

114TH CONGRESS
2D SESSION

H. R. 6278

To provide certain reforms to promote accountability and efficiency in the civil service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2016

Mr. ROKITA introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To provide certain reforms to promote accountability and efficiency in the civil service, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Promote Accountability and Government Efficiency
6 Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. At-will employment status for new Federal employees.
- Sec. 3. Immediate suspension of employees for misconduct or poor performance.
- Sec. 4. Limitation on appeal rights.
- Sec. 5. Restriction of pay raises.

Sec. 6. Forfeiture of CSRS or FERS annuity for any employee convicted of a felony.

Sec. 7. Transfer from Senior Executive Service to General Schedule.

Sec. 8. Limitation on official time and use of Government resources in carrying out union activities.

1 **SEC. 2. AT-WILL EMPLOYMENT STATUS FOR NEW FEDERAL**
 2 **EMPLOYEES.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
 4 sion of law, any employee in the civil service (as that term
 5 is defined in section 2101 of title 5, United States Code)
 6 hired on or after the date that is 1 year after the date
 7 of enactment of this Act shall be hired on an at-will basis.
 8 Such an employee may be removed or suspended, without
 9 notice or right to appeal, from service by the head of the
 10 agency at which such employee is employed for good cause,
 11 bad cause, or no cause at all.

12 (b) CLARIFICATION OF EMPLOYMENT PROTEC-
 13 TIONS.—Notwithstanding the requirements of subsection
 14 (a), this Act shall not be construed to extinguish or lessen
 15 any effort to achieve equal employment opportunity
 16 through affirmative action or any right or remedy avail-
 17 able to any employee or applicant for employment in the
 18 civil service who is hired subject to subsection (a) under—

19 (1) the title VII of the Civil Rights Act of 1964
 20 (42 U.S.C. 2000e et seq.), prohibiting discrimination
 21 on the basis of race, color, religion, sex, or national
 22 origin;

1 (2) the Age Discrimination in Employment Act
2 of 1967 (29 U.S.C. 621 et seq.), prohibiting dis-
3 crimination on the basis of age;

4 (3) the Fair Labor Standards Act of 1938 (29
5 U.S.C. 201 et seq.), prohibiting discrimination on
6 the basis of sex;

7 (4) the Rehabilitation Act of 1973 (29 U.S.C.
8 701 et seq.), prohibiting discrimination on the basis
9 of handicapping condition;

10 (5) the Whistleblower Protection Enhancement
11 Act of 2012 (Public Law 112–199);

12 (6) the provisions of any law, rule, or regulation
13 prohibiting discrimination on the basis of marital
14 status or political affiliation;

15 (7) the Congressional Accountability Act of
16 1995, in the case of employees of the legislative
17 branch who are subject to such Act;

18 (8) the protections relating to prohibited per-
19 sonnel practices (as that term is defined in section
20 2302 of title 5, United States Code); or

21 (9) any law protecting the employment rights of
22 veterans.

23 (c) APPEAL.—

24 (1) IN GENERAL.—Any employee or applicant
25 for employment who is subject to subsection (a) and

1 who seeks a remedy under any law listed in sub-
2 section (b) with respect to an adverse personnel ac-
3 tion may, in addition to the remedies provide by
4 such law, seek an available remedy as provided
5 under—

6 (A) title 5, United States Code, including
7 appealing such action to the Merit Systems
8 Protection Board or the Office of the Special
9 Counsel;

10 (B) the Equal Employment Opportunity
11 Commission; or

12 (C) consistent with the requirements of
13 section 9, any applicable collective bargaining
14 agreement.

15 (2) LIMITATION.—An employee or applicant for
16 employment may appeal an adverse personnel action
17 only to a single agency, and may not thereafter
18 bring any appeal pertaining to such dismissal before
19 any other agency.

20 (d) APPLICATION.—This section shall apply with re-
21 spect to any employee hired on or after the date that is
22 1 year after the date of enactment of this Act.

23 (e) REGULATIONS.—Not later than 180 days after
24 the date of enactment of this section, each agency or in-
25 strumentality of the Federal Government to which this

1 section applies shall develop operating standards con-
2 sistent with the requirements of this section, including
3 standards with respect to—

4 (1) notifying any employee hired on or after
5 date specified in subsection (a) that such employee
6 is an at-will employee;

7 (2) determining which senior positions within
8 such agency or instrumentality have the authority to
9 separate an at-will employee from service; and

10 (3) ensuring adequate oversight is in place to
11 ensure that any separation of an at-will employee is
12 not a result of discrimination or other violation of
13 any law listed under subsection (b).

14 (f) DEFINITIONS.—In this section:

15 (1) EMPLOYEE.—The term “employee” has the
16 meaning given such term in section 2105 of title 5,
17 United States Code, and includes any officer or em-
18 ployee of the United States Postal Service or the
19 Postal Regulatory Commission.

20 (2) PERSONNEL ACTION.—The term “personnel
21 action” has the meaning given such term in section
22 2302(a)(2)(A) of such title.

23 (3) VETERAN.—The term “veteran” has the
24 meaning given that term under section 2108(1) of
25 such title.

1 **SEC. 3. IMMEDIATE SUSPENSION OF EMPLOYEES FOR MIS-**
2 **CONDUCT OR POOR PERFORMANCE.**

3 (a) IN GENERAL.—Chapter 75 of title 5, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “SUBCHAPTER VI—IMMEDIATE SUSPENSION
7 FOR MISCONDUCT OR POOR PERFORMANCE

8 “§ 7551. **Definitions**

9 “In this subchapter—

10 “(1) the term ‘employee’ has the meaning given
11 such term in section 7501(1) and includes any em-
12 ployee of the United States Postal Service or the
13 Postal Regulatory Commission, but does not include
14 any at-will employee (as determined under section 2
15 of the Promote Accountability and Government Effi-
16 ciency Act); and

17 “(2) the term ‘suspend’ means the placing of
18 any employee, for misconduct or poor performance,
19 in a temporary status without duties.

20 “§ 7552. **Immediate suspension for misconduct or**
21 **poor performance**

22 “(a) Under regulations prescribed by the Office of
23 Personnel Management, the head of an agency may sus-
24 pend (with or without pay) an employee of such agency
25 if the head determines that the misconduct or performance

1 of the employee warrants such suspension. The period of
2 any such suspension shall be determined by the head.

3 “(b) An employee who is suspended under subsection
4 (a) is entitled, after suspension, to—

5 “(1) a written notice, not later than 10 days
6 after the first day of such suspension, stating the
7 specific reasons for the suspension;

8 “(2) a reasonable time, but not less than 10
9 days, to answer orally and in writing and to furnish
10 affidavits and other documentary evidence in sup-
11 port of the answer;

12 “(3) be represented by an attorney or other
13 representative; and

14 “(4) a review of the case by the agency head
15 and a written final decision and the specific reasons
16 therefor at the earliest practicable date.

17 “(c) An employee against whom an action is taken
18 under this section is entitled to appeal to the Merit Sys-
19 tems Protection Board under section 7701 of this title.
20 During such appeal, the Merit Systems Protection Board
21 may not take any action to reinstate the employee to the
22 position of employment from which such employee is sus-
23 pended until the date of the final decision of such appeal.

24 “(d) Copies of the notice of proposed action, the an-
25 swer of the employee if written, a summary thereof if

1 made orally, the notice of decision and reasons therefor,
 2 and any order affecting the suspension, together with any
 3 supporting material, shall be maintained by the agency
 4 and shall be furnished to the Merit Systems Protection
 5 Board upon its request and to the employee affected upon
 6 the employee's request.

7 “(e) In the case of critical necessity, the head of an
 8 agency may immediately replace an employee suspended
 9 under subsection (a) without regard to sections 3309
 10 through 3318 of title 5, United States Code.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 for chapter 75 of title 5, United States Code, is amended
 13 by adding at the end the following:

“SUBCHAPTER VI—IMMEDIATE SUSPENSION FOR MISCONDUCT OR POOR
 PERFORMANCE

“7551. Definitions.

“7552. Immediate suspension for misconduct or poor performance.”.

14 **SEC. 4. LIMITATION ON APPEAL RIGHTS.**

15 Notwithstanding any other provision of law, an em-
 16 ployee (as that term is defined in section 2(g)(1)) or appli-
 17 cant for employment may not appeal an adverse personnel
 18 action to more than 1 agency.

19 **SEC. 5. RESTRICTION OF PAY RAISES.**

20 (a) IN GENERAL.—Notwithstanding any other provi-
 21 sion of law, an employee may not receive an increase in
 22 annual rate of pay if such employee did not receive at least
 23 a score of 4 or 5 out of 5 (or an equivalent rating with

1 respect to a performance appraisal system that does pro-
2 vide for such a scoring system) on such employee's latest
3 performance review under the performance appraisal sys-
4 tem applicable to such employee.

5 (b) REPORT.—Not later than 1 year after the date
6 of enactment of this Act, the Director of the Office of Per-
7 sonnel Management shall submit to Congress a report that
8 contains recommendations for a single-agency rating sys-
9 tem.

10 (c) COLLECTIVE BARGAINING AGREEMENTS.—

11 (1) APPLICATION.—The requirements of this
12 section shall apply to any collective bargaining
13 agreement entered into by the head of an agency on
14 or after the date of enactment of this Act.

15 (2) GRIEVANCE.—In the case of an employee
16 covered by a collective bargaining agreement re-
17 ferred to in paragraph (1), a grievance filed on be-
18 half of such employee that results in an increased
19 performance rating for such employee may not result
20 in an increase in annual rate of pay for such em-
21 ployee.

22 (d) DEFINITION.—In this section, the term “em-
23 ployee” has the meaning given such term in section 2105
24 of title 5, United States Code, and includes any officer

1 or employee of the United States Postal Service or the
2 Postal Regulatory Commission.

3 **SEC. 6. FORFEITURE OF CSRS OR FERS ANNUITY FOR ANY**
4 **EMPLOYEE CONVICTED OF A FELONY.**

5 (a) IN GENERAL.—Subchapter II of chapter 83 of
6 title 5, United States Code, is amended by adding at the
7 end the following:

8 **“§ 8323. Forfeiture of annuity for felony conviction.**

9 “(a)(1) An individual appointed to the service who
10 is not subject to the requirements of section 2 of the Pro-
11 mote Accountability and Government Efficiency Act may
12 not be paid an annuity or retired pay on the basis of the
13 service of the individual which is creditable toward the an-
14 nuity if the individual was finally convicted of a felony of-
15 fense.

16 “(2) For purposes of paragraph (1), the term ‘felony
17 offense’ means any felony offense committed by the indi-
18 vidual that is related to the performance of any position
19 within the service occupied by such individual.

20 “(b) An individual who is an at-will employee (as de-
21 termined under section 2 of the Promote Accountability
22 and Government Efficiency Act) may not be paid an annu-
23 ity on the basis of the service of the individual which is
24 creditable toward the annuity if the individual was finally
25 convicted of a felony offense—

1 a position within the General Schedule (subchapter III of
2 chapter 53).

3 “(b) Notwithstanding any other provision of law, in-
4 cluding the requirements of section 3594, any covered in-
5 dividual transferred to a General Schedule position under
6 subsection (a) shall, beginning on the date of such trans-
7 fer, receive the annual rate of pay applicable to such posi-
8 tion.

9 “(c) In this section, the term ‘covered individual’
10 means an individual occupying a Senior Executive Service
11 position who is not an at-will employee (as determined
12 under section 2 of the Promote Accountability and Gov-
13 ernment Efficiency Act).”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 of subchapter VIII of chapter 33 of title 5, United States
16 Code, is amended by striking the item relating to section
17 3397 and inserting the following new items:

“3397. Transfer to General Schedule positions.

“3398. Regulations.”.

18 **SEC. 8. LIMITATION ON OFFICIAL TIME AND USE OF GOV-**
19 **ERNMENT RESOURCES IN CARRYING OUT**
20 **UNION ACTIVITIES.**

21 (a) IN GENERAL.—Section 7131 of title 5, United
22 States Code, is amended to read as follows:

1 **“§ 7131. Limitation on official time**

2 “In carrying out any activities relating to the internal
3 business of a labor organization (including the solicitation
4 of membership, elections of labor organization officials,
5 and collection of dues), an employee may not—

6 “(1) perform such activities unless such em-
7 ployee is in a non-duty status; or

8 “(2) use any Government property (including
9 office space or computers).”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for chapter 71 of title 5, United States Code, is amended
12 by striking the item relating to section 7131 and inserting
13 the following new item:

“7131. Limitation on official time.”.

○