

AMENDING TITLE 5, UNITED STATES CODE, TO CLARIFY THE ELIGIBILITY OF EMPLOYEES OF A LAND MANAGEMENT AGENCY IN A TIME-LIMITED APPOINTMENT TO COMPETE FOR A PERMANENT APPOINTMENT AT ANY FEDERAL AGENCY, AND FOR OTHER PURPOSES

MAY 31, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 4906]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 4906) to amend title 5, United States Code, to clarify the eligibility of employees of a land management agency in a time-limited appointment to compete for a permanent appointment at any Federal agency, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 4906 amends title 5 to clarify the eligibility of employees at a federal land management agency in a time-limited appointment to compete for a permanent appointment at any federal agency.

BACKGROUND AND NEED FOR LEGISLATION

The Land Management Workforce Flexibility Act of 2015 (P.L. 114–47) removed a barrier to the career advancement opportunities of temporary seasonal employees of federal land management agencies. For example, many of the government’s federal firefighters work on a temporary basis battling Western wildfires and gain valuable experience as they return each season. However, before P.L. 114–47 regardless of how many seasons served, these experienced employees could not compete for full-time, permanent jobs under the merit promotion procedures available to other federal employees.

The intent of the Land Management Workforce Flexibility Act was to allow land management agencies to fully consider the applications from long-serving, experienced temporary seasonal employees when they identify the need for a permanent employee. Unfortunately, recent guidance from the Office of Personnel Management (OPM) limits the ability of temporary seasonal land management employees to compete for permanent positions. OPM’s guidance provides that temporary employees are only eligible to compete as an internal candidate for positions open at their own agency, thus these employees would not be able to apply for positions open to all federal employees at other agencies.

Since OPM’s guidance severely limits temporary seasonal employees’ ability to compete for permanent jobs, H.R. 4906 makes a technical correction to P.L. 114–47 that removes the restrictions imposed by OPM’s recent guidance. Specifically, H.R. 4906 clarifies Congress’ original intent that temporary seasonal employees of land management agencies are subject to the same area of consideration for vacant permanent positions under merit promotion procedures that apply to other federal employees at the same agency that employs the temporary seasonal individual.

H.R. 4906 ensures that long-serving temporary seasonal employees will be afforded with permanent opportunities. H.R. 4906 also makes it clear that for purposes of the Act, eligible former employees are deemed to be employees of the agency from which they were most recently separated.

LEGISLATIVE HISTORY

H.R. 4906 was introduced on April 12, 2016, by Congressman Gerald Connolly (D–VA) and referred to the Committee on Oversight and Government Reform. Representative Mark Meadows (R–NC) is an original cosponsor.

On April 14, 2016, the Committee ordered H.R. 4906 favorably reported, without amendment, by voice vote.

SECTION-BY-SECTION

Section 1. Eligibility of employees in a time-limited appointment to compete for a permanent appointment at any federal agency

Makes a technical amendment to 5 U.S.C. § 9602 to clarify that employees of a land management agency in a time-limited appointment are eligible to compete for merit promotion vacancies that are open to other federal employees at the same agency.

Specifies that eligible former employees who served under a time-limited appointment and otherwise meet the requirements of this section are deemed to be time-limited employees of the agency from which they were most recently separated.

EXPLANATION OF AMENDMENTS

No amendments were offered during Full Committee consideration of H.R. 4906.

COMMITTEE CONSIDERATION

On April 14, 2016, the Committee met in open session and ordered reported favorably the bill, H.R. 4906, by voice vote, a quorum being present.

ROLL CALL VOTES

No roll call votes were requested or conducted during the Full Committee consideration of H.R. 4906.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill clarifies the eligibility of employees of a land management agency in a time-limited appointment to compete for permanent appointment at any federal agency. As such this bill does relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of Rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal and objective is to clarify the eligibility of employees of a land management agency in a time-limited appointment to compete for a permanent appointment at any Federal agency.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 3, 2016.

Hon. JASON CHAFFETZ,
*Chairman, Committee on Oversight and Government Reform, House
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4906, a bill to amend title 5, United States Code, to clarify the eligibility of employees of a land management agency in a time limited appointment to compete for permanent appointment at any Federal agency, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 4906—A bill to amend title 5, United States Code, to clarify the eligibility of employees of a land management agency in a time limited appointment to compete for a permanent appointment at any Federal agency, and for other purposes

H.R. 4906 would amend federal law to allow individuals serving as temporary employees of federal land management agencies to compete for permanent positions with any agency under internal procedures for merit promotions. Under current law those temporary employees can compete for permanent positions at federal land management agencies but they cannot apply using procedures for merit promotions.

Information from the Office of Personnel Management indicates that while the legislation would expand the pool of people eligible to be hired, it would not change the total number of jobs available or the salaries paid to employees. On that basis, CBO estimates that implementing the legislation would have no effect on the federal budget. Because enacting the bill would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4906 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4906 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART I—MISCELLANEOUS

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**CHAPTER 96—PERSONNEL FLEXIBILITIES RELATING TO
LAND MANAGEMENT AGENCIES**

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§ 9602. Competitive service; time-limited appointments

(a) Notwithstanding chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, an employee of a land management agency serving under a time-limited appointment in the competitive service is eligible to compete for a permanent appointment in the competitive service at [any land management agency or any other agency (as defined in section 101 of title 31) under the internal merit promotion procedures of the applicable agency] *such land management agency when such agency is accepting applications from individuals within the agency's workforce under merit promotion procedures, or any agency, including a land management agency, when the agency is accepting applications from individuals outside its own workforce under the merit promotion procedures of the applicable agency* if—

(1) the employee was appointed initially under open, competitive examination under subchapter I of chapter 33 to the time-limited appointment;

(2) the employee has served under 1 or more time-limited appointments by a land management agency for a period or periods totaling more than 24 months without a break of 2 or more years; and

(3) the employee's performance has been at an acceptable level of performance throughout the period or periods (as the case may be) referred to in paragraph (2).

(b) In determining the eligibility of a time-limited employee under this section to be examined for or appointed in the competitive service, the Office of Personnel Management or other examining agency shall waive requirements as to age, unless the requirement is essential to the performance of the duties of the position.

(c) An individual appointed under this section—

(1) becomes a career-conditional employee, unless the employee has otherwise completed the service requirements for career tenure; and

(2) acquires competitive status upon appointment.

(d) A former employee of a land management agency who served under a time-limited appointment and who otherwise meets the requirements of this section shall be deemed a time-limited employee

of the agency from which the former employee was most recently separated for purposes of this section if—

(1) such employee applies for a position covered by this section within the period of 2 years after the most recent date of separation; and

(2) such employee's most recent separation was for reasons other than misconduct or performance.

(e) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this section.

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