

110TH CONGRESS
1ST SESSION

S. 1046

To modify pay provisions relating to certain senior-level positions in the Federal Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2007

Mr. VOINOVICH introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To modify pay provisions relating to certain senior-level positions in the Federal Government, 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. SHORT TITLE.**

4 This Act may be cited as the “Senior Professional
5 Performance Act of 2007”.

6 **SEC. 2. PAY PROVISIONS RELATING TO CERTAIN SENIOR-**
7 **LEVEL POSITIONS.**

8 (a) LOCALITY PAY.—Section 5304 of title 5, United
9 States Code, is amended—

1 (1) in subsection (g), by amending paragraph
 2 (2) to read as follows:

3 “(2) The applicable maximum under this sub-
 4 section shall be level III of the Executive Schedule
 5 for—

6 “(A) positions under subparagraphs (A)
 7 and (B) of subsection (h)(1); and

8 “(B) any positions under subsection
 9 (h)(1)(C) as the President may determine.”;
 10 and

11 (2) in subsection (h)—

12 (A) in paragraph (1)—

13 (i) by striking subparagraph (A);

14 (ii) in subparagraph (D)—

15 (I) in clause (v), by striking “or”
 16 at the end;

17 (II) in clause (vi), by striking the
 18 period at the end and inserting “; or”;
 19 and

20 (III) by adding at the end the
 21 following:

22 “(vii) a position to which section 5376
 23 applies (relating to certain senior-level and
 24 scientific and professional positions).”; and

1 (iii) by redesignating subparagraphs

2 (B), (C), and (D) as subparagraphs (A),

3 (B), and (C), respectively; and

4 (B) in paragraph (2)(B)—

5 (i) in clause (i)—

6 (I) by striking “subparagraphs

7 (A) through (C)” and inserting “sub-

8 paragraphs (A) and (B)”;

9 (II) by striking “or (vi)” and in-

10 serting “(vi), or (vii)”;

11 (ii) in clause (ii)—

12 (I) by striking “paragraph

13 (1)(D)” and inserting “paragraph

14 (1)(C)”;

15 (II) by striking “or (vi)” and in-

16 serting “(vi), or (vii)”.

17 (b) ACCESS TO HIGHER MAXIMUM RATE OF BASIC

18 PAY.—Section 5376(b) of title 5, United States Code, is

19 amended—

20 (1) in paragraph (1) by amending subpara-

21 graph (B) to read as follows:

22 “(B) subject to paragraph (3), not greater

23 than the rate of basic pay payable for level III

24 of the Executive Schedule.”;

25 (2) by adding at the end the following:

1 “(3) In the case of an agency which, under sec-
 2 tion 5307(d), has a performance appraisal system
 3 which, as designed and applied, is certified as mak-
 4 ing meaningful distinctions based on relative per-
 5 formance, paragraph (1)(B) shall apply as if the ref-
 6 erence to ‘level III’ were a reference to ‘level II’.

7 “(4) No employee may suffer a reduction in pay
 8 by reason of transfer from an agency with an appli-
 9 cable maximum rate of pay prescribed under para-
 10 graph (3) to an agency with an applicable maximum
 11 rate of pay prescribed under paragraph (1)(B).”.

12 (c) AUTHORITY FOR EMPLOYMENT; APPOINTMENTS;
 13 CLASSIFICATION STANDARDS.—Title 5, United States
 14 Code is amended—

15 (1) in section 3104(a), in the second sentence,
 16 by striking “prescribes” and inserting “prescribes
 17 and publishes in such form as the Office may deter-
 18 mine”;

19 (2) in section 3324(a) by striking “the Office of
 20 Personnel Management” and inserting: “the Direc-
 21 tor of the Office of Personnel Management on the
 22 basis of qualification standards developed by the
 23 agency involved in accordance with criteria specified
 24 in regulations prescribed by the Director”;

25 (3) in section 3325—

(A) in subsection (a), in the second sentence, by striking “or its designee for this purpose” and inserting the following: “on the basis of standards developed by the agency involved in accordance with criteria specified in regulations prescribed by the Director of the Office of Personnel Management”; and

(B) by adding at the end the following:

“(c) The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this section.”; and

(4) in section 5108(a)(2) by inserting “published by the Director of the Office of Personnel Management in such form as the Office may determine” after “and procedures”.

(d) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first pay period beginning on or after the 180th day following the date of enactment of this Act.

(2) NO REDUCTIONS IN RATES OF PAY.—

(A) IN GENERAL.—The amendments made by this section may not result, at the time such amendments take effect, in a reduction in the rate of basic pay for an individual holding a po-

sition to which section 5376 of title 5, United States Code, applies.

(B) DETERMINATION OF RATE OF PAY.—

For the purposes of subparagraph (A), the rate of basic pay for an individual described in that subparagraph shall be deemed to be the rate of basic pay set for the individual under such section 5376, plus applicable locality pay paid to that individual, as of the effective date under paragraph (1).

(3) REFERENCES TO MAXIMUM RATES.—Except as otherwise provided by law, any reference in a provision of law to the maximum rate under section 5376 of title 5, United States Code—

(A) as provided before the effective date of the amendments made by this section, shall be considered a reference to the rate of basic pay for level IV of the Executive Schedule; and

(B) as provided on or after the effective date of the amendments made by this section, shall be considered a reference to—

(i) the rate of basic pay for level III of the Executive Schedule; or

(ii) if the head of the agency responsible for administering the applicable pay

1 system certifies that the employees are cov-
 2 ered by a performance appraisal system
 3 meeting requirements established by the
 4 Director of the Office of Personnel Man-
 5 agement, level II of the Executive Sched-
 6 ule.

7 **SEC. 3. LIMITATIONS ON CERTAIN PAYMENTS.**

8 (a) IN GENERAL.—Section 5307(d) of title 5, United
 9 States Code, is amended—

10 (1) in paragraph (2), by striking all after “pur-
 11 poses of” and inserting: “applying the limitation in
 12 the calendar year involved, has a performance ap-
 13 praisal system certified under this subsection as
 14 making, in its design and application, meaningful
 15 distinctions based on relative performance.”; and

16 (2) in paragraph (3)(B)—

17 (A) by striking all beginning with “An”
 18 through “2 calendar years” and inserting “The
 19 certification of an agency performance appraisal
 20 system under this subsection shall be for a pe-
 21 riod not to exceed 24 months beginning on the
 22 date of certification, unless extended by the Di-
 23 rector of the Office of Personnel Management
 24 for up to 6 additional months”; and

1 (B) by striking “, for purposes of either or
2 both of those years,”.

3 (b) EXTENSION OF CERTIFICATION.—

4 (1) EXTENSION TO 2008.—

5 (A) IN GENERAL.—For any certification of
6 a performance appraisal system under section
7 5307(d) of title 5, United States Code, in effect
8 on the date of enactment of this Act and sched-
9 uled to expire at the end of calendar year 2007,
10 the Director of the Office of Personnel Manage-
11 ment may provide that such a certification shall
12 be extended without requiring additional jus-
13 tification by the agency.

14 (B) LIMITATION.—The expiration of any
15 extension under this paragraph shall be not
16 later than the later of—

17 (i) June 30, 2008; or

18 (ii) the first anniversary of the date of
19 the certification.

20 (2) EXTENSION TO 2009.—

21 (A) IN GENERAL.—For any certification of
22 a performance appraisal system under section
23 5307(d) of title 5, United States Code, in effect
24 on the date of enactment and scheduled to ex-
25 pire at the end of calendar year 2008, the Di-

1 rector of the Office of Personnel Management
2 may provide that such a certification shall be
3 extended without requiring additional justifica-
4 tion by the agency.

5 (B) LIMITATION.—The expiration of any
6 extension under this paragraph shall be not
7 later than the later of—

8 (i) June 30, 2009; or

9 (ii) the second anniversary of the date
10 of the certification.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of enactment of
13 this Act.

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