

117TH CONGRESS
1ST SESSION

S. 1619

To amend title 5, United States Code, to provide for a 2-year prohibition on employment in a career civil service position for any former political appointee, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2021

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

A BILL

To amend title 5, United States Code, to provide for a 2-year prohibition on employment in a career civil service position for any former political appointee, 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 “Reduce Bureaucracy
5 Act”.

1 **SEC. 2. LIMITATION ON EMPLOYMENT OF POLITICAL AP-**
 2 **POINTEES IN CAREER CIVIL SERVICE POSI-**
 3 **TIONS.**

4 (a) IN GENERAL.—Subchapter I of chapter 31 of title
 5 5, United States Code, is amended by adding at the end
 6 the following:

7 **“§ 3117. Employment of political appointees**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘agency’ has the meaning given
 10 the term ‘Executive agency’ in section 105;

11 “(2) the term ‘Associate Director’ means the
 12 Associate Director for Merit System Accountability
 13 and Compliance at the Office of Personnel Manage-
 14 ment;

15 “(3) the term ‘career position’ means—

16 “(A) a position in the competitive service
 17 filled by career or career-conditional appoint-
 18 ment;

19 “(B) a position in the excepted service
 20 filled by an appointment of equivalent tenure as
 21 a position described in subparagraph (A);

22 “(C) a career reserved position, as defined
 23 in section 3132(a)(8), in the Senior Executive
 24 Service; or

1 “(D) a general position in the Senior Exec-
2 utive Service when filled by a career appointee,
3 as defined in section 3132(a)(4);

4 “(4) the term ‘participated’ means an action
5 taken as an officer or employee through decision, ap-
6 proval, disapproval, recommendation, the rendering
7 of advice, investigation, or other such action;

8 “(5) the term ‘particular matter’ includes any
9 investigation, application, request for a ruling or de-
10 termination, rulemaking, contract, controversy,
11 claim, charge, accusation, arrest, or judicial or other
12 proceeding;

13 “(6) the term ‘political appointee’ means an in-
14 dividual serving in an appointment of any duration
15 to a political position; and

16 “(7) the term ‘political position’ means—

17 “(A) a position with respect to which ap-
18 pointment is made—

19 “(i) by the President; or

20 “(ii) by the President, by and with the
21 advice and consent of the Senate;

22 “(B) a position that has been excepted
23 from the competitive service by reason of its
24 confidential, policy-determining, policy-making,
25 or policy-advocating character;

1 “(C) a position described in sections 5312
 2 through 5316 (relating to the Executive Sched-
 3 ule); and

4 “(D) a general position in the Senior Exec-
 5 utive Service during such time as it is filled
 6 by—

7 “(i) a noncareer appointee, as defined
 8 in section 3132(a)(7); or

9 “(ii) a limited term appointee or a
 10 limited emergency appointee, as defined in
 11 paragraphs (5) and (6) of section 3132(a),
 12 respectively, who is serving under a polit-
 13 ical appointment.

14 “(b) APPOINTMENT APPROVAL REQUIRED.—

15 “(1) IN GENERAL.—The head of an agency may
 16 not appoint any individual described in paragraph
 17 (5) to a career position within the agency without
 18 receiving prior written approval from the Associate
 19 Director, consistent with the requirements of this
 20 subsection.

21 “(2) REQUEST.—The head of an agency shall
 22 submit to the Associate Director a request to ap-
 23 prove the appointment of any individual described in
 24 paragraph (5) to a career position, which shall in-
 25 clude certification by the head of the agency to the

1 Associate Director that the appointment is necessary
2 for the agency to meet the mission of the agency.

3 “(3) REVIEW AND DETERMINATION.—The As-
4 sociate Director—

5 “(A) shall—

6 “(i) review any request received under
7 paragraph (2); and

8 “(ii) deny any request described in
9 clause (i), unless the Associate Director de-
10 termines that the appointment process
11 with respect to the request was fair, open,
12 and free from political influence; and

13 “(B) may, if the Associate Director makes
14 a determination described in subparagraph
15 (A)(ii), approve a request submitted under
16 paragraph (2).

17 “(4) NOTIFICATION TO CONGRESS.—With re-
18 spect to any request approved under paragraph
19 (3)(B), the Associate Director shall, not less than 5
20 days before the date on which the Associate Director
21 provides approval to the head of the requesting
22 agency, provide to the Committee on Homeland Se-
23 curity and Governmental Affairs of the Senate and
24 the Committee on Oversight and Reform of the
25 House of Representatives the agency certification

1 under paragraph (2) and the rationale of the appli-
2 cable agency head with respect to that certification.

3 “(5) COVERED INDIVIDUALS.—An individual
4 described in this paragraph is—

5 “(A) a political appointee;

6 “(B) a former political appointee who held
7 any political position during the 5-year period
8 before the date on which the applicable request
9 described in paragraph (2) is submitted; or

10 “(C) at the discretion of the Director of
11 the Office of Personnel Management, a former
12 political appointee who held any political posi-
13 tion before the 5-year period described in sub-
14 paragraph (B).

15 “(c) RESTRICTION ON APPOINTMENT.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 law, rule, or regulation, during the 2-year period fol-
18 lowing the date on which a political appointee leaves
19 or departs from a political position, that appointee
20 may not be appointed to any career position in the
21 civil service.

22 “(2) EXCEPTION.—Paragraph (1) shall not
23 apply to a political appointee who has not personally
24 and substantially participated in any particular mat-
25 ter while employed in a political position.

1 “(d) APPLICATION.—Nothing in this section may be
 2 construed to restrict the appointment of an individual who
 3 is—

4 “(1) entitled to reinstatement under section
 5 3593(b); or

6 “(2) eligible for reinstatement under section
 7 3593(a).”.

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 for subchapter I of chapter 31 of title 5, United States
 10 Code, is amended by adding after the item relating to sec-
 11 tion 3116 the following:

“3117. Employment of political appointees.”.

12 (c) APPLICATION.—

13 (1) APPOINTMENT REQUESTS.—Section
 14 3117(b) of title 5, United States Code, as added by
 15 subsection (a), shall apply to any appointment or re-
 16 quest for appointment described in such section sub-
 17 mitted to the Associate Director for Merit System
 18 Accountability and Compliance after the date of en-
 19 actment of this Act.

20 (2) LIMITATION ON APPOINTMENTS.—Section
 21 3117(c) of title 5, United States Code, as added by
 22 subsection (a), shall apply to any individual who
 23 leaves or departs from a political position (as that
 24 term is defined in section 3117(a) of such title, as

1 added by such subsection) after the date of enact-
 2 ment of this Act.

3 (d) REGULATIONS REQUIRED.—

4 (1) IN GENERAL.—The Director of the Office of
 5 Personnel Management shall issue regulations nec-
 6 essary to carry out this section and the amendments
 7 made by this section.

8 (2) CONTENTS.—The regulations issued under
 9 paragraph (1) shall include guidance regarding the
 10 definition of the term “personally and substantially
 11 participated in any particular matter” in section
 12 3117(c)(2) of title 5, United States Code, as added
 13 by subsection (a), consistent with section 2641.201
 14 of title 5, Code of Federal Regulations, and the defi-
 15 nitions of applicable terms in section 3117(a) of title
 16 5, United States Code, as added by subsection (a).

17 **SEC. 3. REDUCTION IN NUMBER OF POLITICAL AP-**
 18 **POINTEES.**

19 (a) DEFINITIONS.—In this section—

20 (1) the terms “limited term appointee”, “lim-
 21 ited emergency appointee”, and “noncareer ap-
 22 pointee” have the meanings given the terms in sec-
 23 tion 3132(a) of title 5, United States Code; and

24 (2) the term “political appointee” means any
 25 individual who—

1 (A) is employed in a position on the Exec-
2 utive Schedule under sections 5312 through
3 5316 of title 5, United States Code;

4 (B) is a limited term appointee, a limited
5 emergency appointee, or a noncareer appointee;
6 or

7 (C) is employed in a position in the execu-
8 tive branch of the Federal Government of a
9 confidential or policy-determining character
10 under Schedule C of subpart C of part 213 of
11 title 5, Code of Federal Regulations, or any
12 successor regulations.

13 (b) LIMITATION.—The President, acting through the
14 Director of the Office of Management and Budget and the
15 Director of the Office of Personnel Management, shall
16 take such actions as necessary to ensure that the total
17 number of political appointees shall not exceed 2,000.

18 (c) EFFECTIVE DATE.—This section shall take effect
19 on the date that is 1 year after the date of enactment
20 of this Act.

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