

Public Law 100-325
100th Congress

An Act

To amend title 5, United States Code, to authorize the establishment of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and for other purposes.

May 30, 1988
[H.R. 4083]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 5, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER III—THE FEDERAL BUREAU OF INVESTIGATION AND DRUG ENFORCEMENT ADMINISTRATION SENIOR EXECUTIVE SERVICE

“§ 3151. The Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service

5 USC 3151.

“(a) The Attorney General may by regulation establish a personnel system for senior personnel within the Federal Bureau of Investigation and the Drug Enforcement Administration to be known as the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service (hereinafter in this subchapter referred to as the ‘FBI-DEA Senior Executive Service’). The regulations establishing the FBI-DEA Senior Executive Service shall—

Regulations.

“(1) meet the requirements set forth in section 3131 for the Senior Executive Service;

“(2) provide that positions in the FBI-DEA Senior Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2);

“(3) provide rates of pay for the FBI-DEA Senior Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

“(4) provide a performance appraisal system for the FBI-DEA Senior Executive Service that conforms to the provisions of subchapter II of chapter 43;

“(5) provide for—

“(A) removal consistent with section 3592;

“(B) reduction-in-force procedures consistent with section 3595(a), together with measures to ensure that a member of the FBI-DEA Senior Executive Service may not be removed due to a reduction in force unless reasonable efforts to place such member in another such position are first taken;

“(C) procedures in accordance with which any furlough affecting the FBI-DEA Senior Executive Service shall be carried out; and

“(D) removal or suspension consistent with subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the FBI-DEA Senior Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Attorney General);

“(6) permit the payment of performance awards to members of the FBI-DEA Senior Executive Service consistent with the provisions applicable to performance awards under section 5384; and

“(7) provide that members of the FBI-DEA Senior Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c).

“(b)(1) Except as provided in subsection (a), the Attorney General may—

“(A) make applicable to the FBI-DEA Senior Executive Service any of the provisions of this title applicable to applicants for or members of the Senior Executive Service; and

“(B) appoint, promote, and assign individuals to positions established within the FBI-DEA Senior Executive Service without regard to the provisions of this title governing appointments and other personnel actions in the competitive service.

“(2)(A) Notwithstanding any other provision of this section, an individual may not be selected for the FBI-DEA Senior Executive Service unless such individual is a career employee in the civil service.

“(B) For the purpose of subparagraph (A), ‘career employee in the civil service’ shall have such meaning as the Attorney General, in consultation with the Director of the Office of Personnel Management, by regulation prescribes.

“(c) The President, based on the recommendations of the Attorney General, may award ranks to members of the FBI-DEA Senior Executive Service in a manner consistent with the provisions of section 4507.

“(d) Notwithstanding any other provision of this section, the Attorney General may detail or assign any member of the FBI-DEA Senior Executive Service to serve in a position outside the Federal Bureau of Investigation or the Drug Enforcement Administration (as the case may be) in which the member’s expertise and experience may be of benefit to the Federal Bureau of Investigation or the Drug Enforcement Administration (as the case may be) or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the FBI-DEA Senior Executive Service.

Reports.

“(e) The Attorney General shall each year submit to Congress, at the time the budget is submitted by the President to the Congress for the next fiscal year, a report on the FBI-DEA Senior Executive Service. The report shall include, in the aggregate and by agency—

“(1) the number of FBI-DEA Senior Executive Service positions established as of the end of the preceding fiscal year;

“(2) the number of individuals being paid at each rate of basic pay for the FBI-DEA Senior Executive Service as of the end of the preceding fiscal year;

"(3) the number, distribution, and amount of awards paid to members of the FBI-DEA Senior Executive Service during the preceding fiscal year; and

"(4) the number of individuals removed from the FBI-DEA Senior Executive Service during the preceding fiscal year—

"(A) for less than fully successful performance;

"(B) due to a reduction in force; or

"(C) for any other reason.

"§ 3152. Limitation on pay

5 USC 3152.

"Nothing in this subchapter shall be construed to allow the aggregate amount payable to a member of the FBI-DEA Senior Executive Service under this subchapter during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year. This section shall be applied in a manner consistent with paragraphs (1) and (2) of section 5383(b)."

(b) CHAPTER ANALYSIS.—The analysis for chapter 31 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—THE FEDERAL BUREAU OF INVESTIGATION AND DRUG ENFORCEMENT ADMINISTRATION SENIOR EXECUTIVE SERVICE

"Sec.

"3151. The Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"3152. Limitation on pay."

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 2108(3) of title 5, United States Code, is amended in the matter following subparagraph (G) by inserting "the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service," after "the Senior Cryptologic Executive Service,".

(b) Section 3109(c) of title 5, United States Code, is amended by inserting "or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service" after "Service".

(c) Section 3132(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B), by inserting "the Drug Enforcement Administration," after "the Federal Bureau of Investigation,"; and

(2) in paragraph (2)—

(A) by adding "or" at the end of clause (i);

(B) by striking "or" at the end of clause (ii); and

(C) by striking clause (iii).

(d) Section 3321(c) of title 5, United States Code, is amended by striking "Service." and inserting "Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service."

(e) Section 3501(b) of title 5, United States Code, is amended by striking "Service." and inserting "Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service."

(f) Section 4301(2)(E) of title 5, United States Code, is amended by striking "Service;" and inserting "Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;"

(g) Section 5108(a) of title 5, United States Code, is amended—

(1) by striking "and" at the end of clause (i);

- (2) by striking the period at the end of clause (ii) and inserting “; and”;
 - (3) by inserting after clause (ii) the following:
“(iii) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”; and
 - (4) in the last sentence, by striking “GS-16, 17, and 18 in the Federal Bureau of Investigation.” and inserting “the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”.
- (h) Chapter 53 of title 5, United States Code, is amended—
- (1) in section 5311(a), by striking “Service positions,” and inserting “Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”;
 - (2) in section 5311(b)(2), by striking the matter after subparagraph (B) and inserting the following:
“but does not include any Senior Executive Service position (as defined in section 3132(a) of this title) or any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”; and
 - (3) in section 5331(b), by striking “Service positions,” and inserting “Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”.
- (i) Chapter 55 of title 5, United States Code, is amended—
- (1) in section 5541(2)—
 - (A) by striking “or” at the end of clause (xv);
 - (B) by striking the period at the end of clause (xvi) and inserting “; or”; and
 - (C) by adding at the end the following:
“(xvii) a member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”; and
 - (2) in section 5595(a)(2)(i), by striking “other than a member of the Senior Executive Service” and inserting “, other than a member of the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”.
- (j) Section 5723(a)(1) of title 5, United States Code, is amended by striking “shortage,” and all that follows thereafter through “of any person” and inserting “shortage, (B) of a new appointee to the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or (C) of any person”.
- (k) Section 6304(f) of title 5, United States Code, is amended—
- (1) by striking “or” at the end of paragraph (3);
 - (2) by striking the period at the end of paragraph (4) and inserting “; or”; and
 - (3) by adding at the end the following:
“(5) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.”.
- (l) Section 8336(h) of title 5, United States Code, is amended by adding at the end the following:
“(3) A member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service who is removed from such service for less than fully successful executive performance after completing 25 years of service or after becoming

50 years of age and completing 20 years of service is entitled to an annuity.”

(m) Section 8414(a) of title 5, United States Code, is amended by adding at the end the following:

“(3) A member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service who is removed from such service for less than fully successful executive performance after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.”

Approved May 30, 1988.

LEGISLATIVE HISTORY—H.R. 4083:

HOUSE REPORTS: No. 100-608 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 134 (1988):

May 9, considered and passed House.

May 13, considered and passed Senate.