

108TH CONGRESS  
1ST SESSION

# S. 768

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

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IN THE SENATE OF THE UNITED STATES

APRIL 2, 2003

Mr. VOINOVICH (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## 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.**

4       This Act may be cited as the “Senior Executive Serv-  
5       ice Reform Act of 2003”.

6       **SEC. 2. LOCALITY PAY ADJUSTMENT LIMITATION.**

7       Section 5304(g) of title 5, United States Code, is  
8       amended—

1 (1) in paragraph (2)(A), by striking “subpara-  
2 graphs (A) to (E)” and inserting “subparagraphs  
3 (A), (D), and (E)”; and

4 (2) by adding at the end the following:

5 “(3) The applicable maximum under this subsection  
6 shall be level II of the Executive Schedule for positions  
7 under subsection (h)(1) (B) and (C).”.

8 **SEC. 3. RATES OF PAY FOR SENIOR EXECUTIVE SERVICE.**

9 (a) IN GENERAL.—Chapter 53 of title 5, United  
10 States Code, is amended—

11 (1) by striking section 5382 and inserting the  
12 following:

13 **“§ 5382. Establishment of rates of pay for the Senior**  
14 **Executive Service**

15 “(a) Subject to regulations prescribed by the Office  
16 of Personnel Management, there shall be established a  
17 range of rates of basic pay for the Senior Executive Serv-  
18 ice, and each senior executive shall be paid at 1 of the  
19 rates within the range, based on individual performance,  
20 contribution to the agency’s performance, or both.

21 “(b) The lowest rate of the range shall not be less  
22 than the minimum rate of basic pay payable under section  
23 5376, and the highest rate shall not exceed the rate for  
24 level III of the Executive Schedule. Comparability pay-

1 ments under section 5304 or 5304a may be paid in addi-  
 2 tion to the highest rate under this subsection.

3 “(c) The payment of the rates under this section shall  
 4 not be subject to the pay limitation of section 5306(e) or  
 5 5373.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) TABLE OF SECTIONS.—The table of sections  
 8 for chapter 53 of title 5, United States Code, is  
 9 amended by striking the item relating to section  
 10 5382 and inserting the following:

“5382. Establishment of rates of pay for the Senior Executive Service.”.

11 (2) SETTING AND ADJUSTMENT OF SENIOR EX-  
 12 ECUTIVE SERVICE PAY.—Section 5383 of title 5,  
 13 United States Code, is amended—

14 (A) in subsection (a), by striking “which of  
 15 the rates established under section 5382 of this  
 16 title” and inserting “which of the rates within  
 17 the range established under section 5382”; and

18 (B) in subsection (c), by striking “for any  
 19 pay adjustment under section 5382 of this  
 20 title” and inserting “as provided in regulations  
 21 prescribed by the Office under section 5385”.

22 (3) LIMITATIONS ON PAY FIXED BY ADMINIS-  
 23 TRATIVE ACTIONS.—Chapter 53 of title 5, United  
 24 States Code, is amended—

25 (A) in section 5306(e)—

1 (i) by inserting “(1)” after “(e)”; and

2 (ii) by adding at the end the fol-

3 lowing:

4 “(2) This subsection shall not apply to any authority  
5 under section 5376 or 5382.”; and

6 (B) in section 5373(a), by striking para-  
7 graph (4) and inserting the following:

8 “(4) section 4802, 5376, or 5382.”.

9 **SEC. 4. RATES OF PAY FOR ADMINISTRATIVE LAW JUDGES.**

10 Section 5372(b)(1)(C) of title 5, United States Code,  
11 is amended—

12 (1) by striking “level IV” each place it appears  
13 and inserting “level III”; and

14 (2) by adding after the period the following:  
15 “Comparability payments under section 5304 or  
16 5304a may be paid in addition to the highest rate  
17 under this subparagraph.”.

18 **SEC. 5. RATES OF PAY FOR CONTRACT APPEALS BOARD**

19 **MEMBERS.**

20 Section 5372a of title 5, United States Code, is  
21 amended—

22 (1) in subsection (b)(1), by striking “level IV”  
23 and inserting “level III”; and



1           “(5) ‘limited appointee’ means an individual ap-  
 2           pointed to a Senior Executive Service position to  
 3           meet a short-term staffing need, as determined by  
 4           the Office of Personnel Management;”;

5           (B) by striking paragraph (6) and redesignig-  
 6           nating paragraphs (7), (8), and (9) as para-  
 7           graphs (6), (7), and (8), respectively; and

8           (C) by amending paragraph (7) as so re-  
 9           designated to read as follows:

10          “(7) ‘career reserved position’ means a position  
 11          designated under subsection (b) which may be filled  
 12          only by—

13               “(A) a career appointee; or

14               “(B) a limited appointee who, immediately  
 15               before entering the career reserved position,  
 16               was serving under a career or career-conditional  
 17               appointment outside the Senior Executive Serv-  
 18               ice (or an appointment of equivalent tenure, as  
 19               determined by the Office of Personnel Manage-  
 20               ment), or whose limited appointment to a ca-  
 21               reer reserved position is approved in advance by  
 22               the Office of Personnel Management;”;

23          (2) in subsection (b)(1), by striking “For the  
 24          purpose of paragraph (8) of subsection (a) of this

1 section,” and inserting “For the purpose of para-  
2 graph (7) of subsection (a),”.

3 (b) NONCAREER AND LIMITED APPOINTMENTS.—

4 Section 3394 of title 5, United States Code, is amended  
5 to read as follows:

6 **“§ 3394. Noncareer and limited appointments**

7 “(a) Each noncareer appointee and limited appointee  
8 shall meet the qualifications of the position to which ap-  
9 pointed, as determined in writing by the appointing au-  
10 thority.

11 “(b) An individual may not be appointed as a limited  
12 appointee without the prior approval of the exercise of  
13 such appointment authority by the Office of Personnel  
14 Management.

15 “(c) The duration of a limited appointment shall be—

16 “(1) 4 years or less to a Senior Executive Serv-  
17 ice position the duties of which will expire at the end  
18 of such term; or

19 “(2) 12 months or less to a Senior Executive  
20 Service position the duties of which are continuing.

21 “(d) In rare circumstances, the Office of Personnel  
22 Management may authorize an extension of a limited ap-  
23 pointment under—

24 “(1) subsection (c)(1) for a period not to exceed  
25 2 years; and

1           “(2) subsection (c)(2) for a period not to exceed  
2           12 months.

3           “(e) A limited appointee who has been appointed  
4 from a career or career-conditional appointment outside  
5 the Senior Executive Service shall have reemployment  
6 rights in the agency from which appointed, or in another  
7 agency, under requirements and conditions established by  
8 the Office of Personnel Management. The Office shall  
9 have the authority to direct such placement in any agen-  
10 cy.”.

11           (c) REASSIGNMENT AND TRANSFER.—Section 3395  
12 of title 5, United States Code, is amended by striking sub-  
13 sections (b) and (c) and inserting the following:

14           “(b) Notwithstanding section 3394(b)—

15           “(1) a limited appointee serving under a term  
16 prescribed under section 3394(c)(1) may be reas-  
17 signed to another Senior Executive Service position  
18 in the same agency, the duties of which will expire  
19 at the end of a term of 4 years or less, except that  
20 the appointee may not serve in 1 or more positions  
21 in such agency under such appointment in excess of  
22 4 years, unless an extension has been approved by  
23 the Office; and

24           “(2) a limited appointee serving under a term  
25 prescribed under section 3394(c)(2) may be reas-

1 signed to another continuing Senior Executive Serv-  
2 ice position in the same agency, except that the ap-  
3 pointee may not serve in 1 or more positions in such  
4 agency under such appointment in excess of 12  
5 months, unless an extension has been approved by  
6 the Office.

7 “(c) A limited appointee may not serve more than 7  
8 consecutive years under any combination of limited ap-  
9 pointments.”.

10 **SEC. 8. ANNUAL LEAVE ENHANCEMENTS.**

11 (a) IN GENERAL.—Section 6303(a) of title 5, United  
12 States Code, is amended—

13 (1) in paragraph (2), by striking “and” at the  
14 end;

15 (2) in paragraph (3), by striking the period at  
16 the end and inserting “; and”; and

17 (3) by adding after paragraph (3) the following:

18 “(4) one day for each full biweekly pay period  
19 for an employee in a position paid under section  
20 5376 or 5383, or for an employee in an equivalent  
21 category for which the minimum rate of basic pay is  
22 greater than the rate payable at GS–15, step 10.”.

23 (b) REGULATIONS.—Not later than 120 days after  
24 the date of enactment of this Act, the Office of Personnel

1 Management shall prescribe regulations to carry out the  
2 amendments made by this subsection.

3 **SEC. 9. EFFECTIVE DATE.**

4 This Act shall take effect 90 days after the date of  
5 enactment of this Act.

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