

### At a Glance

## S. 3868, U.S. Customs and Border Protection Officer Retirement Technical Corrections Act

As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 30, 2022.

| By Fiscal Year, Millions of Dollars         | 2022 | 2022-2027 | 2022-2032     |
|---|------|-----------|---------------|
| Direct Spending (Outlays)                   | 0    | 7         | 18            |
| Revenues                                    | 0    | 0         | 0             |
| Increase or Decrease (-) in the Deficit     | 0    | 7         | 18            |
| Spending Subject to Appropriation (Outlays) | 0    | *         | not estimated |

| Statutory pay-as-you-go procedures apply?  | Yes           | Mandate Effects                     |    |
|--|---------------|-------------------------------------|----|
| Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033? | < \$5 billion | Contains intergovernmental mandate? | No |
|  |               | Contains private-sector mandate?    | No |

\* = between zero and \$500,000.

#### The bill would

- Allow certain Customs and Border Protection Officers to retire with an increased retirement benefit
- Make those officers eligible for an annuity that would treat a portion of their years of service similarly to the treatment of time in service for federal law enforcement officers and firefighters

#### Estimated budgetary effects would mainly stem from

- Larger retirement annuities for certain Customs and Border Protection Officers
- Retroactive revisions and adjustments to the annuities of affected officers who retire before enactment

**Detailed estimate begins on the next page.**



## Bill Summary

S. 3868 would allow certain Customs and Border Protection Officers (CBPOs) to retire with a more generous civil service retirement benefit.

## Estimated Federal Cost

The estimated budgetary effect of S. 3868 is shown in Table 1. The costs of the legislation mostly fall within budget function 600 (income security).

**Table 1.**  
**Estimated Budgetary Effects of S. 3868**

|                            | By Fiscal Year, Millions of Dollars |      |      |      |      |      |      |      |      |      |      | 2022-2027 | 2022-2032 |
|----------------------------|-------------------------------------|------|------|------|------|------|------|------|------|------|------|-----------|-----------|
|                            | 2022                                | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 |           |           |
|                            | <b>Increases in Direct Spending</b> |      |      |      |      |      |      |      |      |      |      |           |           |
| Estimated Budget Authority | 0                                   | *    | 1    | 2    | 2    | 2    | 2    | 2    | 2    | 2    | 2    | 7         | 18        |
| Estimated Outlays          | 0                                   | *    | 1    | 2    | 2    | 2    | 2    | 2    | 2    | 2    | 2    | 7         | 18        |

\* = between zero and \$500,000.

CBO estimates that administrative costs associated with the identification of people affected by S. 3868 and the processing of retirement annuity revisions would increase spending subject to appropriation by less than \$500,000 over the 2022-2027 period.

## Basis of Estimate

For this estimate, CBO assumes that S. 3868 will be enacted before the end of calendar year 2022.

## Background

In 2007, the Consolidated Appropriations Act, 2008, authorized enhanced retirement coverage for CBPOs that is similar to coverage that applies to federal law enforcement officers and firefighters. That coverage took effect on July 6, 2008, but implementation was different for CBPOs who already were working on that date and those whose service began after that date.

CBPOs who entered duty after July 6, 2008, and who complete 20 years of service qualify for a retirement benefit that uses a higher multiplier in the annuity calculation: 1.7 percent of an employee’s highest three consecutive years of qualifying pay (or high-3) multiplied by the required 20 years of CBPO service. (For any years of federal service beyond 20, 1 percent of the employee’s high-3 is included in the annuity calculation.) In addition, officers cannot begin working after age 36 and they generally must retire by age 57. The age limit for starting work ensures that CBPOs can work the 20 years they need to receive enhanced retirement before they reach the mandatory retirement age. (In contrast, the federal



retirement benefit under non-enhanced retirement generally is calculated at 1 percent of an employee's high-3 for all years of service.)<sup>1</sup>

CBPOs who already were serving on the effective date are eligible for a proportional annuity, which provides a larger benefit without the requirement to complete 20 years of covered CBPO service—that is, service that occurs on or after July 6, 2008. Upon retirement, their annuities will be prorated, with the enhanced rate of 1.7 percent applying to years of CBPO service after July 6, 2008, and the standard rate of 1 percent applying to years of service before that date.

Some CBPOs were offered employment before, but did not start until after, July 6, 2008: Customs and Border Protection originally informed those officers (a group of about 1,400) that they would be eligible for the proportional annuity. However, in 2021, the Office of Personnel Management (OPM) determined that the proportional annuity provisions would not apply because those officers had not entered duty by the effective date. As a result, those CBPOs either will retire with a smaller than expected annuity (the non-enhanced annuity calculation will apply to all their years of service, including years of CBPO service after the effective date) or they will need to continue working until they completed a full 20 years of covered service to be eligible for the enhanced benefit.

S. 3868 would, for the purposes of retirement, consider all members of the affected group as having been in their positions on the effective date, thus making them eligible for the proportional annuity calculation.

### **Direct Spending**

S. 3868 would increase direct spending relative to current law because it would allow the affected officers to receive enhanced retirement benefits for some (but not all) years of their service. In total, CBO estimates, enacting the bill would increase direct spending by \$18 million over the 2022-2032 period.

The largest budgetary effect of S. 3868 would stem from benefits for CBPOs who were hired—but did not begin service—before July 6, 2008, at an age older than 36 (the maximum age to begin work, under current law). Before enhanced retirement coverage for CBPOs was implemented, there was no maximum age, so some officers hired before the effective date were older, and some had previous years of federal service at other agencies. CBO estimates that about 140 of those older CBPOs either are already eligible for regular retirement on the basis of their age and total years of service or will become so before they achieve the 20 years of covered service following July 6, 2008, necessary to receive enhanced coverage.

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1. The calculations described apply to retirements under the Federal Employees Retirement System (FERS), the system that generally covers federal employees who started service after 1986 and includes most of the individuals affected by S. 3868.



Moreover, because of the mandatory retirement age of 57, CBO expects that most of those older officers would not or could not work enough additional years to meet the 20-year requirement for enhanced coverage.

Under current law, those officers will receive a regular retirement benefit.<sup>2</sup> If enacted, S. 3868 would allow them to retire with the proportional annuity calculation, instead of the regular annuity calculation. CBO estimates that the proportional calculation would increase their initial retirement benefit by 57 percent, or by about \$12,000, on average. Federal retirement benefits are adjusted annually for inflation and thus generally increase over time. On that basis, CBO estimates that the larger benefits for those retirees would increase direct spending by \$16 million over the 2022-2032 period.

S. 3868 also would direct OPM to retroactively revise the annuities of any affected officer who retires before enactment to use the proportional annuity calculation. As of August 2022, about 20 retired CBPOs would qualify for the revised benefit. Including the retroactive adjustment, CBO estimates that revising pre-enactment retirements would initially increase benefits for the group by about \$9,000 each, on average. Those benefits also would increase annually to account for inflation and would thus increase direct spending by \$2 million over the 2022-2032 period, CBO estimates.

Most of the remaining CBPOs who would be affected by the bill (a little more than 1,200) were younger than 37 when they were hired and generally would not be eligible to retire before they complete the 20 years of covered service required to qualify for the enhanced retirement. Thus, CBO expects that enacting S. 3868 would not lead to significant costs for that group of officers.

### **Spending Subject to Appropriation**

S. 3868 would direct the Secretary of Homeland Security to identify and notify anyone affected by the bill and to provide necessary information to OPM to facilitate the processing of any required annuity corrections for that group. CBO estimates that the cost would be less than \$500,000 over the 2022-2027 period; any spending would be subject to the availability of appropriated funds.

### **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 Table 1.

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2. Most federal employees become eligible for regular retirement at one of several combinations of age and years of service: age 62 with 5 years, 60 with 20 years, or 55 to 57 (depending on the year of birth) with 30 years.



## **Increase in Long-Term Deficits**

CBO estimates that enacting S. 3868 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2033.

**Mandates:** None.

### **Estimate Prepared By**

Federal Costs: Amber Marcellino

Mandates: Rachel Austin

### **Estimate Reviewed By**

Christina Hawley Anthony  
Chief, Projections Unit

H. Samuel Papenfuss  
Deputy Director of Budget Analysis

Theresa Gullo  
Director of Budget Analysis