fire, then he should not be penalized by losing his entitlement to retire. In addition, this requires an inordinate amount of administrative staff time at each agency to determine what percentage of time each firefighter now spends in fighting fire as opposed to responding to other emergencies. More importantly though, is that the entire profession as it existed when FERS was enacted and as it exists today is one where age is a bona fide occupational qualification. In other words it is a physically demanding profession that should be limited to, as the FERS definition of a firefighter requires, “young and physically vigorous individuals” as the agency so determines. Across the board, agencies have set the maximum entry age for firefighters at 37. But, unless a firefighter is covered under the firefighter retirement provisions, there is no mandatory retirement

age. This means, that is it is determined that a firefighter does not spend the majority of his time fighting fire but the majority of the calls he/she responds to are other emergency calls, then he can stay until age 90. This then negates the bona fide occupational qualification for a maximum entry age and neither OPM nor agencies have statutory authority to impose a mandatory retirement age.

- The dichotomy between primary and secondary positions is misplaced and antiquated. Both FERS and CSRS reference or make a distinction between primary and secondary positions. The original intent of this distinction was to recognize that only those firefighters who were in operations (the ones who actually fight fire) would be considered as occupying a primary position. All others would be considered to occupy secondary positions. Over the years, the practice at most federal fire departments has changed. For example, at all DVA fire departments; the fire fighters perform the duties of fire inspectors (secondary position duties) which may occupy the majority of their time. Within DoD which employs approximately 98% of all federal firefighters but also employs fire inspectors, the inspectors are being routinely assigned to operations for at least one 24-hour shift per week. However, unless those inspectors occupied an operations firefighter position for at least three years before becoming an inspector, they are ineligible to retire under the firefighter retirement provisions. Perhaps what is more important is that fire inspectors particularly at military installations perform duties that include the mitigation of hazards and other duties similar to those performed by operations firefighters and which "...are sufficiently rigorous that..." they should be performed by "...young and physically vigorous individuals...."
- The agency's authority to waive the maximum entry age and to determine that an incumbent in a firefighter position is ineligible for coverage under the FERS firefighter retirement provisions has been abused with increasing frequency. Agencies have frequently waived the maximum entry age for individuals applying for firefighter positions and determined that the incumbent is ineligible for coverage under the FERS firefighter provisions. The result is that the incumbent does not need to retire at age 57. An example of the impact of this is if an individual enters federal service as a firefighter and is successively promoted until he reaches an Assistant Chief's position, he would be covered under the retirement provision and he must retire at age 57. On the other hand, if the same installation hires another individual outside the maximum entry age or who is not eligible for firefighter retirement coverage and that person also rises to the level of an Assistant Chief, perhaps, at the same installation, he may stay until age 90. Not only is this patently unfair and it destroys the opportunities for firefighters to move up the career ladder, but it negates the argument that the firefighting profession should be limited to relatively "young and physically vigorous individuals".

For all of these reasons, the AFGE Firefighters Council urges Congress to enact changes to the CSRS and FERS retirement provisions applicable to firefighters as follows:

- Amend the definition of a “firefighter” to include all individuals who occupy a position classified under the GS-081 series.
- Provide that all nonsupervisory firefighters as defined above and as defined for FLSA purposes who are employed at a facility or installation shall be deemed to occupy a primary position.
- Provide that all supervisory firefighters as defined above and as defined for FLSA purposes who are employed at an installation or at headquarters offices shall be deemed to occupy a secondary position.
- Provide that all firefighters as defined above who occupy a primary and secondary position at an installation must be mandatorily separated from the service upon reaching age 57 or if then not eligible then as soon as they are eligible but no later than at age 60.
- Provide that all firefighters as defined above who occupy a position at headquarters offices do not have to retire at age 57.

The AFGE Firefighters Counsel can draft language to accomplish these objectives and it will work with any Congressional staff who will work toward achieving these goals.

PRESUMPTIVE ILLNESS

In each of the last several Congresses, bills have been introduced that would alter the way in which certain claims by firefighters under the provisions of the Federal Employees Workers' Compensation Program are handled. In a nutshell, the intent of these measures is to away from the requirement that a claimant must actually prove that certain illnesses/diseases were caused by exposure to certain chemical, biological or other hazardous elements encountered in the work environment. Instead, it would be presumed that the cause of those elements was directly related to encounters with certain elements during the course of the performance of the firefighter's duties.

The presumption of cause is the basis used in most states when a firefighter contracts certain illnesses/diseases and applies for benefits under the state's worker's compensation program.

Further, there is sufficient medical evidence that frequent exposure to certain elements such as smoke do cause illnesses/diseases. And, with the Incident Reporting System now used by most federal fire departments, there is a record kept of exposures, Therefore, in most cases, it is known how frequently and to what a firefighter has been exposed to so that the has some foundation in fact.

Therefore, the AFGE Firefighter Council supports the so-called Presumptive Illness measure and urges Congress to move forward with passage.