

108TH CONGRESS
1ST SESSION

H. R. 1602

To provide for reform of the Senior Executive Service, adjustment in the rates of pay of certain positions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2003

Mrs. JO ANN DAVIS of Virginia introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To provide for reform of the Senior Executive Service, adjustment in the rates of pay of certain positions, 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; REFERENCES; TABLE OF CON-**
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Senior Executive Service Reform Act of 2003”.

7 (b) REFERENCES.—Except as otherwise expressly
8 provided, whenever in this title an amendment is expressed
9 in terms of an amendment to a section or other provision,

1 the reference shall be considered to be made to a section
 2 or other provision of title 5, United States Code.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

Sec. 1. Short title; references; table of contents.
 Sec. 2. Amendments relating to basic pay.
 Sec. 3. Locality pay adjustment limitation.
 Sec. 4. Annual leave enhancements.
 Sec. 5. Expanded Senior Executive Service limited appointment authority.
 Sec. 6. Effective date.

5 **SEC. 2. AMENDMENTS RELATING TO BASIC PAY.**

6 (a) BASIC PAY FOR SENIOR EXECUTIVE SERVICE
 7 POSITIONS.—

8 (1) PAY RANGE.—Section 5382 is amended to
 9 read as follows:

10 **“§ 5382. Range in rates of pay for the senior execu-**
 11 **tive service**

12 “Each senior executive is entitled to basic pay at the
 13 rate determined for such senior executive under section
 14 5383, except that no rate so determined may be—

15 “(1) greater than the rate of basic pay for level
 16 III of the Executive Schedule, or
 17 “(2) less than the minimum rate of basic pay
 18 payable under section 5376.”.

19 (2) SETTING INDIVIDUAL RATES.—Subsection

20 (a) of section 5383 is amended to read as follows:

21 “(a)(1) Subject to section 5382, each appointing au-
 22 thority shall determine the rate of basic pay which shall

1 be paid to each senior executive under such appointing au-
 2 thority.

3 “(2) A determination under this subsection shall,
 4 with respect to any senior executive, be made based on
 5 such senior executive’s experience and capabilities, the re-
 6 sponsibilities of the position such senior executive holds,
 7 and such other criteria as the Office of Personnel Manage-
 8 ment may by regulation prescribe.”.

9 (3) LIMITATION ON ADJUSTMENTS.—Sub-
 10 section (c) of section 5383 is amended by striking
 11 “Except” and all that follows through “title,” and
 12 inserting “Except as otherwise provided in regula-
 13 tions under section 5385,”.

14 (b) BASIC PAY FOR OTHER POSITIONS.—Sections
 15 5372(b)(1)(C), 5372a(b)(1), and 5376(b)(1)(B) are
 16 amended by striking “level IV” each place it appears and
 17 inserting “level III”.

18 (c) COORDINATION PROVISIONS.—

19 (1) IN GENERAL.—For purposes of determining
 20 the rate of compensation for any position described
 21 in paragraph (2), the President may, after the effec-
 22 tive date set forth in section 6, continue to adjust
 23 rates of basic pay for the Senior Executive Service
 24 to the same extent and in the same manner as if the

1 amendments made by this section had not been en-
2 acted.

3 (2) APPLICABILITY.—This subsection applies
4 with respect to any position the rate of compensa-
5 tion for which is set, by or under any provision of
6 law enacted before the effective date set forth in sec-
7 tion 6, by reference to a level or rate of pay for the
8 Senior Executive Service.

9 (3) SPECIAL RULES.—The following special
10 rules shall apply for purposes of carrying out this
11 subsection:

12 (A) Section 5382(b) of title 5, United
13 States Code, as last in effect before the effec-
14 tive date specified in section 6, shall be deemed
15 to have been amended by striking “level IV”
16 and inserting “level III”.

17 (B)(i) Notwithstanding any other provision
18 of law, after the effective date specified in sec-
19 tion 6, the President may, on his own initiative,
20 provide for such comparability payments for the
21 Senior Executive Service as he considers nec-
22 essary in order to carry out the purposes de-
23 scribed in paragraph (1).

24 (ii) For purposes of this subparagraph,
25 section 5304(g)(2) of such title 5 shall, to the

1 extent that it relates to the Senior Executive
2 Service, be deemed to have been amended by
3 striking “level III” and inserting “level II”.

4 (4) LIMITED EFFECT.—Any adjusted rates of
5 pay and any comparability payments fixed for the
6 Senior Executive Service under this subsection shall
7 not have any force or effect except as provided in
8 paragraph (1) or (3)(B).

9 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) LIMITATIONS ON PAY FIXED BY ADMINIS-
11 TRATIVE ACTION.—

12 (A) SECTION 5306.—Section 5306(d) is
13 amended by striking the period and inserting “,
14 including under section 5372, 5376, or 5383.”.

15 (B) SECTION 5373.—Section 5373(a) is
16 amended—

17 (i) by striking “or” at the end of
18 paragraph (3);

19 (ii) by striking paragraph (4) and in-
20 serting the following:

21 “(4) section 4802, 5372, 5376, or 5383; or”;

22 and

23 (iii) by redesignating the second para-
24 graph (4) (as added by section 10702(c)(3)

1 of Public Law 107–171 (116 Stat. 517))
 2 as paragraph (5).

3 (2) REFERENCES TO SECTION 5382.—

4 (A) The analysis for chapter 53 is amend-
 5 ed by striking the item relating to section 5382
 6 and inserting the following:

“5382. Range in rates of pay for the senior executive service.”.

7 (B) Section 3161(d)(2) is amended by
 8 striking “established” and inserting “allow-
 9 able”.

10 (C) Sections 4507(e)(1) and 5384(a)(2)
 11 are each amended by striking “5382” and in-
 12 serting “5383”.

13 **SEC. 3. LOCALITY PAY ADJUSTMENT LIMITATION.**

14 Paragraph (2) of section 5304(g) is amended to read
 15 as follows:

16 “(2) The applicable maximum under this subsection
 17 shall—

18 “(A) for any positions under subparagraphs
 19 (A)–(E) of subsection (h)(1), be level II of the Exec-
 20 utive Schedule; and

21 “(B) for any positions under subsection
 22 (h)(1)(F) which the President may determine, be
 23 level III of the Executive Schedule.”.

1 **SEC. 4. ANNUAL LEAVE ENHANCEMENTS.**

2 (a) IN GENERAL.—Section 6303 is amended by add-
3 ing at the end the following:

4 “(e)(1) Notwithstanding any provision of subsection
5 (a), the rate of accrual of annual leave in the case of an
6 employee under paragraph (2) is one day for each full bi-
7 weekly pay period.

8 “(2) This subsection applies to an employee in a posi-
9 tion paid under section 5376 or 5383, or for an employee
10 in an equivalent category of positions (as determined
11 under regulations of the Office of Personnel Management)
12 for which the minimum rate of basic pay is not less than
13 120 percent of the minimum rate of basic pay payable for
14 GS–15 of the General Schedule.”.

15 (b) APPLICABILITY.—The amendment made by sub-
16 section (a) shall apply with respect to pay periods begin-
17 ning on or after the effective date set forth in section 6.

18 **SEC. 5. EXPANDED SENIOR EXECUTIVE SERVICE LIMITED**
19 **APPOINTMENT AUTHORITY.**

20 (a) DEFINITIONS.—Section 3132(a) is amended—

21 (1) by striking paragraphs (5) and (6), and in-
22 serting the following:

23 “(5) ‘limited term appointee’ means an indi-
24 vidual appointed under a nonrenewable appointment
25 to a Senior Executive Service position for a term
26 fixed in accordance with section 3394(d) and the du-

1 ties of which position will expire at the end of such
2 term;

3 “(6) ‘limited emergency appointee’ means an in-
4 dividual appointed under a nonrenewable appoint-
5 ment to a Senior Executive Service position, estab-
6 lished to meet a bona fide, unanticipated, urgent
7 need, for a term fixed in accordance with section
8 3394(c);”; and

9 (2) by striking paragraph (8) and inserting the
10 following:

11 “(8) ‘career reserved position’ means a position
12 which is designated under subsection (b) and which
13 may be filled either by—

14 “(A) a career appointee;

15 “(B) a limited term appointee or limited
16 emergency appointee who—

17 “(i) is appointed to such position
18 under section 3394; and

19 “(ii) immediately before entering such
20 position, was serving under a career or ca-
21 reer-conditional appointment outside the
22 Senior Executive Service (or an appoint-
23 ment of equivalent tenure, as determined
24 by the Office); or

1 “(C) a limited term appointee or limited
2 emergency appointee who is reassigned to such
3 position under section 3395(b); and”.

4 (b) DURATION OF LIMITED APPOINTMENTS.—Sec-
5 tion 3394 is amended by adding at the end the following:

6 “(c)(1) A limited emergency appointee may be ap-
7 pointed for a period of not to exceed 1 year.

8 “(2) If the exigencies of the public business so re-
9 quire, such appointment may be extended for not to exceed
10 1 year.

11 “(3) The authorities under paragraphs (1) and (2)
12 shall be available subject to section 3395(c).

13 “(d)(1) A limited term appointee may be appointed
14 for a period of not to exceed 4 years.

15 “(2) If the exigencies of the public business so re-
16 quire, such appointment may be extended for not to exceed
17 2 years.

18 “(3) The authorities under paragraphs (1) and (2)
19 shall be available subject to section 3395(c).”.

20 (c) REASSIGNMENT WITHIN THE SENIOR EXECUTIVE
21 SERVICE.—

22 (1) IN GENERAL.—Subsection (b) of section
23 3395 is amended to read as follows:

24 “(b)(1)(A) Notwithstanding section 3394(b), a lim-
25 ited emergency appointee may be reassigned to another

1 Senior Executive Service position in the same agency es-
2 tablished to meet a bona fide, unanticipated, urgent need,
3 except that the appointee may not serve in 1 or more posi-
4 tions in such agency under such appointment in excess
5 of the term allowable under section 3394(c) (1) and (2).

6 “(B) An individual may not be reassigned under this
7 paragraph to a career reserved position without the prior
8 approval of the exercise of that reassignment authority by
9 the Office of Personnel Management.

10 “(2)(A) Notwithstanding section 3394(b), a limited
11 term appointee may be reassigned to another Senior Exec-
12 utive Service position in the same agency the duties of
13 which will expire at the end of that individual’s term, ex-
14 cept that the appointee may not serve in 1 or more posi-
15 tions in the agency under such appointment in excess of
16 the term allowable under section 3394(d) (1) and (2).

17 “(B) An individual may not be reassigned under this
18 paragraph to a career reserved position without the prior
19 approval of the exercise of that reassignment authority by
20 the Office of Personnel Management.”.

21 (2) LIMITATION ON AGGREGATE SERVICE.—

22 Section 3395(c) is amended—

23 (A) by striking “48 months” and inserting
24 “10 years”; and

1 (B) by striking “36 months” and inserting
2 “7 years”.

3 (d) REEMPLOYMENT RIGHTS FOR CERTAIN AP-
4 PPOINTEES IN THE SENIOR EXECUTIVE SERVICE.—

5 (1) IN GENERAL.—Section 3594 is amended by
6 redesignating subsection (c) as subsection (d) and by
7 inserting after subsection (b) the following:

8 “(c) A limited emergency appointee or limited term
9 appointee who was appointed from a civil service position
10 held under a career or career-conditional appointment (or
11 an appointment of equivalent tenure, as determined by the
12 Office) and who, for reasons other than misconduct, ne-
13 glect of duty, or malfeasance, is removed from the Senior
14 Executive Service shall be entitled to be placed in a civil
15 service position (other than a Senior Executive Service po-
16 sition) in any agency.”.

17 (2) CONFORMING AMENDMENTS.—Section
18 3594(d) (as so redesignated by paragraph (1)) is
19 amended—

20 (A) by striking “subsections (a) and (b)”
21 and inserting “subsections (a), (b), and (c)”;
22 and

23 (B) by adding at the end the following:

24 “(3) A limited emergency appointee or limited term
25 appointee described in subsection (c) shall be entitled to

1 the same rights under this subsection as a career ap-
2 pointee described in subsection (a).”.

3 (e) APPLICABILITY; SAVINGS PROVISION; TRANSI-
4 TION RULE.—

5 (1) APPLICABILITY.—The amendments made
6 by this section shall apply with respect to appoint-
7 ments made on or after the effective date specified
8 in section 6.

9 (2) SAVINGS PROVISIONS.—Appointments made
10 prior to the effective date specified in section 6 shall
11 continue to be governed by provisions of title 5,
12 United States Code, applied as if this section had
13 not been enacted.

14 (3) TRANSITION RULE.—

15 (A) IN GENERAL.—Service as a limited
16 term appointee or limited emergency appointee
17 performed before the effective date specified in
18 section 6 shall not be taken into account for
19 purposes of applying section 3395(c) of title 5,
20 United States Code, as amended by this sec-
21 tion.

22 (B) DEFINITIONS.—For purposes of this
23 paragraph, the terms “limited term appointee”
24 and “limited emergency appointee” have the

1 meanings set forth in section 3132(a) of such
2 title 5, as in effect before such effective date.

3 **SEC. 6. EFFECTIVE DATE.**

4 The amendments made by this Act shall take effect
5 90 days after the date of the enactment of this Act.

