

112TH CONGRESS
2D SESSION

S. 3585

To provide authorities for the appropriate conversion of temporary seasonal wildland firefighters and other temporary seasonal employees in Federal land management agencies who perform regularly recurring seasonal work to permanent seasonal positions.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2012

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide authorities for the appropriate conversion of temporary seasonal wildland firefighters and other temporary seasonal employees in Federal land management agencies who perform regularly recurring seasonal work to permanent seasonal positions.

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 “Land Management
5 Workforce Flexibility Act”.

1 **SEC. 2. PERSONNEL FLEXIBILITIES RELATING TO LAND**
 2 **MANAGEMENT AGENCIES.**

3 (a) IN GENERAL.—Subpart I of part III of title 5,
 4 United States Code, is amended by inserting after chapter
 5 95 the following:

6 **“CHAPTER 96—PERSONNEL FLEXIBILI-**
 7 **TIES RELATING TO LAND MANAGE-**
 8 **MENT AGENCIES**

“Sec.

“9601. Definition.

“9602. Competitive service; time-limited appointments.

9 **“§ 9601. Definition**

10 “For purposes of this chapter, the term ‘land man-
 11 agement agency’ means—

12 “(1) the Forest Service of the Department of
 13 Agriculture;

14 “(2) the Bureau of Land Management of the
 15 Department of the Interior;

16 “(3) the National Park Service of the Depart-
 17 ment of the Interior;

18 “(4) the Fish and Wildlife Service of the De-
 19 partment of the Interior;

20 “(5) the Bureau of Indian Affairs of the De-
 21 partment of the Interior; and

22 “(6) the Bureau of Reclamation of the Depart-
 23 ment of the Interior.

1 **“§ 9602. Competitive service; time-limited appoint-**
 2 **ments**

3 “(a) Notwithstanding chapter 33 or any other provi-
 4 sion of law relating to the examination, certification, and
 5 appointment of individuals in the competitive service, an
 6 employee of a land management agency serving under a
 7 time-limited appointment in the competitive service is eli-
 8 gible to compete for a permanent appointment in the com-
 9 petitive service under that agency’s merit promotion proce-
 10 dures if—

11 “(1) such individual was appointed initially
 12 under open, competitive examination under sub-
 13 chapter I of chapter 33 to the time-limited appoint-
 14 ment;

15 “(2) the employee has served under 1 or more
 16 time-limited appointments by such agency for a pe-
 17 riod or periods totaling not less than 24 months
 18 without an intervening break of 2 or more years;
 19 and

20 “(3) the employee’s performance under such
 21 time-limited appointment or appointments has been
 22 at an acceptable level of performance during those
 23 24 months of service.

24 “(b)(1) For purposes of this subsection, the term
 25 ‘successor permanent position’ means, with respect to a
 26 time-limited position, a permanent position in the competi-

1 tive service with the same or substantially similar major
 2 duties and qualification requirements in the same major
 3 subdivision of the same agency as the time-limited posi-
 4 tion.

5 “(2) Notwithstanding chapter 33 or any other provi-
 6 sion of law relating to the examination, certification, and
 7 appointment of individuals in the competitive service, an
 8 employee of a land management agency serving under a
 9 time-limited appointment in the competitive service shall
 10 be offered any successor permanent position that the agen-
 11 cy decides to fill and, upon his or her concurrence, be ap-
 12 pointed to such position if—

13 “(A) such individual was appointed initially
 14 under open, competitive examination under sub-
 15 chapter I of chapter 33 to the time-limited appoint-
 16 ment;

17 “(B)(i) the job announcement for the time-lim-
 18 ited position stated that there was potential for the
 19 position to become permanent; or

20 “(ii) the employee’s first time-limited appoint-
 21 ment by such agency occurred before the date of en-
 22 actment of this chapter;

23 “(C) the employee has served under a time-lim-
 24 ited appointment or appointments in a position or
 25 positions in such agency with the same or substan-

1 tially similar major duties and qualification require-
2 ments as the successor permanent position for a pe-
3 riod or periods totaling not less than 24 months
4 without an intervening break of 2 or more years;
5 and

6 “(D) the employee’s performance under such
7 time-limited appointment or appointments has been
8 at an acceptable level of performance during those
9 24 months of service.

10 “(3) If 2 or more employees are eligible for conver-
11 sion under this subsection, then any preference eligible
12 veterans shall be given priority.

13 “(4) If 2 or more employees have equal priority for
14 conversion under this subsection, then placement shall be
15 determined by competitive procedures consistent with
16 merit system principles.

17 “(c) An employee selected or converted under this
18 section becomes a career-conditional employee, unless the
19 employee has otherwise completed the service require-
20 ments for career tenure.

21 “(d) An employee appointed under this section ac-
22 quires competitive status upon appointment.

23 “(e) The provisions of this section shall apply with
24 respect to time-limited employees who have been separated
25 for reasons other than misconduct or unacceptable per-

1 formance. For such a separated employee, the provisions
 2 of this chapter shall apply as if such separated employee
 3 occupied the time-limited position from which such em-
 4 ployee was most recently separated. An agency shall be
 5 deemed to have met its obligation under this section if no-
 6 tice is sent to the last known address of such individual
 7 21 or more days before a successor permanent position
 8 for which he or she is eligible is filled.

9 “(f) For purposes of this section, time-limited ap-
 10 pointments include temporary appointments and term ap-
 11 pointments, as defined by the Office of Personnel Manage-
 12 ment.

13 “(g) The Office of Personnel Management shall pre-
 14 scribe such regulations as may be necessary to carry out
 15 this section.”.

16 (b) CLERICAL AMENDMENT.—The analysis for part
 17 III of title 5, United States Code, is amended by inserting
 18 after the item for chapter 95 the following:

**“96. Personnel flexibilities relating to land management
 agencies 9601”.**

