

AAFSW, Friends in Congress, Combine Efforts To Make Pension Sharing a Reality

by Patricia Ryan

The long road toward pension sharing for Foreign Service spouses reached a suspense-filled climax in an ornate conference room in the Capitol on September 25, 1980. After two hours of bargaining over differing provisions of the Foreign Service Personnel Reform Act, the conference committee took up the divorced spouse issue. The expectation was that the Senate, which had approved the Schroeder pension sharing approach introduced into the Senate by Mark Hatfield (R. Ore.), would recede to the William Ford (D. Mich.) version voted two to one by the House, or at best adopt an Administration-approved compromise. However, every argument advanced by Rep. Ford was volleyed back hard by Senators Claiborne Pell, D., R.I.), Charles Percy, (R. Ill.), and Paul Tsongas, (D. Mass.), all of whom were well-briefed on the issue. On the House side, Rep. Patricia Schroeder, (D. Colo.), was supported strongly by Reps. Dante Fascell, (D., Fla.), John Buchanan, (R. Ala.), and Jim Leach, (R. Iowa). The House side voted on a move to recede to the Senate version, withdrawing the retrospective aspect which gave the survivor annuity to former spouses divorced before enactment original provision. Foreign Affairs Chairman Clement Zablocki joined the above mentioned Members to win 5-4 against Rep. William Ford who voted three proxies of colleagues on the Post Office and Civil Service Committee.

We owe a tremendous debt of gratitude to these Members. The Foreign Service Personnel Reform Act represents literally years of work. The joint sub-committees

under the leadership of Reps. Fascell and Buchanan for Foreign Affairs and Reps. Schroeder and Jim Leach for Post Office and Civil Service heard all comers. They isolated and considered four hundred suggestions for changes in the Administration proposal.

While the perceived needs of no group were entirely satisfied, great effort was made to meet them so far as equity and

expense constraints allowed. Other good friends who helped on family-related legislation were Senators Charles Mathias (R. Md.), Jacob Javits (R. N.Y.), Mark Hatfield, (R. Ore) and Max Baucus (D. Mont.).

Another note of interest. The Senate defeated the Ashbrook proposal passed by the House which would have prohibited payment by government medical insurance for abortions for whatever reason.

What Are the New Retirement Provisions?

Chapter Eight, Section 814: (a)(1)

Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), a former spouse of a participant or former participant is entitled to an annuity —

(A) if married to the participant throughout the creditable service of the participant, equal to 50 per cent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

For purposes of this law, Sec. 804(6), defines a "former spouse" as "a former wife or husband of a participant or former participant who was married to

such participant for not less than 10 years during periods of service by that participant which are creditable under section 816;"

Therefore, if a couple are divorced after 20 years and the ultimate total career of the employee is 30 years, when he or she retires from the Foreign Service the former spouse will automatically receive 2/3 of half of the pension.

For couples married at retirement, a reduced annuity will automatically be paid to provide a maximum survivor annuity for the surviving non-employee spouse unless he or she agrees to waive this benefit in writing. While this is now the procedure by regulation it will henceforth be a matter of law.

The new provisions may be found in the Congressional Record — House, Sept. 29, 1980, pp. H 9966 - H9973.

"Get A Horse!"

by Patricia Ryan

An Indian mounted on horseback, his squaw plodding beside him with her papoose on her back, encounters a clergyman. "What are you thinking of, man? To ride while your wife walks?" he remonstrates. "She no got horse," the Indian explains.

While working on the legislation for pension sharing, I have been reminded frequently of this old chestnut. There is general agreement that the economic situation for elderly women is scandalous with 40% of single women over 65 — widowed, divorced or never married — receiving less than \$3,600 a year.

This is because most women work in jobs which have no pension plans or do not work long enough to vest in the plan due to the fragmented nature of their work patterns, interrupted for child-rearing, family illnesses or the geographic mobility of the primary wage-earner.

The new provisions in the Foreign Service Personnel Reform Act passed by Congress at the end of September begin to get the housewife into horse sharing. In brief, after a ten year vesting period of marriage during the employed spouse's government career, the non-working spouse divorced after Feb. 15, 1981, would have an entitlement to one-half of the pension earned during the period of the marriage. Thus if married for the entire Foreign Service career, the former spouse would automatically receive one-half of the pension as well as the entire survivor annuity, unless the couple themselves agree to modify or a court ordered a change in the amount. The former spouse would lose the entitlement if she/he married before age 60. If however, he/she were already receiving the survivor benefit and remarried before age 60, it would be recommended should that second marriage end.

There is also a provision to allow employees already divorced but still on active duty to elect — either voluntarily or by court order — to provide a survivor annuity for a former spouse married to the employee for the requisite ten years during the Foreign Service career. The former spouses of retired employees already divorced or of deceased employees are still

left with nothing for their old age. We hope that the next Congress will look with favor on some provision to address this omission. Rep. Schroeder suggested in the House on Oct. 1, that a grant be made to such persons, as we recommended in our testimony before Congress in June, 1979.

In addition, the law provides a legislated basis for the present practice of requiring the signed agreement of the affected spouse to waive the survivor benefit at retirement.

More good news is a \$27 million pay raise package which should begin showing up on paychecks by the end of October. While less than the \$32 million voted by the House which the President threatened to veto, it is a good deal better than the \$14 million the Administration originally proposed. The 9% October federal pay raise will be calculated on the new pay scale producing increases of as much as 19% for some grades. The pay cap is still in place, sad to say, and only the newly-established bonus system offers hope for employees at that level. Perhaps a non-election year will offer possibility of a raising of the pay ceiling.

Other family provisions of the new law implemented as a result of lobbying by AAFSW are:

Career Counseling

- Establishes a Family Liaison Office to carry out career counseling of dependents and to address other Foreign Service family concerns. (Section 705 b-2)
- Facilitates the employment of spouses of members of the Service through career counseling and establishing a skills bank. (Section 705 b-1)

Employment of Family Members

- Expands opportunities for USC dependent employment overseas. (Section 311)

Training Authorities

- Provides orientation, language and functional training for Foreign Service dependents. (Section 703-d 1&2)

Travel and Related Expenses

- Pays for family members to accompany a member of the Service to extended temporary duty assignments. (Section 901-3)
- Pays for a family member incapable of caring for himself/herself if he/she remained at the post from which the family member is medically evacuated. (Section 901-5B) At present, if a mother is medically evacuated, the family must pay for children to accompany whatever their age.
- Provides for R & R travel to the U.S. (Section 901-6) The expense of taking R & R abroad is becoming prohibitive in many areas of the world.
- Provides for travel of family members and shipment of their personal effects in cases of imminent danger. (Section 901-7)
- Provides for travel of children to visit divorced parent. (Section 901-15)

Representation Expenses

- Pays for official entertainment and representational expenses incurred by family members. (Section 905) At present, if the employee is not present no reimbursement can be claimed.

Separate Maintenance Allowance

- Allows payment of a Separate Maintenance Allowance because of special needs or hardship requiring family members to remain away from the post to which the employee is assigned. (Amendments to Title 5 — U.S. Code Sect. 2306)

Unfortunately, while this law authorizes the payment of these expenses, it is by no means clear that OMB will allocate funds. If you feel these provisions should be funded, send us letters showing your support.

Editor's Note: On October 17, 1980 President Carter signed into law the Foreign Service Act. This is the first revision of basic foreign service personnel authority since 1946.