CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

April 28, 2005

S. 661

Tax Court Modernization Act

As ordered reported by the Senate Committee on Finance on April 19, 2005

SUMMARY

S. 661 would establish a new retirement program for certain employees of the U.S. Tax Court. The bill would give all current and future special trial judges of the Tax Court the option of being covered by this new retirement program in lieu of another federal retirement system. The program established under S. 661 would provide retirement and survivor benefits similar to those accrued under retirement programs that cover regular Tax Court judges. Retirement benefits for regular Tax Court judges are more generous than those under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS).

CBO estimates that enacting the bill would increase direct spending by $2 million in 2006 and by $4 million over the 2006-2015 period. CBO and the Joint Committee on Taxation (JCT) estimate S. 661 would decrease revenue by about $1 million over the 2006-2015 period—but by less than $500,000 in each year. In addition, implementing the bill would have discretionary costs of approximately $1 million in 2006 and $13 million over the 2006-2015 period, assuming the appropriation of the necessary funds.

JCT has reviewed the tax provisions of S. 661 and has determined they contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO has reviewed the nontax provisions of the bill and determined that they contain no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 661 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By Fiscal Year, in Millions of Dollars									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING [a]										
Estimated Budget Authority	2	*	*	*	*	*	*	*	*	*
Estimated Outlays	2	*	*	*	*	*	*	*	*	*
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorization Level	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	1	1	1	1	1	1	1	1	1	1

NOTE: * = less than $500,000.

a. Enacting the bill also would affect revenues, but those effects would be less than $500,000 in each year.

BASIS OF ESTIMATE

For this estimate, CBO assumes the legislation will be enacted in September 2005.

Direct Spending

S. 661 would establish a new retirement program for special judges of the U.S. Tax Court and rename those positions to be magistrate judges of the Tax Court. Under current law, most special trial judges participate in either CSRS or FERS, depending on when they first entered government service. The bill would provide all current and future magistrate judges the option of being covered by the new retirement program or continuing their coverage under CSRS or FERS. Information provided by the U.S. Tax Court indicate that seven special trial judges currently work for the court and that these judges have been employed by the government for an average of 32 years. All of these special trial judges are covered under CSRS and earn about $150,000 annually.

Current or newly appointed judges who opt to be covered by the new retirement program would be entitled to refunds of employee contributions made to either CSRS or FERS. The employee contribution rate for most workers covered by CSRS is 7 percent, while the rate for FERS is 0.8 percent. CBO assumes that all of the special judges employed by the court would elect to have their retirement contributions refunded and be covered by the new retirement program. Based on this assumption, CBO estimates that enacting S. 661 would increase direct spending for refunds of employee contributions by $2 million in 2006 and by less than $75,000 for each subsequent year.

Both CSRS and FERS are defined benefit pension programs that provide retirement annuities based on the final years of salary and amount of creditable service. For workers with the age and service history of the current special judges of the Tax Court, CSRS replaces about 60 percent of a potential retiree's salary and FERS replaces about 30 percent, although those in CSRS do not earn Social Security credits while those in FERS do. The new retirement program for special trial judges, like that for regular Tax Court judges, would replace 100 percent of a judge's final salary upon retirement. CBO estimates that the difference between what these judges would have gotten under CSRS and what they would get under the new retirement program would increase federal spending by less than $500,000 annually during the 2006-2015 period, but total a little more than $1 million over the 10-year period.

Section 106 of the bill would allow the tax court to use fees collected from attorneys before the court to pay for services for taxpayers who represent themselves. Under current law, such fees may only be used to employ independent counsel to pursue disciplinary matters. Based on information from the Tax Court, CBO estimates that enacting section 106 would increase direct spending from the fund in the first few years of the period. However, such increases would not be significant.

S. 661 also contains several other proposals that could have an effect on direct spending. These include provisions to provide survivor annuities for assassinated Tax Court judges and cost-of-living adjustments for survivor annuities. CBO estimates these provisions would increase federal spending by less than $500,000 annually.

Revenues

The bill would require that judges who elect to be covered by the new retirement program contribute 1 percent of their salary toward the program. This would reduce overall employee retirement contributions since the rate for CSRS employees is 7 percent of salary. Judges also would have to make a lump-sum contribution—at 1 percent of salary—for previous years they worked for the court equal to what they would have contributed if the new retirement program had been in existence. CBO estimates these changes in employee contributions would have a negligible effect on receipts.

S. 661 also would make several changes to existing Tax Court procedure and modify laws relating to Tax Court pensions and compensation. Title I of the bill would expand filing fees to include petition cases and expand use of practice fees to include taxpayers who choose to represent themselves (pro se taxpayers). In addition, title I would provide the Tax Court with jurisdiction over all appeals of collection due process determinations. JCT estimates that these provisions would have a negligible effect on federal revenues. Title II would allow Tax Court judges to participate in the Thrift Savings Plan, which JCT estimates would decrease governmental receipts by about $1 million over the 2006-2015 period.

Spending Subject to Appropriation

S. 661 also would require that the Secretary of the Treasury establish a new trust fund for the new retirement program. This fund, to be called the Tax Court Judicial Officers' Retirement Fund, would receive agency and employee contributions and pay out benefits to retirees and survivors. The bill specifies that the Tax Court would make adequate contributions to eliminate the program's unfunded liability, taking employee contributions into account. Information from the Tax Court indicates that this payment would amount to about $1 million annually during the 2006-2015 period, subject to the availability of appropriated funds.

In addition, the bill would allow those employed by the Federal Executive Service before appointment to the Tax Court the right to collect a lump-sum payment for all unused annual leave. It would also change eligibility standards for Tax Court judges under the Federal Employees' Group Life Insurance program. CBO estimates that these provisions would have a negligible effect on outlays.

In total, CBO estimates S. 661 would increase spending subject to appropriation by a little more than $1 million annually and $13 million over the 2006-2015 period.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

JCT has reviewed the tax provisions of S. 661 and has determined they contain no intergovernmental or private-sector mandates as defined in UMRA. CBO has reviewed the nontax provisions of the bill and determined that they contain no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

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