

106TH CONGRESS
2D SESSION

S. 2595

To amend chapter 7 of title 31, United States Code, to authorize the General Accounting Office to take certain personnel actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2000

Mr. THOMPSON (for himself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend chapter 7 of title 31, United States Code, to authorize the General Accounting Office to take certain personnel actions, 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. SENIOR LEVEL POSITIONS.**

4 (a) IN GENERAL.—Subchapter III of chapter 7 of
5 subtitle I of title 31, United States Code, is amended by
6 inserting after section 732 the following:

7 **“§ 732a. Critical positions**

8 “The Comptroller General may establish senior-level
9 positions to meet critical scientific, technical or profes-

1 sional needs of the Office from the positions authorized
 2 under sections 731(d), (e)(1), (e)(2), and 732(c)(4) of this
 3 title. An individual serving in such a position shall—

4 “(1) be subject to the laws and regulations ap-
 5 plicable to the General Accounting Office Senior Ex-
 6 ecutive Service established under section 733 of this
 7 title, with respect to rates of basic pay, performance
 8 awards, ranks, carry over of annual leave, benefits,
 9 performance appraisals, removal or suspension, and
 10 reduction in force;

11 “(2) have the same rights of appeal to the Gen-
 12 eral Accounting Office Personnel Appeals Board
 13 that are provided to the General Accounting Office
 14 Senior Executive Service;

15 “(3) be exempt from the same provisions of law
 16 made inapplicable to the General Accounting Office
 17 Senior Executive Service under section 733(d) of
 18 this title, except for section 732(e) of this title;

19 “(4) be entitled to receive a discontinued service
 20 retirement under chapter 83 or 84 of title 5 as if a
 21 member of the General Accounting Office Senior Ex-
 22 ecutive Service; and

23 “(5) be subject to reassignment by the Comp-
 24 troller General to any Senior Executive Service posi-
 25 tion created under section 733 of this title as the

1 Comptroller General determines necessary and ap-
2 propriate.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 7 of title 31, United
5 States Code, is amended by inserting after the item relat-
6 ing to section 732 the following:

“732a. Critical positions.”.

7 **SEC. 2. REASSIGNMENT TO SENIOR LEVEL POSITIONS.**

8 Section 733(a) of title 31, United States Code, is
9 amended—

10 (1) by striking “and” at the end of paragraph
11 (6);

12 (2) by redesignating paragraph (7) as para-
13 graph (8); and

14 (3) by inserting after paragraph (6) the fol-
15 lowing:

16 “(7) The Comptroller General may reassign a
17 member of the Senior Executive Service to any sen-
18 ior-level position created under section 732a of this
19 title as the Comptroller determines necessary and
20 appropriate; and”.

21 **SEC. 3. EXPERTS AND CONSULTANTS.**

22 Section 731(e) of title 31, United States Code, is
23 amended—

1 (1) by striking “not more than 3 years” in
 2 paragraph (1) and inserting “3-year renewable
 3 terms”; and

4 (2) by striking “level V” in paragraph (2) and
 5 inserting “level IV”.

6 **SEC. 4. VOLUNTARY EARLY RETIREMENT AUTHORITY.**

7 Section 732 of title 31, United States Code, is
 8 amended by adding at the end the following:

9 “(i)(1) An officer or employee of the General Ac-
 10 counting Office who is separated from the service under
 11 conditions described in paragraph (2) of this subsection
 12 after completing 25 years of service or after becoming 50
 13 years of age and completing 20 years of service is entitled
 14 to an annuity in accordance with the provisions of chapter
 15 83 or 84 of title 5, as applicable.

16 “(2) Paragraph (1) of this subsection applies to an
 17 officer or employee who—

18 “(A) has been employed continuously by the
 19 General Accounting Office for more than 30 days
 20 before the date on which the Comptroller General
 21 makes the determination required under subpara-
 22 graph (D);

23 “(B) is serving under an appointment that is
 24 not limited by time;

1 “(C) has not received a decision notice of invol-
2 untary separation for misconduct or unacceptable
3 performance that is pending decision; and

4 “(D) is separated from the service voluntarily
5 during a period in which the Comptroller General of-
6 fers the officer or employee an early retirement for
7 the purpose of realigning the agency workforce in
8 order to meet mission needs, correcting skill imbal-
9 ances, or reducing high-grade, managerial, or super-
10 visory positions.

11 “(3) For purposes of chapters 83 and 84 of title 5
12 (including for purposes of computation of an annuity
13 under such chapters), an officer or employee entitled to
14 an annuity under this subsection shall be treated as an
15 employee entitled to an annuity under section 8336(d) or
16 8414(b) of such title, as applicable.

17 “(4) The Comptroller General shall promulgate regu-
18 lations to implement paragraph (1) that provide for offers
19 of early retirement to any individual employee or groups
20 of employees based on skills, knowledge, performance, or
21 other similar factors or combination of such factors deter-
22 mined by the Comptroller General.

23 “(5) As used in this subsection, the terms ‘employee’
24 and ‘annuity’ shall have the same meaning as defined in

1 chapters 83 and 84 of title 5, as applicable. The term ‘offi-
 2 cer’ shall have the same meaning as ‘employee.’

3 “(6) The Comptroller General may not utilize the au-
 4 thority granted under this subsection to grant voluntary
 5 early retirements to more than 10 percent of the workforce
 6 of the General Accounting Office in any fiscal year.”.

7 **SEC. 5. SEPARATION PAY.**

8 Section 732 of title 31, United States Code, as
 9 amended by section 4 of this Act, is amended by adding
 10 at the end the following:

11 “(j) The Comptroller General may offer separation
 12 pay to an officer or employee under this subsection subject
 13 to such limitations or conditions as the Comptroller Gen-
 14 eral may require for purposes of realigning the workforce
 15 in order to meet mission needs, correcting skill imbal-
 16 ances, or reducing high-grade, managerial, or supervisory
 17 positions. Such separation pay—

18 “(1) shall be paid, at the option of the officer
 19 or employee, in a lump sum or equal installment
 20 payments;

21 “(2) shall be equal to the lesser of—

22 “(A) an amount equal to the amount the
 23 officer or employee would be entitled to receive
 24 under section 5595(c) of title 5 if the officer or

1 employee were entitled to payment under such
2 section; or

3 “(B) \$25,000;

4 “(3) shall not be a basis for payment, and shall
5 not be included in the computation, of any other
6 type of Government benefit;

7 “(4) shall not be taken into account for pur-
8 poses of determining the amount of any severance
9 pay to which an individual may be entitled under
10 section 5595 of title 5 based on any other separa-
11 tion;

12 “(5) shall only be paid to an officer or employee
13 serving under an appointment without time limita-
14 tion, who has been currently employed for a contin-
15 uous period of at least 12 months, but does not
16 include—

17 “(A) a reemployed annuitant under sub-
18 chapter III of chapter 83 of title 5, chapter 84
19 of title 5, or another retirement system for em-
20 ployees of the Government; or

21 “(B) an officer or employee having a dis-
22 ability on the basis of which such officer or em-
23 ployee is or would be eligible for disability re-
24 tirement under any of the retirement systems
25 referred to in subparagraph (A);

1 “(6) shall terminate, upon reemployment in the
2 Federal Government, during receipt of installment
3 payments;

4 “(7) shall be repaid in its entirety upon reem-
5 ployment in the Federal Government or working for
6 any agency of the Government through personal
7 services contract within 5 years after the date of the
8 separation on which payment of the separation pay
9 is based, except that—

10 “(A) if the employment is with an Execu-
11 tive agency, the Director of the Office of Per-
12 sonnel Management may, at the request of the
13 head of the agency, waive the repayment if the
14 individual involved possesses unique abilities
15 and is the only qualified applicant available for
16 the position;

17 “(B) if the employment is with an entity in
18 the legislative branch, the head of the entity or
19 the appointing official may waive the repayment
20 if the individual involved possesses unique abili-
21 ties and is the only qualified applicant available
22 for the position;

23 “(C) if the employment is with the judicial
24 branch, the Director of the Administrative Of-
25 fice of the United States Courts may waive the

1 repayment if the individual involved possesses
2 unique abilities and is the only qualified appli-
3 cant available for the position; or

4 “(D) if the employment is without com-
5 pensation, the appointing official may waive the
6 repayment;

7 “(8) shall be paid under regulations providing
8 that offers of separation pay shall be based on skills,
9 knowledge, performance, or other similar factors or
10 combination of such factors determined by the
11 Comptroller General;

12 “(9) shall be paid upon the condition that the
13 General Accounting Office remit to the Office of
14 Personnel Management for deposit in the Treasury
15 to the credit of the Civil Service Retirement and
16 Disability Fund an amount equal to 45 percent of
17 the final annual basic pay for each employee covered
18 under subchapter III of chapter 83 or chapter 84 of
19 title 5 to whom separation pay has been paid under
20 this section and—

21 “(A) such remittance shall be in addition
22 to any other payments which the General Ac-
23 counting Office is required to make under sub-
24 chapter III of chapter 83 or chapter 84 of title
25 5; and

1 “(B) for purposes of this paragraph the
 2 term ‘final basic pay’ with respect to an em-
 3 ployee means the total amount of basic pay
 4 which would be payable for a year of service by
 5 such employee, computed using the employee’s
 6 final rate of basic pay, and, if last serving on
 7 other than a full-time basis, with appropriate
 8 adjustment therefore;

9 “(10) shall not be paid to more than 5 percent
 10 of the workforce of the General Accounting Office in
 11 any fiscal year; and

12 “(11) shall be paid to employees under this sec-
 13 tion for a period of 5 years following the enactment
 14 of this section unless Congress renews the authority
 15 for an additional period of time.”.

16 **SEC. 6. REDUCTION IN FORCE.**

17 Section 732(h) of title 31, United States Code, is
 18 amended to read as follows:

19 “(h)(1) Notwithstanding the provisions of subchapter
 20 I of chapter 35 of title 5, the Comptroller General shall
 21 prescribe regulations for the release of officers and em-
 22 ployees of the General Accounting Office in a reduction
 23 in force which is carried out for downsizing, realigning,
 24 or correcting skill imbalances. The regulations shall give
 25 effect to military preference and may take into account

1 such other factors as skills, knowledge, and performance
2 in such a manner and to such an extent as the Comptroller
3 General determines necessary and appropriate.

4 “(2) Except as provided under paragraph (3), an em-
5 ployee may not be released, due to a reduction in force,
6 unless such employee is given written notice at least 60
7 days before such employee is so released. Such notice shall
8 include—

9 “(A) the personnel action to be taken with re-
10 spect to the employee involved;

11 “(B) the effective date of the action;

12 “(C) a description of the procedures applicable
13 in identifying employees for release;

14 “(D) the employee’s ranking relative to other
15 competing employees, and how that ranking was de-
16 termined; and

17 “(E) a description of any appeal or other rights
18 which may be available.

19 “(3) The Comptroller General may, in writing, short-
20 en the period of advance notice required under paragraph
21 (2) with respect to a particular reduction in force, if nec-
22 essary because of circumstances not reasonably foresee-
23 able, except that such period may not be less than 30
24 days.”.

1 **SEC. 7. ANNUAL REPORT.**

2 Section 719 of title 31, United States Code, is
3 amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1) by striking “and”
6 after the semicolon;

7 (B) in paragraph (2) by striking the period
8 and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(3) appropriate legislative changes to sections
11 732(h), (i), and (j) of this title.”; and

12 (2) in subsection (b)(1)—

13 (A) in subparagraph (B) by striking “and”
14 after the semicolon;

15 (B) in subparagraph (C) by striking the
16 period and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(D) a description of the actions taken
19 under sections 732 (h), (i), and (j) of this title,
20 including information on the number of employ-
21 ees who received voluntary early retirements
22 and separation pay under sections 732(i) and
23 (j) and who were released under a reduction in
24 force action under section 732(h), and an as-
25 sessment of the effectiveness and usefulness of
26 these human capital initiatives in achieving the

1 agency’s mission, meeting its performance
2 goals, and fulfilling its strategic plan.”.

3 **SEC. 8. FIVE-YEAR ASSESSMENT.**

4 (a) IN GENERAL.—Not later than 5 years after the
5 date of the enactment of this Act, the Comptroller General
6 shall submit to Congress a report concerning the imple-
7 mentation and effectiveness of the provisions of this Act.

8 (b) CONTENT.—The report under this section shall
9 include—

10 (1) a summary of the portions of the annual re-
11 ports required under sections 719(a)(3) and
12 (b)(1)(D) of title 31, United States Code;

13 (2) recommendations for continuation of or leg-
14 islative changes to sections 732(h), (i), and (j) of
15 title 31, United States Code; and

16 (3) any assessments or recommendations of the
17 General Accounting Office Personnel Appeals Board
18 and interested employee groups or associations with-
19 in the General Accounting Office.

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