

106TH CONGRESS
2D SESSION

H. R. 4642

To make certain personnel flexibilities available with respect to the General Accounting Office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2000

Mr. BURTON of Indiana (for himself and Mr. SCARBOROUGH) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To make certain personnel flexibilities available with respect to the General Accounting Office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. VOLUNTARY EARLY RETIREMENT AUTHORITY.**

4 (a) CIVIL SERVICE RETIREMENT SYSTEM.—Effective
5 for purposes of the period beginning on the date of enact-
6 ment of this Act and ending on December 31, 2003, para-
7 graph (2) of section 8336(d) of title 5, United States
8 Code, shall, with respect to officers and employees of the
9 General Accounting Office, be applied as if it had been
10 amended to read as follows:

1 “(2)(A) has been employed continuously by the
2 General Accounting Office for at least the 31-day
3 period immediately preceding the start of the period
4 referred to in subparagraph (D);

5 “(B) is serving under an appointment that is
6 not time limited;

7 “(C) has not received a notice of involuntary
8 separation, for misconduct or unacceptable perform-
9 ance, with respect to which final action remains
10 pending; and

11 “(D) is separated from the service voluntarily
12 during a period with respect to which the Comp-
13 troller General determines that the application of
14 this subsection is necessary and appropriate for the
15 purpose of—

16 “(i) realigning the General Accounting Of-
17 fice’s workforce in order to meet budgetary con-
18 straints or mission needs;

19 “(ii) correcting skill imbalances; or

20 “(iii) reducing high-grade, managerial, or
21 supervisory positions;”.

22 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—
23 Effective for purposes of the period beginning on the date
24 of enactment of this Act and ending on December 31,
25 2003, subparagraph (B) of section 8414(b)(1) of title 5,

1 United States Code, shall, with respect to officers and em-
2 ployees of the General Accounting Office, be applied as
3 if it had been amended to read as follows:

4 “(B)(i) has been employed continuously by the
5 General Accounting Office for at least the 31-day
6 period immediately preceding the start of the period
7 referred to in clause (iv);

8 “(ii) is serving under an appointment that is
9 not time limited;

10 “(iii) has not received a notice of involuntary
11 separation, for misconduct or unacceptable perform-
12 ance, with respect to which final action remains
13 pending; and

14 “(iv) is separated from the service voluntarily
15 during a period with respect to which the Comp-
16 troller General determines that the application of
17 this subsection is necessary and appropriate for the
18 purpose of—

19 “(I) realigning the General Accounting Of-
20 fice’s workforce in order to meet budgetary con-
21 straints or mission needs;

22 “(II) correcting skill imbalances; or

23 “(III) reducing high-grade, managerial, or
24 supervisory positions;”.

1 (c) NUMERICAL LIMITATION.—Not to exceed 10 per-
2 cent of the General Accounting Office’s workforce (as of
3 the start of a fiscal year) shall be permitted to take vol-
4 untary early retirement in such fiscal year pursuant to
5 this section.

6 (d) REGULATIONS.—The Comptroller General shall
7 prescribe any regulations necessary to carry out this sec-
8 tion, including regulations under which an early retire-
9 ment offer may be made to any employee or group of em-
10 ployees based on—

11 (1) geographic area, organizational unit, or oc-
12 cupational series or level;

13 (2) skills, knowledge, or performance; or

14 (3) such other similar factors (or combination
15 of factors described in this or any other paragraph
16 of this subsection) as the Comptroller General con-
17 siders necessary and appropriate in order to achieve
18 the purpose involved.

19 **SEC. 2. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

20 (a) IN GENERAL.—Effective for purposes of the pe-
21 riod beginning on the date of enactment of this Act and
22 ending on December 31, 2003, the authority to provide
23 voluntary separation incentive payments shall be available
24 to the Comptroller General with respect to employees of
25 the General Accounting Office.

1 (b) TERMS AND CONDITIONS.—The authority to pro-
2 vide voluntary separation incentive payments under this
3 section shall be available in accordance with the provisions
4 of subsections (a)(2)–(e) of section 663 of the Treasury,
5 Postal Service, and General Government Appropriations
6 Act, 1997, as contained in Public Law 104–208 (5 U.S.C.
7 5597 note), except that—

8 (1) subsection (a)(2)(D) of such section shall be
9 disregarded;

10 (2) subsection (a)(2)(G) of such section shall be
11 applied by construing the citations therein to be refer-
12 ences to the appropriate authorities in connection
13 with employees of the General Accounting Office;

14 (3) subsection (b)(1) of such section shall be
15 applied by substituting “Committee on Government
16 Reform” for “Committee on Government Reform
17 and Oversight”;

18 (4)(A) subsection (b)(2)(A) of such section shall
19 be applied by substituting “eliminated (if any)” for
20 “eliminated”;

21 (B) subsection (b)(2)(C) of such section shall
22 be applied by substituting “such positions or func-
23 tions as are to be eliminated and such employees as
24 are to be separated” for “the eliminated positions
25 and functions”; and

1 (C) the agency strategic plan referred to in sub-
2 section (b) of such section shall, in addition to the
3 information described in paragraph (2) thereof, con-
4 tain the following: the steps to be taken to realign
5 the General Accounting Office's workforce in order
6 to meet budgetary constraints or mission needs, cor-
7 rect skill imbalances, or reduce high-grade, manage-
8 rial, or supervisory positions;

9 (5) subsection (c)(1) of such section shall be
10 applied by substituting "to the extent necessary (A)
11 to realign the General Accounting Office's workforce
12 in order to meet budgetary constraints or mission
13 needs, (B) to correct skill imbalances, or (C) to re-
14 duce high-grade, managerial, or supervisory posi-
15 tions, in conformance with that agency's strategic
16 plan (as referred to in subsection (b))." for the mat-
17 ter following "only";

18 (6) subsection (c)(2)(D) of such section shall be
19 applied by substituting "December 31, 2003, or the
20 end of the 3-month period beginning on the date on
21 which such payment is offered to such employee,
22 whichever is earlier" for "December 31, 1997"; and

23 (7) instead of the amount described in para-
24 graph (1) of subsection (d) of such section, the
25 amount required under such paragraph shall be de-

1 terminated in accordance with subsection (e)(1) of this
2 section.

3 (c) ADDITIONAL CONTRIBUTION TO RETIREMENT
4 FUND.—

5 (1) DETERMINATION OF AMOUNT REQUIRED.—

6 The amount required under this paragraph shall be
7 the amount determined under subparagraph (A) or
8 (B), whichever is greater, for the fiscal year in-
9 volved.

10 (A) FIRST METHOD.—The amount re-
11 quired under this subparagraph shall be deter-
12 mined as follows:

13 (i) First, determine the sum of the
14 following:

15 (I) The amount equal to 19 per-
16 cent of the final basic pay of each em-
17 ployee described in paragraph (2) who
18 takes early retirement under section
19 8336(d) of title 5, United States
20 Code.

21 (II) The amount equal to 58 per-
22 cent of the final basic pay of each em-
23 ployee described in paragraph (2) who
24 retires on an immediate annuity under
25 section 8336 of such title 5 (not in-

1 including any employee covered by sub-
2 clause (I)).

3 (ii) Second, reduce the sum of the
4 amounts determined under clause (i) by
5 the sum of the following (but not below
6 zero):

7 (I) The amount equal to 419 per-
8 cent of the final basic pay of each em-
9 ployee described in paragraph (2),
10 who is covered by subchapter III of
11 chapter 83 of title 5, United States
12 Code, and who resigns.

13 (II) The amount equal to 17 per-
14 cent of the final basic pay of each em-
15 ployee described in paragraph (2) who
16 takes early retirement under section
17 8414(b) of such title 5.

18 (III) The amount equal to 8 per-
19 cent of the final basic pay of each em-
20 ployee described in paragraph (2) who
21 retires on an immediate annuity under
22 section 8412 of such title 5.

23 (IV) The amount equal to 211
24 percent of the final basic pay of each
25 employee described in paragraph (2),

1 who is covered by chapter 84 of such
2 title 5, and who resigns.

3 (B) SECOND METHOD.—The amount re-
4 quired under this subparagraph shall be equal
5 to 45 percent of the final basic pay of each em-
6 ployee described in paragraph (2).

7 (2) COMPUTATIONS TO BE BASED ON SEPARA-
8 TIONS OCCURRING IN THE FISCAL YEAR IN-
9 VOLVED.—The employees described in this para-
10 graph are those employees who receive a voluntary
11 separation incentive payment under this section
12 based on their separating from service during the
13 fiscal year involved.

14 (3) REGULATIONS.—

15 (A) IN GENERAL.—The Office of Personnel
16 Management shall prescribe any regulations
17 necessary to carry out this subsection, including
18 provisions under which any additional contribu-
19 tion determined under this subsection shall, at
20 the election of the General Accounting Office,
21 be payable either in a lump sum or through in-
22 stallment payments made over a period of not
23 to exceed 3 years.

24 (B) INTEREST.—The regulations shall in-
25 clude provisions under which, if the installment

1 method is chosen, interest shall be payable at
2 the same rate as provided for under section
3 8348(f) of title 5, United States Code.

4 (4) RULE OF CONSTRUCTION.—As used in this
5 subsection, the term “resign” shall not be considered
6 to include early retirement or a separation giving
7 rise to an immediate annuity.

8 (d) DEFINITIONS.—

9 (1) FINAL BASIC PAY.—As used in this section,
10 the term “final basic pay” has the same meaning as
11 under section 663(d)(2) of the Treasury, Postal
12 Service, and General Government Appropriations
13 Act, 1997, as contained in Public Law 104–208 (5
14 U.S.C. 5597 note).

15 (2) EMPLOYEE.—As used in this section and,
16 for purposes of this section, the provisions of law
17 cited in subsection (b), the term “employee” shall be
18 considered to refer to an officer or employee of the
19 General Accounting Office.

20 (e) NUMERICAL LIMITATION.—Not to exceed 5 per-
21 cent of the General Accounting Office’s workforce (as of
22 the start of a fiscal year) shall be permitted to receive
23 a voluntary separation incentive payment under this sec-
24 tion based on their separating from service in such fiscal
25 year.

1 (f) REGULATIONS.—The Comptroller General shall
2 prescribe any regulations necessary to carry out this sec-
3 tion, excluding subsection (c). Such regulations shall in-
4 clude provisions under which a voluntary separation incen-
5 tive payment may be offered to any employee or group
6 of employees based on—

7 (1) geographic area, organizational unit, or oc-
8 cupational series or level;

9 (2) skills, knowledge, or performance; or

10 (3) such other similar factors (or combination
11 of factors described in this or any other paragraph
12 of this subsection) as the Comptroller General con-
13 siders necessary and appropriate in order to achieve
14 the purpose involved.

15 **SEC. 3. REDUCTIONS IN FORCE.**

16 (a) IN GENERAL.—Subsection (h) of section 732 of
17 title 31, United States Code, is amended to read as fol-
18 lows:

19 “(h)(1)(A) Notwithstanding the provisions of sub-
20 chapter I of chapter 35 of title 5, the Comptroller General
21 shall prescribe regulations for the release of officers and
22 employees of the General Accounting Office in a reduction
23 in force.

24 “(B) Under the regulations—

1 “(i) a reduction in force may be carried out to
2 realign the agency’s workforce in order to meet
3 budgetary constraints or current or future mission
4 needs, to correct skill imbalances, or to reduce high-
5 grade, managerial, or supervisory positions;

6 “(ii)(I) due effect shall be given to military
7 preference; and

8 (II) other factors, such as skills, knowledge,
9 performance or contributions to the agency’s goals
10 and objectives, tenure of employment, and length of
11 service, may be taken into account to such extent
12 and in such manner as the Comptroller General con-
13 siders necessary and appropriate; and

14 “(iii) at the discretion of the Comptroller Gen-
15 eral, the opportunity to separate voluntarily (in
16 order to permit the retention of an individual occu-
17 pying a similar position) shall, with respect to the
18 General Accounting Office, be available to the same
19 extent and in the same manner as described in sub-
20 section (f)(1)–(4) of section 3502 of title 5 (with re-
21 spect to the Department of Defense or a military de-
22 partment).

23 “(2)(A) Except as provided in subparagraph (B), an
24 employee may not be released, due to a reduction in force,
25 unless such employee is given written notice at least 60

1 days before such employee is so released. Such notice shall
2 include—

3 “(i) the personnel action to be taken with re-
4 spect to the employee involved;

5 “(ii) the effective date of the action;

6 “(iii) a description of the procedures applicable
7 in identifying employees for release;

8 “(iv) the employee’s ranking relative to other
9 competing employees, and how that ranking was de-
10 termined; and

11 “(v) a description of any appeal or other rights
12 which may be available.

13 “(B) The Comptroller General may, in writing, short-
14 en the period of advance notice required under subpara-
15 graph (A) with respect to a particular reduction in force,
16 if necessary because of circumstances not reasonably fore-
17 seeable, except that such period may not be less than 30
18 days.”.

19 (b) EFFECTIVE DATE.—Subject to subsection (c), the
20 amendment made by this section shall apply with respect
21 to all reduction-in-force actions taking effect on or after—

22 (1) the 180th day following the date of enact-
23 ment of this Act; or

1 (2) if earlier, the date the Comptroller General
2 issues the regulations required under such amend-
3 ment.

4 (c) SAVINGS PROVISION.—If, before the effective date
5 determined under subsection (b), specific notice of a re-
6 duction-in-force action is given to an individual in accord-
7 ance with section 1 of chapter 5 of GAO Order 2351.1
8 (dated February 28, 1996), then, for purposes of deter-
9 mining such individual’s rights in connection with such ac-
10 tion, the amendment made by this section shall be treated
11 as if it had never been enacted.

12 **SEC. 4. SENIOR-LEVEL POSITIONS.**

13 (a) CRITICAL POSITIONS.—

14 (1) IN GENERAL.—Title 31, United States
15 Code, is amended by inserting after section 732 the
16 following:

17 **“§ 732a. Critical positions**

18 “(a) The Comptroller General may establish senior-
19 level positions to meet critical scientific, technical or pro-
20 fessional needs of the General Accounting Office. An indi-
21 vidual serving in such a position shall—

22 “(1) be subject to the laws and regulations ap-
23 plicable to the General Accounting Office Senior Ex-
24 ecutive Service under section 733 of this title, with
25 respect to rates of basic pay, performance awards,

1 ranks, carry over of annual leave, benefits, perform-
2 ance appraisals, removal or suspension, and reduc-
3 tions in force;

4 “(2) have the same rights of appeal to the Gen-
5 eral Accounting Office Personnel Appeals Board as
6 are provided to the Office Senior Executive Service;

7 “(3) be exempt from the same provisions of law
8 as are made inapplicable to the Office Senior Execu-
9 tive Service under section 733(d) of this title, except
10 for section 732(e) of this title;

11 “(4) be entitled to discontinued service retire-
12 ment under chapter 83 or 84 of title 5 as if a mem-
13 ber of the Office Senior Executive Service; and

14 “(5) be subject to reassignment by the Comp-
15 troller General to any position in the Office Senior
16 Executive Service under section 733 of this title, as
17 the Comptroller General determines necessary and
18 appropriate.

19 “(b) Senior-level positions under this section may in-
20 clude positions referred to in section 731(d), (e)(1), or
21 (e)(2) of this title.”.

22 (2) NUMERICAL LIMITATION APPLIES.—Section
23 732(c)(4) of title 31, United States Code, is
24 amended—

1 (A) by inserting “(including senior-level
2 positions under section 732a of this title)” after
3 “129 positions”; and

4 (B) by striking “title;” and inserting
5 “title and senior-level positions described in sec-
6 tion 732a(b) of this title);”.

7 (3) CLERICAL AMENDMENT.—The table of sec-
8 tions for chapter 7 of title 31, United States Code,
9 is amended by inserting after the item relating to
10 section 732 the following:

“732a. Critical positions.”.

11 (b) REASSIGNMENT TO SENIOR-LEVEL POSITIONS.—
12 Section 733(a) of title 31, United States Code, is
13 amended—

14 (1) by striking “and” at the end of paragraph
15 (6);

16 (2) by redesignating paragraph (7) as para-
17 graph (8); and

18 (3) by inserting after paragraph (6) the fol-
19 lowing:

20 “(7) allowing the Comptroller General to reas-
21 sign an officer or employee in the Office Senior Ex-
22 ecutive Service to any senior-level position estab-
23 lished under section 732a of this title, as the Comp-
24 troller General determines necessary and appro-
25 priate; and”.

1 **SEC. 5. EXPERTS AND CONSULTANTS.**

2 Section 731(e) of title 31, United States Code, is
3 amended—

4 (1) in paragraph (1) by striking “not more than
5 3 years” and inserting “terms of not more than 3
6 years, but which shall be renewable”; and

7 (2) in paragraph (2) by striking “level V” and
8 inserting “level IV”.

9 **SEC. 6. REPORTING REQUIREMENTS.**

10 (a) ANNUAL REPORTS.—The Comptroller General
11 shall include in each report submitted to Congress under
12 section 719(a) of title 31, United States Code, during the
13 5-year period beginning on the date of enactment of this
14 Act—

15 (1) a review of all actions taken pursuant to
16 sections 1 through 3 of this Act during the period
17 covered by the report, including—

18 (A) the number of officers or employees
19 who separated from service pursuant to section
20 1 or 2, or who were released pursuant to a re-
21 duction in force conducted under the amend-
22 ment made by section 3, during such period;

23 (B) an assessment of the effectiveness and
24 usefulness of those sections in contributing to
25 the agency’s ability to carry out its mission,

1 meet its performance goals, and fulfill its strategic plan; and
2

3 (C) with respect to the amendment made
4 by section 3, an assessment of the impact such
5 amendment has had with respect to preference
6 eligibles, including—

7 (i) whether a disproportionate number
8 or percentage of preference eligibles were
9 included among those who became subject
10 to reduction-in-force actions as a result of
11 such amendment;

12 (ii) whether a disproportionate number
13 or percentage of preference eligibles
14 were in fact released pursuant to reductions
15 in force under such amendment; and

16 (iii) to the extent that either of the
17 foregoing is answered in the affirmative,
18 the reasons for the disproportionate impact
19 involved (particularly, whether such
20 amendment caused or contributed to the
21 disproportionate impact involved); and

22 (2) recommendations for any legislation which
23 the Comptroller General considers appropriate with
24 respect to any of those sections.

1 (b) THREE-YEAR ASSESSMENT.—Not later than 3
2 years after the date of enactment of this Act, the Comp-
3 troller General shall submit to the Congress a report con-
4 cerning the implementation and effectiveness of this Act.
5 Such report shall include—

6 (1) a summary of the portions of the annual re-
7 ports required under subsection (a);

8 (2) recommendations for continuation of section
9 1 or 2 or any legislative changes to section 1 or 2
10 or the amendment made by section 3; and

11 (3) any assessment or recommendations of the
12 General Accounting Office Personnel Appeals Board
13 or of any interested groups or associations rep-
14 resenting officers or employees of the General Ac-
15 counting Office.

16 (c) PREFERENCE ELIGIBLE DEFINED.—For pur-
17 poses of this section, the term “preference eligible” has
18 the meaning given such term under section 2108(3) of
19 title 5, United States Code.

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