H. R. 1140

[Report No. 116–398, Part I]

To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration who provide screening of all passengers and property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 11, 2019

Mr. Thompson of Mississippi (for himself and Mrs. Lowey) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

February 21, 2020

Additional sponsors: Ms. Jackson Lee, Mrs. Demings, Mrs. Watson Coleman, Ms. Wasserman Schultz, Mr. DeFazio, Mr. David Scott of Georgia, Ms. Titus, Ms. Moore, Ms. Bonamici, Mr. Soto, Mr. Khanna, Ms. Brownley of California, Mrs. Luria, Ms. Wild, Mr. McGovern, Mrs. Beatty, Mr. Blumenauer, Ms. Haaland, Ms. Pingree, Mr. Carbajal, Mr. Huffman, Ms. Lee of California, Mr. Lowenthal, Mrs. Torres of California, Mrs. Napolitano, Ms. Ocasio-Cortez, Ms. Lofgren, Mr. Espaillat, Miss Rice of New York, Mr. Schrader, Mr. Lynch, Mr. Cleaver, Mr. Pocan, Ms. Clark of Massachusetts, Mr. Kilmer, Mr. Doggett, Mrs. Lee of Nevada, Mr. Lamb, Mr. Smith of Washington, Mr. Pappas, Mr. Brendan F. Boyle of Pennsylvania, Ms. Velázquez, Mr. Cohen, Mr. Cox of California, Mr. Himes, Mr. Heck, Ms. Meng, Ms. Hill of California, Mr. Rose of New York, Ms. Clarke of New York, Mrs. Carolyn B. Maloney of New York, Mr. Scott of Virginia, Mr. Perlmutter, Ms. Kaptur, Mr. Takano, Mr. Ryan, Ms. Mucarsel-Powell, Ms. Schakowsky, Ms. DelBene, Mrs. Murphy of Florida, Mr. Jeffries, Ms.
Omar, Ms. Norton, Mr. Grijalva, Mr. Payne, Mr. Aguilar, Mr. Pallone, Mr. Lewis, Ms. Bass, Mr. Kennedy, Ms. Eshoo, Mr. Neguse, Mr. Delgado, Mrs. Bustos, Mr. Beyer, Ms. McCollum, Mr. Crist, Ms. DeLauro, Mr. Trone, Ms. Kuster of New Hampshire, Mr. Tonko, Mr. Stutz, Ms. Kendra S. Horn of Oklahoma, Mr. Correa, Mr. Malinowski, Mr. Ruiz, Mr. Higgins of New York, Mr. Veasey, Mr. Vela, Ms. Shalala, Ms. Sewell of Alabama, Ms. Adams, Ms. Westmore, Mr. Langevin, Ms. DeGette, Mr. Larsen of Washington, Mr. Zeldin, Mr. Crow, Mrs. Axne, Mr. Swalwell of California, Mr. Price of North Carolina, Mr. Yarmuth, Mr. Cummings, Mr. Hastings, Mr. Caruso of Indiana, Mr. Rush, Ms. Castor of Florida, Mr. Krishnamoorthi, Mr. Lipinski, Mr. Garcia of Illinois, Mr. Brown of Maryland, Mr. Raskin, Mr. Welch, Ms. Craig, Mr. Phillips, Mr. Kildeer, Mr. Foster, Mr. Sires, Ms. Barragan, Mr. Fitzpatrick, Ms. Finkenauer, Mr. Levin of Michigan, Mr. Roybal-Allard, Mr. Michael F. Doyle of Pennsylvania, Mr. Neal, Mrs. Trahan, Mr. Kim, Mr. Engel, Ms. Kelly of Illinois, Mrs. McBath, Mr. Lawson of Florida, Ms. Jayapal, Mr. Richmond, Mr. Rouda, Ms. Schrier, Mr. Garamendi, Mr. Nadler, Mr. Keating, Mr. Gallego, Mr. Panetta, Mrs. Lawrence, Mr. Serrano, Mr. Ruppersberger, Mr. Lujan, Mr. Sherman, Mr. Harder of California, Ms. Scanlon, Mrs. Hayes, Mr. Bera, Mr. Cartwright, Mr. Brindisi, Mr. Larson of Connecticut, Mr. Thompson of California, Mr. Van Drew, Ms. Waters, Mr. Vargas, Mrs. Kirkpatrick, Mr. Peters, Ms. Sanchez, Ms. Frankel, Mr. Collins of New York, Ms. Davids of Kansas, Mr. Gottheimer, Mr. Norcross, Ms. Pressley, Mr. Cuellar, Ms. Trahan, Ms. Loeb, Ms. Johnson of Texas, Ms. Spanberger, Mr. Courtney, Mr. Cárdenas, Mr. Levin of California, Mr. Golden, Ms. Judy Chu of California, Mr. Gonzalez of Texas, Mr. Castro of Texas, Ms. Garcia of Texas, Mr. Kind, Mr. Evans, Ms. Torres Small of New Mexico, Mr. McNerney, Ms. Underwood, Mr. Sablan, Ms. Schneider, Ms. Houlahan, Mr. Bishop of Georgia, Ms. Speier, Ms. Fudge, Mr. Stanton, Ms. Dean, Ms. Wilson of Florida, Mr. Sarbanes, Mr. Cunningham, Mr. Green of Texas, Mr. Allred, Ms. Pascarella, Mrs. Dingell, Mr. Butterfield, Mr. Sean Patrick Maloney of New York, Mr. Young, Mr. Danny K. Davis of Illinois, Mr. Quigley, Ms. Escobar, Mrs. Fletcher, Mr. McEachin, Mr. Moulton, Mr. Smith of New Jersey, Ms. Porter, Mr. Clay, Ms. Matsui, Ms. Sherrill, Mr. Peterson, Ms. Gabbard, Mr. Cicilline, Mr. Meeks, Mr. Ted Lieu of California, Mr. Gomez, Mrs. Davis of California, Mr. Case, Mr. Deutch, Mr. O’Halloran, Mr. Connolly, Mr. DeSaulnier, Ms. Stevens, Mr. McKinley, Mr. Cisneros, Mr. Johnson of Georgia, Mr. Costa, Mr. Rodney Davis of Illinois, Mr. Horsford, Mr. Morelle, Mr. Stauber, Mr. Schiff, Mr. Joyce of Ohio, Ms. Blunt Rochester, Ms. Slotkin, Mr. Cooper, Mr. McAdams, Mr. Casten of Illinois, and Mr. Visclosky
Reported from the Committee on Homeland Security with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

Committee on Oversight and Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 11, 2019]
A BILL

To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration who provide screening of all passengers and property, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rights for Transportation Security Officers Act of 2020”.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term “adjusted basic pay” means—

   (A) the rate of pay fixed by law or administrative action for the position held by a covered employee before any deductions; and

   (B) any regular, fixed supplemental payment for non-overtime hours of work creditable as basic pay for retirement purposes, including any applicable locality payment and any special rate supplement;

(2) the term “Administrator” means the Administrator of the Transportation Security Administration;

(3) the term “covered employee” means an employee who holds a covered position;

(4) the term “covered position” means a position within the Transportation Security Administration;
(5) the term “conversion date” means the date as of which paragraphs (1) through (4) of section 3(c) take effect;

(6) the term “2019 Determination” means the publication, entitled “Determination on Transportation Security Officers and Collective Bargaining”, issued on July 13, 2019, by Administrator David P. Pekoske;

(7) the term “employee” has the meaning given such term by section 2105 of title 5, United States Code;

(8) the term “Secretary” means the Secretary of Homeland Security; and

(9) the term “TSA personnel management system” means any personnel management system established or modified under—

(A) section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note); or

(B) section 114(n) of title 49, United States Code.

SEC. 3. CONVERSION OF TSA PERSONNEL.

(a) Restrictions on certain personnel authorities.—Notwithstanding any other provision of law, effective as of the date of the enactment of this Act—
(1) any TSA personnel management system in use for covered employees and covered positions on the
day before such date of enactment, and any TSA per-
sonnel management policy, letters, guideline, or direc-
tive in effect on such day may not be modified;
(2) no TSA personnel management policy, letter,
guideline, or directive that was not established before
such date issued pursuant to section 111(d) of the
Aviation and Transportation Security Act (49 U.S.C.
44935 note) or section 114(n) of title 49, United
States Code, may be established; and
(3) any authority to establish or adjust a human
resources management system under chapter 97 of
title 5, United States Code, shall terminate with re-
spect to covered employees and covered positions.

(b) Personnel Authorities During Transition

Period.—Any TSA personnel management system in use
for covered employees and covered positions on the day be-
fore the date of enactment of this Act and any TSA per-
sonnel management policy, letter, guideline, or directive in
effect on the day before the date of enactment of this Act
shall remain in effect until the effective date under sub-
section (c).

(c) Transition to General Personnel Management System Applicable to Civil Service Employ-
EES.—Effective as of the date determined by the Secretary, but in no event later than 180 days after the date of the enactment of this Act—

(1) each provision of law cited in section 2(9) is repealed;

(2) any TSA personnel management policy, letter, guideline, and directive, including the 2019 Determination, shall cease to be effective;

(3) any human resources management system established or adjusted under chapter 97 of title 5, United States Code, with respect to covered employees or covered positions shall cease to be effective; and

(4) covered employees and covered positions shall be subject to the provisions of title 5, United States Code.

(d) SAFEGUARDS ON GRIEVANCES.—In carrying out this Act, the Secretary shall take such actions as are necessary to provide an opportunity to each covered employee with a grievance or disciplinary action (including an adverse action) pending within TSA on the date of enactment of this Act or at any time during the transition period described in subsection (c) to have such grievance removed to proceedings pursuant to title 5, United States Code, or continued within TSA.
SEC. 4. TRANSITION RULES.

(a) NONREDUCTION IN PAY AND COMPENSATION.—Under pay conversion rules as the Secretary may prescribe to carry out this Act, a covered employee converted from a TSA personnel management system to the provisions of title 5, United States Code, pursuant to section 2(c)(4) shall not be subject to any reduction in the rate of adjusted basic pay payable, or total compensation provided, to such covered employee.

(b) PRESERVATION OF OTHER RIGHTS.—In the case of each covered employee as of the conversion date, the Secretary shall take any actions necessary to ensure that—

(1) any annual leave, sick leave, or other paid leave accrued, accumulated, or otherwise available to a covered employee immediately before the conversion date shall remain available to the employee until used; and

(2) the Government share of any premiums or other periodic charges under chapter 89 of title 5, United States Code, governing group health insurance shall remain at least the same as was the case immediately before the conversion date.

SEC. 5. CONSULTATION REQUIREMENT.

(a) EXCLUSIVE REPRESENTATIVE.—The labor organization certified by the Federal Labor Relations Authority on June 29, 2011, or successor labor organization shall be
treated as the exclusive representative of full- and part-time
non-supervisory TSA personnel carrying out screening
functions under section 44901 of title 49, United States
Code, and shall be the exclusive representative for such per-
sonnel under chapter 71 of title 5, United States Code, with
full rights under such chapter. Any collective bargaining
agreement covering such personnel on the date of enactment
of this Act shall remain in effect, consistent with subsection
(d).

(b) CONSULTATION RIGHTS.—Not later than 7 days
after the date of the enactment of this Act, the Secretary
shall consult with the exclusive representative for the per-
sonnel described in subsection (a) under chapter 71 of title
5, United States Code, on the formulation of plans and
deadlines to carry out the conversion of covered employees
and covered positions under this Act. Prior to the conver-
sion date, the Secretary shall provide (in writing) to such
exclusive representative the plans for how the Secretary in-
tends to carry out the conversion of covered employees and
covered positions under this Act, including with respect to
such matters as—

(1) the anticipated conversion date; and

(2) measures to ensure compliance with sections

3 and 4.
(c) **REQUIRED AGENCY RESPONSE.**—If any views or recommendations are presented under subsection (b) by the exclusive representative, the Secretary shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented and provide the exclusive representative a written statement of the reasons for the final actions to be taken.

(d) **SUNSET PROVISION.**—The provisions of this section shall cease to be effective as of the conversion date.

**SEC. 6. NO RIGHT TO STRIKE.**

Nothing in this Act shall be considered—

(1) to repeal or otherwise affect—

(A) section 1918 of title 18, United States Code (relating to disloyalty and asserting the right to strike against the Government); or

(B) section 7311 of title 5, United States Code (relating to loyalty and striking); or

(2) to otherwise authorize any activity which is not permitted under either provision of law cited in paragraph (1).
To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system to the Transportation Security Administration who provide screening of all passengers and property, and for other purposes.

A BILL

H. R. 1140

FEBRUARY 21, 2020

Reported from the Committee on Homeland Security

FEBRUARY 21, 2020

Committee on Oversight and Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

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