

Calendar No. 319

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-169 }

ATC HIRING REFORM ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1148



DECEMBER 5, 2019.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

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Mr. WICKER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1148]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1148) to amend title 49, United States Code, to require the Administrator of the Federal Aviation Administration to give preferential consideration to individuals who have successfully completed air traffic controller training and veterans when hiring air traffic control specialists, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 1148 is to reform how the Federal Aviation Administration (FAA) hires air traffic controllers, require the FAA to provide a report on the progress the agency is making in regard to the hiring and training of air traffic controllers, and direct the Inspector General of the Department of Transportation (DOT IG) to review certain air traffic controller hiring practices.

BACKGROUND AND NEEDS

Air traffic controllers are responsible for safely separating aircraft within large portions of U.S. airspace. There are roughly 14,000 air traffic controllers within the FAA workforce. Of these, roughly 10,800 are certified professional controllers (CPCs) who have full certification on all positions and can provide on-the-job training of new hires. By statute, air traffic controllers must be hired prior to turning 30 years of age and generally have a manda-

tory retirement age of 56.¹ Controllers work in three different types of air traffic control facilities: tower, terminal, and en-route.

Prospective air traffic controllers are required to take the Air Traffic Selection Assessment (AT-SA) test, and if they pass, candidates then go through classroom training at the FAA Academy in Oklahoma City, Oklahoma. After completing the classroom training course, candidates are sent out to the field where it takes 2 to 3 years for them to become fully certified. Traditionally, the FAA had received many of its candidates for air traffic controllers from Collegiate Training Initiative (CTI) schools, which are 2- and 4-year non-engineering aviation degree schools that offer courses in air traffic control and aviation administration.

In December 2013, based on internal FAA and external reviews of the hiring process, the agency updated the hiring process for air traffic controllers. One aspect of the update that some criticized was the implementation of a biographical assessment² for any prospective air traffic controller candidate. Candidates were required to “pass” the biographical assessment in order to move forward. This change in the hiring process took effect in 2014, however, the change was criticized by many for its lack of transparency and effectiveness. In 2014 and 2015, the FAA did not meet its hiring goal for air traffic controller candidates, prompting significant concern in Congress.

In response to these issues, the FAA Extension, Safety, and Security Act of 2016 (FESSA)³ contained a provision that placed certain statutory requirements on the FAA’s air traffic controller hiring process.⁴ Pursuant to the new requirements, there are two groups from which a candidate for air traffic controller can be hired. The first group is for qualified individuals who maintain 52 consecutive weeks of air traffic control experience. These individuals are hired using a separate hiring announcement. Additionally, these applicants have a maximum hiring age of 35 and do not have to take the biographical assessment. The second group is divided into two pools: Pool 1 consists of CTI graduates and veterans, and pool 2 consists of off-the-street hires. When the FAA issues a general hiring announcement for this group, they are statutorily required to have at least 50 percent of the hires come from pool 1 and there can be no more than a 10-percent difference between the two pools. Pool 1 candidates are not required to take the biographical assessment, but they must pass the AT-SA. However, this new hiring system has resulted in unintentional consequences. Under the law, the number of controllers from pool 2 which the FAA can hire is limited by the number of qualified applicants there are in pool 1. This limitation could have a negative impact on the FAA’s ability to hire the necessary number of air traffic controller candidates.

SUMMARY OF PROVISIONS

If enacted, S. 1148 would do the following:

¹ 5 U.S.C. 8335.

² The FAA described the biographical assessment as a tool which predicts controller performance through a process of asking individuals to recall and report their typical and sometimes specific behaviors or experiences, generally from an earlier time in their lives.

³ Pub. L. 114–190.

⁴ 49 U.S.C. 44506.

- Revise the way the FAA hires and gives preferential consideration to prospective air traffic controller hires from pool 1. Specifically, the legislation would require the FAA to give preferential consideration to pool 1 candidates over pool 2 candidates for those who are in each qualification category based on the applicant's pre-employment test score.
- Require the FAA to provide a biannual report on their progress in hiring and training air traffic controllers.
- Add National Guard facilities to the list of facilities where experienced air traffic controllers could have gained their experience.
- Require the DOT IG to conduct a review that assesses the assumptions and methodologies used by the FAA in developing the air traffic controller pre-employment test.

LEGISLATIVE HISTORY

S. 1148 was introduced on April 11, 2019, by Senator Hoeven (for himself and Senator Shaheen), and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Sullivan, Sinema, Capito, McSally, Peters, and Inhofe are additional cosponsors. On July 24, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 1148 reported favorably with amendments.

The provisions in this bill are related to section 2106 of FESSA,⁴ which, as H.R. 636, passed the Senate in the 114th Congress. Section 2106 contained language substantively similar to H.R. 5292, the Air Traffic Controller Hiring Improvement Act of 2016, which, as a provision contained within S. 2658, the FAA Reauthorization Act of 2016, also passed the Senate in the 114th Congress.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

⁴Pub. L. 114-190.

S. 1148, ATC Hiring Reform Act of 2019			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 24, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	*
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and zero.			

S. 1148 would change the hiring preferences the Federal Aviation Administration (FAA) uses when hiring air traffic controllers. Specifically, the bill would authorize the FAA to prioritize hiring air traffic controllers who are military veterans and who have graduated from an FAA Collegiate Training Initiative school. The bill also would require the Inspector General of the Department of Transportation to report to the Congress on the pre-employment test used for air traffic controllers. Under the bill, the FAA would report every six months to the Congress on the hiring and training of air traffic controllers.

Using information from the FAA, CBO estimates that the additional flexibility under the bill could make it easier to hire air traffic controllers, but any reduced costs would not be significant over the 2020–2024 period.

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

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

In S. 1148, as reported, section 4 makes changes to those eligible for the FAA's hiring announcement for experienced air traffic controllers by adding qualified individuals who operated at National Guard facilities. Additionally, section 2 requires the FAA to modify how it hires from pool 1 and pool 2, but it should not significantly change the number of persons covered.

ECONOMIC IMPACT

S. 1148, as reported, would change certain aspects of the way the FAA hires prospective air traffic controllers and does not directly regulate individuals or businesses. As the bill removes a potential

limit on the number of individuals that can be hired, it could allow for more such people to become employed by the FAA as controllers.

PRIVACY

S. 1148, as reported, would not have a negative impact on the privacy rights of individuals.

PAPERWORK

S. 1148, as reported, would require the FAA to produce biannually a report on the hiring and training of air traffic controllers. Furthermore, the DOT IG would be required to conduct a review assessing the methodologies and assumptions used in the development of the pre-employment screening test for air traffic controllers.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the bill may be cited as the “ATC Hiring Reform Act of 2019”.

Section 2. Hiring of air traffic control specialists

This section would amend section 44506 (f)(1)(B)(i) of title 49, United States Code, to require the FAA, when hiring from the two pools established in that section, to give preferential consideration within each qualification category (based on pre-employment testing results) to pool 1 candidates before pool 2 candidates.

Section 3. Report on air traffic controller and training

This section would require the FAA to provide an initial report no later than December 31, 2019, and then subsequently every 6 months, providing various statistics and data regarding the agency’s hiring and training of air traffic controllers. This includes tracking where air traffic controller candidates are throughout the hiring and training process at both the FAA Academy and air traffic control facilities.

Section 4. Ensuring hiring preference for applicants with experience at an air traffic control facility of the National Guard

This section would amend section 44506(f)(1)(A)(ii) of title 49, United States Code, to clarify that individuals who worked at National Guard facilities are among those eligible for the hiring preference afforded to experienced controllers.

Section 5. DOT Inspector General review and report

This section would direct the DOT IG to undertake a review that would assess the assumptions and methodologies used in devel-

oping the air traffic controller pre-employment test and provide a report to appropriate committees of Congress within 270 days.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49—TRANSPORTATION

SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

SUBPART III—SAFETY

CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

§ 44506. Air traffic controllers

(a) * * *

(f) HIRING OF CERTAIN AIR TRAFFIC CONTROL SPECIALISTS.—

(1) CONSIDERATION OF APPLICANTS.—

(A) ENSURING SELECTION OF MOST QUALIFIED APPLICANTS.—In appointing individuals to the position of air traffic controller, the Administrator shall give preferential consideration to qualified individuals maintaining 52 consecutive weeks of air traffic control experience involving the full-time active separation of air traffic after receipt of an air traffic certification or air traffic control facility rating within 5 years of application while serving at—

(i) a Federal Aviation Administration air traffic control facility;

(ii) a civilian or military air traffic control facility of the Department of Defense (*including a facility of the National Guard*); or

(iii) a tower operating under contract with the Federal Aviation Administration under section 47124.

(B) CONSIDERATION OF ADDITIONAL APPLICANTS.—

(i) IN GENERAL.—After giving preferential consideration to applicants under subparagraph (A), the Administrator shall consider additional applicants for the position of air traffic controller by [referring an approximately equal number of individuals for appointment among the 2 applicant pools described in this subparagraph. The number of individuals referred for consideration from each group shall not differ by more than 10 percent.] *giving further preferential consideration, within each qualification category based upon pre-employment testing results, to pool 1 applicants de-*

*scribed in clause (ii) before pool 2 applicants described
in clause (iii).*

* * * * *

