

107TH CONGRESS
2^D SESSION

H. R. 5251

To provide equitable pay to air traffic managers, supervisors, and specialists of the Federal Aviation Administration at regional and headquarters locations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2002

Mr. MANZULLO introduced the following bill; which was referred to the
Committee on Government Reform

A BILL

To provide equitable pay to air traffic managers, supervisors, and specialists of the Federal Aviation Administration at regional and headquarters locations, 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 “Air Traffic Equity Act
5 of 2002”.

6 **SEC. 2. FINDINGS AND DEFINITIONS.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) The Federal Aviation Administration (in
2 this section referred to as the “FAA”) requested an
3 exemption from Federal personnel regulations to
4 create a performance-based system.

5 (2) The Administrator of the FAA elected to
6 implement a system adversely impacting air traffic
7 employees and contrary to the basic tenets of fair-
8 ness and Federal employment in general.

9 (3) The report of the General Accounting Office
10 on managers and supervisors identified the FAA as
11 worse, in general, than the rest of the Government
12 in multiple aspects.

13 (4) The Inspector General of the Department of
14 Transportation found that the new FAA compensa-
15 tion system is inequitable, imposes disparate com-
16 pensation on employees, has no link between pay
17 and performance, and is not based on experience,
18 qualifications, position, duties, or responsibilities.

19 (5) The Committee on Appropriations of the
20 House of Representatives concluded that the per-
21 sonnel reform efforts of the FAA have been a failure
22 and should receive special review in future reauthor-
23 izations.

24 (6) An independent study by the National
25 Academy of Public Administration found that the

1 FAA has not met many of the key goals of personnel
2 reform.

3 (7) The Administrator of the FAA has ignored
4 all applications for redress to correct these ongoing
5 disparities and the inequitable treatment of employ-
6 ees.

7 (8) These actions elicit from FAA employees a
8 sense of betrayal of trust and commitment at a crit-
9 ical juncture in the national response to security
10 events.

11 (9) The actions of the Administrator of the
12 FAA violate the basic tenets from which the exemp-
13 tion to Federal personnel regulations were requested
14 and authorized.

15 (b) DEFINITIONS.—In this Act, the following defini-
16 tions apply:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Federal
19 Aviation Administration.

20 (2) AIR TRAFFIC CONTROL SPECIALIZED COM-
21 PENSATION SYSTEM.—The term “air traffic control
22 specialized compensation system” means the com-
23 pensation system implemented beginning on October
24 1, 1998, for air traffic controllers in conjunction

1 with a collective bargaining agreement with the Na-
2 tional Air Traffic Controllers Association.

3 (3) AIR TRAFFIC CONTROLLER.—The term “air
4 traffic controller” means an employee of the Federal
5 Aviation Administration in a position classified in
6 the 2152 occupation series in the Federal Wage Sys-
7 tem, regardless of the employee’s assigned location
8 or position.

9 (4) AIR TRAFFIC MSS EMPLOYEE.—The term
10 “air traffic MSS employee” means an air traffic
11 controller assigned as a manager, supervisor, or
12 staff specialist or any additional employee des-
13 ignated by the Administrator or the Director of the
14 Air Traffic Service as critical to accomplishing the
15 air traffic control mission of the Federal Aviation
16 Administration.

17 (5) COVERED AIR TRAFFIC MSS EMPLOYEE.—
18 The term “covered air traffic MSS employee” means
19 an air traffic MSS employee covered by the air traf-
20 fic control specialized compensation system.

21 (6) FAA FIELD FACILITIES.—The term ‘FAA
22 field facilities’ means the air traffic control towers,
23 terminal radar approach controls, and enroute cen-
24 ters of the Federal Aviation Administration.

1 (7) FAA HEADQUARTERS.—The term “FAA
2 headquarters” means the headquarters of the Fed-
3 eral Aviation Administration in Washington, D.C.,
4 including organizations that have elements that are
5 physically resident at other locations (such as the
6 Federal Aviation Administration Academy and the
7 William J. Hughes Technical Center).

8 (8) FAA REGIONAL OFFICES.—The term “FAA
9 regional offices” means the 9 regional offices of the
10 Federal Aviation Administration.

11 (9) UNCOVERED AIR TRAFFIC MSS EM-
12 PLOYEE.—The term “uncovered air traffic MSS em-
13 ployee” means an air traffic MSS employee not cov-
14 ered by the air traffic control specialized compensa-
15 tion system.

16 **SEC. 3. ADJUSTMENT IN PAYMENT RATES.**

17 (a) IN GENERAL.—Not later than 60 days after the
18 date of enactment of this Act, the Administrator shall ad-
19 just the annual rates of basic pay applicable to uncovered
20 air traffic MSS employees to align the rates with the an-
21 nual rates of basic pay applicable to covered air traffic
22 MSS employees.

23 (b) ADJUSTMENTS.—In adjusting annual rates of
24 basic pay under subsection (a), the Administrator shall—

1 (1) align staff specialists assigned to FAA field
2 facilities with MSS-1 positions under the air traffic
3 control specialized compensation system;

4 (2) align staff specialists assigned to FAA re-
5 gional offices and FAA headquarters with MSS-2
6 positions under the air traffic control specialized
7 compensation system;

8 (3) align special assistants assigned to FAA re-
9 gional offices and FAA headquarters, and branch
10 managers assigned to FAA headquarters, with MSS-
11 3 positions under the air traffic control specialized
12 compensation system; and

13 (4) align branch managers assigned to FAA re-
14 gional offices, and division managers and deputy divi-
15 sion managers assigned to FAA Headquarters, with
16 MSS-4 positions under the air traffic control special-
17 ized compensation system.

18 (c) PAY LEVEL.—The adjusted annual rate of basic
19 pay established under subsection (a) for an uncovered air
20 traffic MSS employee shall be based on the highest air
21 traffic control level in the employee’s geographic area of
22 responsibility.

23 (d) INCREASES.—With respect to an employee who
24 was employed as an uncovered air traffic MSS employee
25 during all or any portion of the period beginning on Octo-

ber 1, 1998, and ending on the date of enactment of this Act, the adjusted annual rate of pay of the employee established under subsection (a) shall take into account any increase that the employee would have received had the employee been covered by the air traffic control specialized compensation system during the period of such employment.

(e) LIMITATION.—The Administrator shall not reduce the annual rate of basic pay of any employee as the result of a pay adjustment under this section.

SEC. 4. LUMP SUM PAYMENT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, and subject to amounts being made available in advance in appropriations Acts, the Administrator shall make a lump sum payment to each individual employed as an uncovered air traffic MSS employee during all or any portion of the period beginning on October 1, 1998, and ending on the date of enactment of this Act, including former air traffic MSS employees.

(b) AMOUNT OF PAYMENT.—The amount of a lump sum payment to an employee under subsection (a) shall equal the difference between—

(1) the amount of basic pay that the employee would have received for employment as an air traffic MSS employee in the period beginning on October 1,

1 1998, and ending on the date of enactment of this
2 subsection had the employee been covered by the air
3 traffic control specialized compensation system dur-
4 ing the period of such employment; and

5 (2) the amount of basic pay actually received by
6 the employee for such employment in such period.

7 (c) INCLUSION OF RETIREMENT BENEFITS.—In de-
8 termining the amount of basic pay of an employee under
9 this section, the Administrator shall include future retire-
10 ment benefits attributable to the employee’s annual rate
11 of basic pay, as estimated by the Administrator.

12 **SEC. 5. TREATMENT OF GROUPS OF EMPLOYEES.**

13 In calculating the amount of a pay adjustment under
14 section 3 and a lump sum payment under section 4, the
15 Administrator may group employees in similar positions,
16 in similar locations, and with similar lengths of service in
17 order to avoid making a separate calculation with respect
18 to each employee.

19 **SEC. 6. INDIVIDUAL APPEAL RIGHTS.**

20 (a) IN GENERAL.—An individual aggrieved by a final
21 determination under this Act shall be entitled to appeal
22 such determination to the Merit Systems Protection Board
23 under title 5, United States Code, or through any contrac-
24 tual grievance procedure that is applicable to the employee
25 as a member of a collective bargaining unit.

1 (b) COMPENSATION APPEALS.—The Office of Per-
2 sonnel Management shall by regulation establish proce-
3 dures under which individuals may bring an appeal to the
4 Office with respect to any failure to have been properly
5 compensated in accordance with this Act. A final deter-
6 mination under this subsection shall be appealable under
7 subsection (a).

8 (c) ELECTION OF FORUM.—Where a determination
9 may be contested through more than one of the indicated
10 forums (such as the contractual grievance procedure or
11 that of the Merit Systems Protection Board), an employee
12 must elect the forum through which the matter will be
13 contested. Nothing in this section is intended to allow an
14 employee to contest an action through more than one
15 forum unless otherwise authorized by law.

16 **SEC. 7. COORDINATION WITH UNIONS.**

17 The Administrator shall promptly coordinate imple-
18 mentation of the requirements of this Act with the unions
19 representing employees affected by this Act. If an agree-
20 ment is not reached within sufficient time to implement
21 the provisions of this Act by the specified deadlines, the
22 lack of an agreement shall not delay that implementation
23 for those employees for whom an agreement has been
24 reached or where such an agreement is not required.

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