

TO MODIFY THE APPLICATION OF TEMPORARY LIMITED
APPOINTMENT REGULATIONS TO THE NATIONAL PARK
SERVICE, AND FOR OTHER PURPOSES

SEPTEMBER 25, 2018.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 6599]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6599) to modify the application of temporary limited appointment regulations to the National Park Service, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 6599 is to modify the application of temporary limited appointment regulations to the National Park Service.

BACKGROUND AND NEED FOR LEGISLATION

Every year, millions of people from the United States and abroad visit our national parks. To protect park resources and to serve the public, the National Park Service (NPS) employs a permanent workforce and an essential temporary seasonal workforce. Thousands of temporary seasonal employees are hired every year to assist permanent staff at many NPS parks and offices.¹ They have proven to be indispensable to park operations, and represent a variety of positions, including park rangers, firefighters, trail crew, fee collectors, grounds crew and law enforcement officers.

¹“Applying for a Job with the National Park Service.” About Us. National Park Service website. <https://www.nps.gov/about-us/how-to-apply.htm>,

Many NPS temporary seasonal employees will return to work at the same park for several summers. These employees may be rehired at the start of each season without reapplying for the same job they held the previous season. Temporary seasonal employees may only be rehired for the same job title at the same pay grade, and the reappointment is contingent upon a satisfactory performance review. This practice is authorized by the Code of Federal Regulations (CFR) and applies to all federal agencies.² Agencies benefit in cost and time savings from the reduced recruitment, interviewing, and vetting workload, and temporary seasonal employees gain an element of certainty in their summer employment plans.

Recently, the NPS's interpretation and implementation of the applicable federal hiring regulations have been called into question by the Office of Personnel Management (OPM). In October 2016, OPM conducted a human resources audit of NPS workforce strategies, staffing operations, and compliance with laws, regulations and policies.³ OPM was particularly concerned with the perceived misuse of time-limited appointing authorities, including the temporary seasonal rehire authority.

The crux of the issue is the interpretation of the term "major subdivision" in the applicable regulation found at 5 C.F.R. 316.401. For an employee to be eligible for rehiring authority, the employee must not work more than six months in a major subdivision of an agency. OPM defines "major subdivision" as the bureau of a federal agency, e.g. the NPS. The NPS interpreted "major subdivision" as an individual park unit, e.g. Yellowstone National Park.⁴ NPS had been permitting temporary seasonal employees to work a summer season in one park and a winter season in a different park unit. In OPM's view, such an employee had worked more than six months and in cases where such an employee was subsequently rehired non-competitively, NPS had violated the federal regulation.

NPS was directed by OPM to make operational changes to ensure compliance with regulations that govern the hiring and rehiring of temporary seasonal employees.⁵ The implementation of the directive created confusion for NPS managers, hiring officials, and temporary seasonal employees expecting to return to their previously held positions.⁶ It also threatened the ability of parks to open and operate as normal for the upcoming season. Many temporary seasonal employees lost their ability to be rehired under this simplified authority and were left unexpectedly out of a job they had planned on.⁷

²"Temporary Limited Appointments". Title 5 CFR 316.401–402. <https://www.gpo.gov/fdsys/pkg/CFR-2012-title5-vol1/pdf/CFR-2012-title5-vol1.pdf>.

³US Office of Personnel Management. October 2016. 'HR Transformation and Talent Management at the National Park Service: FY15–FY16'.

⁴National Park Service Memorandum. May 15, 2018. "Updated Guidance for the Determination and Use of Non-Competitive Rehire Eligibility for Temporary Seasonal Appointments". <https://www.nps.gov/about-us/upload/Updated-Guidance-Non-Competitive-Rehire.pdf>.

⁵Id.

⁶NTEU The National Treasury Employees Union. Letter from National President Anthony M. Reardon to the Honorable Tom McClintock, Chairman Subcommittee on Federal Lands and the Honorable Colleen Hanabusa, Ranking Member Subcommittee on Federal Lands. Dated April 16, 2018.

⁷"Many Lose Jobs after National Park Service Changes Interpretation of Seasonal Work Rule". Government Executive. April 20, 2018. <https://www.govexec.com/management/2018/04/many-lose-jobs-after-national-park-service-changes-interpretation-seasonal-work-rule/147618/>.

H.R. 6599 would authorize the NPS Director to define the term “major subdivision” in the CFR as it pertains to the NPS. This specific reference is in section 316.401 of subpart D of part 316 of title 5, CFR.⁸ The bill also states that the requirement that a position be in the same local commuting area shall not apply.

Some NPS temporary seasonal employees work at multiple parks in a calendar year to gain the experience they will need to qualify for permanent positions. Others enjoy working in different parts of the country and prefer the flexible lifestyle. In either case, temporary seasonal workers are often the face and backbone of our parks and are critical to the successful operation of the NPS. H.R. 6599 gives the NPS the flexibility it has long enjoyed to hire the experienced workforce it needs to protect our parks and serve visitors from around the world.

COMMITTEE ACTION

H.R. 6599 was introduced on July 26, 2018, by Congressman Stephen Knight (R–CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On September 5, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6599, a bill to modify the application of temporary limited appointment regulations to the National Park Service, and for other purposes.

⁸“Temporary Limited Appointments”. Title 5 CFR 316.401–402. <https://www.gpo.gov/fdsys/pkg/CFR–2012–title5–vol1/pdf/CFR–2012–title5–vol1.pdf>.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jacob Fabian.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 6599—A bill to modify the application of temporary limited appointment regulations to the National Park Service, and for other purposes

H.R. 6599 would allow the National Park Service (NPS) to resume its previous policy of hiring and rehiring temporary seasonal workers at different parks. Prior to May 2018, the NPS allowed temporary seasonal employees to work the winter season in one park and the summer season in a different park. The Office of Personnel Management determined that this practice was a violation of federal regulations and in May 2018 directed the NPS to make operational changes to ensure compliance with the regulations that govern the hiring and rehiring of temporary seasonal workers.

Using information from the NPS, CBO estimates that the cost of implementing H.R. 6599 would not be significant.

Enacting H.R. 6599 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 6599 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6599 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jacob Fabian. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to modify the application of temporary limited appointment regulations to the National Park Service.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pur-

suant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

COMMITTEE CORRESPONDENCE

ROB BISHOP OF UTAH
CHAIRMAN

COBY STEWART
STAFF DIRECTOR

RAÚL GRIJALVA OF ARIZONA
RANKING MEMBER

DAVID WATKINS
DEMOCRATIC STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 24, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

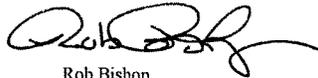
Dear Mr. Chairman:

On September 5, 2018, the Committee on Natural Resources ordered favorably reported H.R. 6599, to modify the application of temporary limited appointment regulations to the National Park Service, and for other purposes. While this bill was not originally referred to the Committee on Oversight and Government Reform, I believe your Committee has a valid jurisdictional interest in the measure.

I ask that you not seek a sequential referral of the bill so that it may be considered by the House of Representatives this week. This action in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Oversight and Government Reform represented on the conference committee. Finally, I would be pleased to include this letter and your response in the bill report and in the Congressional Record.

Thank you for your consideration, and I look forward to further opportunities to work with you this Congress.

Sincerely,



Rob Bishop
Chairman
Committee on Natural Resources

TREY GOWDY, SOUTH CAROLINA
CHAIRMAN

ONE HUNDRED FIFTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MEMBER

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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WASHINGTON, DC 20515-6143

Mr. Gowdy (202) 225-5074
Mr. Cummings (202) 225-5461
<http://www.senate.gov>

September 24, 2018

The Honorable Rob Bishop
Chairman, Committee on Natural Resources
U.S. House of Representatives

Dear Mr. Chairman:

Thank you for your letter concerning H.R. 6599, a bill to modify the application of temporary limited appointment regulations to the National Park Service, and for other purposes. As a result of your having consulted with me concerning the bill, the Committee on Oversight and Government Reform will not seek a sequential referral and agrees to forego formal action on the bill.

The Committee takes this action with our mutual understanding that by foregoing a request for a sequential referral of H.R. 6599 at this time we do not waive any jurisdiction over the subject matter contained in this or similar legislation. I appreciate your agreement to support appointment of members of the Committee on Oversight and Government Reform as conferees in any House-Senate conference on this or related legislation. In addition, I request the Committee be consulted and involved as the bill or similar legislation moves forward so we may address any remaining issues within our jurisdiction.

Finally, I would ask that a copy of our exchange of letters on this matter be included in the bill report filed by the Committee on Natural Resources, as well as in the Congressional Record during floor consideration, to memorialize our understanding.

Sincerely,



Trey Gowdy

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Elijah E. Cummings
The Honorable Raúl Grijalva
The Honorable Thomas J. Wickham, Parliamentarian

