

PUBLIC HEALTH SERVICE, FOREIGN QUARANTINE DIVISION, H. R. 6253

H. R. 6253. I am withholding my approval of H. R. 6253, a bill to amend Public Law 410, 78th Congress, with regard to compensation for overtime, Sunday, and holiday work of employees of the United States Public Health Service, Foreign Quarantine Division.

This bill would amend the Public Health Service Act in two major respects. First, it would establish special rates of overtime, Sunday, and holiday pay for certain quarantine inspection personnel of the Public Health Service comparable to those received by customs inspectors of the Treasury Department and immigrant inspectors of the Department of Justice under special premium pay statutes enacted many years ago. Second, with certain important exceptions, it would require that when night-overtime, Sunday, or holiday inspections are performed at the request of the owner, agent, master, or other shipping company representatives, the requesting party shall reimburse the United States for the extra cost represented by overtime compensation.

It is important to note that no charges would be payable by the carrier for services performed in connection with the inspection of persons arriving by (1) international highways, ferries, bridges, or tunnels, (2) regularly scheduled aircraft or trains, or (3) regularly scheduled Great Lakes vessels or vessels operated between Canadian ports and Puget Sound, or for services in connection with the inspection of the conveyances or vessels in which such persons arrive.

Under existing law, the inspection services are rendered without charge, regardless of the hour at which they are rendered. However, the Surgeon General, under his statutory authority to fix the hours during which quarantine service shall be performed at each quarantine station has—at most places other than airports—fixed the regular hours of quarantine service from 6 a. m. to 6 p. m., 7 days a week (Sundays and holidays included). When a vessel arrives within that time, quarantine service is rendered, and rendered free, even if it extends beyond that time. If the vessel arrives after 6 p. m., service will be rendered only if the vessel is in distress, or there is illness aboard, or there are other emergency conditions; otherwise the vessel is required to anchor at quarantine until the following morning and must await its turn for inspection. The delay incident to this waiting period is expensive to the owner of the vessel—it may run as much as \$5,000 per day—and thus the owners are willing, indeed anxious, to pay whatever premium rates for out-of-hours inspection are authorized by law.

Although the bill would require certain reimbursements as indicated above, it would also require all employees performing these inspectional or quarantine services to be paid at the rate of one-half a day's pay for each two hours of overtime (or fraction thereof of at least one hour) between 5 p. m. and 8 a. m., with a limit of two-and-one-half days' pay for the full period from 5 p. m. to 8 a. m. For any Sunday or holiday duty, however brief or fleeting, the employee would

be entitled to two "additional" days' pay. If the day falls within the employee's regular tour of duty, this would, apparently, entitle him to three days' pay. This means that the Government must pay the premium rates in all cases regardless of whether reimbursement is later made. The Federal Employees' Pay Act of 1945, as amended, under which these employees are now paid, provides for twice the regular rate of pay only for holiday work (and correspondingly less for less than a day's work), no extra pay for Sunday work (unless performed in excess of 40 hours a week), and overtime pay at the rate of time and one-half for employees whose annual salaries are less than \$2,980. Employees at higher salaries are entitled to overtime pay on the basis of a rate schedule which decreases as the basic salary increases until their overtime rates of pay are less than the rates payable for straight time.

The special rates of pay proposed for these employees have been justified on the ground that these rates, and to a large extent the other provisions of the bill, are patterned after similar legislation which has long been in effect for customs and immigration inspectors (19 U. S. C. 267, 1451; 5 U. S. C. 342c), and that, like such inspectors, the irregular, sporadic, and unpredictable nature of their overtime, Sunday, and holiday services is different in character from that to which most other Federal employees are subject and is more burdensome.

These contentions require close examination. The claims of the shipowners for out-of-hours service have merit. The claims of the inspectional employees for equal treatment with other inspectional groups have much merit, but equality of treatment for all inspectional employees is not brought about by this bill. Furthermore, the special pay features of the bill depart from principles of overtime and premium pay set forth in the so-called fringe benefits bill recently enacted by the Congress. This factor and the reimbursement requirement combine to make it impossible for me to give my approval to this bill.

I recognize that the existence of the highly preferential rates of customs and immigration premium pay statutes creates severe administrative problems for the Public Health Service, since quarantine inspectors work in close proximity with these other inspectional services. However, the premium rates for the customs and immigrant inspectors are so far out of line with prevailing industrial and governmental practice that I do not believe extending their use to other groups of Federal employees would be good management. Legislation relating to groups of inspectional employees should seek to improve the overall pattern of premium compensation rather than to attempt to patch the existing uncoordinated pay structure.

In the recently enacted liberalizations of existing law governing overtime and holiday pay there are several special features; for example, provisions for call-back time, standby pay in lieu of overtime, and the like, which will make considerably more equitable the premium pay available to these inspectional employees. Overtime compensation at the full rate of time and one-half will be

based on regular pay up to an amount equal to the entrance salary of grade GS-9 instead of the present \$2,980 limit of the Federal Employees' Pay Act. The large majority of these employees are classified in that grade.

In circumstances such as these, I cannot give my approval to H. R. 6253 even though the problems which the bill seeks to solve are real and pressing. I intend to have these problems further explored as they relate to both domestic and international carriers. I shall also direct further study of effective means to rationalize and coordinate overtime and premium pay for all inspectional service in relation to that for other Federal employees. Upon completion of these studies, I hope to be able to make recommendations to the Congress for necessary legislation.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, August 27, 1954.

ANNA K. McQUILKIN, H. R. 3516

H. R. 3516. I have withheld my approval from H. R. 3516, for the relief of Anna K. McQuilkin.

The bill provides for a direct payment award of \$6,125 to Mrs. McQuilkin, who claims that her brother, a World War I veteran who died in the service in 1918, applied for and was issued yearly renewable term insurance in the sum of \$10,000 and that she is entitled to the proceeds thereof as the sole beneficiary.

The Veterans' Administration and predecessor agencies have disputed her claim over a number of years, contending that their records and those of the Military Department fail to disclose that the brother made application for insurance. In 1922 the Veterans' Bureau, after careful consideration of the evidence presented in support of the claim, rejected it. Upon this denial, an award of automatic insurance of \$25 a month was made to the deceased veteran's father, based on the determination that there had been no application for insurance. A total sum of \$3,875 had been paid to the father at the time of his death in 1930. The \$6,125 proposed for payment by H. R. 3516 represents the difference between the amount paid to the father and the sum of the insurance for which application was allegedly made.

During the period 1920 to 1932 Mrs. McQuilkin engaged the services of a number of attorneys to prosecute her claim. New counsel in July 1932 instituted suit against the Government in the United States District Court for the Northern District of Illinois and secured a judgment in the amount of \$12,592.50. The lower court decision, however, was reversed on appeal to the circuit court of appeals on the ground that the statutory period of limitations for filing such a suit had expired.

The Judiciary Committees appear to have accepted the lower court decision against the Government as now conclusive of the merits of Mrs. McQuilkin's claim. This would not seem, however, to be the case in view of the procedural turn of the circuit court of appeals ruling which precluded review of the substantive question of whether there was substantial evidence to support the findings of the district court.

I also agree with the Veterans' Administration that the case does not pre-