

117TH CONGRESS
1ST SESSION

H. R. 244

To strengthen and enhance certain ethics requirements for the Federal Government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2021

Mr. GOMEZ (for himself and Mrs. CAROLYN B. MALONEY of New York) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To strengthen and enhance certain ethics requirements for the Federal Government, 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 “Executive Branch Con-
5 flict of Interest Act”.

1 **SEC. 2. RESTRICTIONS ON PRIVATE SECTOR PAYMENT FOR**
 2 **GOVERNMENT SERVICE.**

3 Section 209 of title 18, United States Code, is
 4 amended—

5 (1) in subsection (a), by striking “any salary”
 6 and inserting “any salary (including a bonus)”; and

7 (2) in subsection (b)—

8 (A) by inserting “(1)” after “(b)”; and

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

10 “(2) For purposes of paragraph (1), a pension,
 11 retirement, group life, health or accident insurance,
 12 profit-sharing, stock bonus, or other employee wel-
 13 fare or benefit plan that makes payment of any por-
 14 tion of compensation contingent on accepting a posi-
 15 tion in the United States Government shall not be
 16 considered bona fide.”.

17 **SEC. 3. REQUIREMENTS RELATING TO SLOWING THE RE-**
 18 **VOLVING DOOR.**

19 (a) IN GENERAL.—The Ethics in Government Act of
 20 1978 (5 U.S.C. App.) is amended by adding at the end
 21 the following:

22 **“TITLE VI—ENHANCED RE-**
 23 **QUIREMENTS FOR CERTAIN**
 24 **EMPLOYEES**

25 **“SEC. 601. DEFINITIONS.**

26 “In this title:

1 “(1) COVERED AGENCY.—The term ‘covered
2 agency’—

3 “(A) means an Executive agency, as de-
4 fined in section 105 of title 5, United States
5 Code, the Postal Service and the Postal Rate
6 Commission, but does not include the Govern-
7 ment Accountability Office or the Government
8 of the District of Columbia; and

9 “(B) shall include the Executive Office of
10 the President.

11 “(2) COVERED EMPLOYEE.—The term ‘covered
12 employee’ means an officer or employee referred to
13 in paragraph (2) of section 207(c) of title 18,
14 United States Code.

15 “(3) DIRECTOR.—The term ‘Director’ means
16 the Director of the Office of Government Ethics.

17 “(4) EXECUTIVE BRANCH.—The term ‘execu-
18 tive branch’ has the meaning given that term in sec-
19 tion 109.

20 “(5) FORMER CLIENT.—The term ‘former cli-
21 ent’—

22 “(A) means a person for whom a covered
23 employee served personally as an agent, attor-
24 ney, or consultant during the 2-year period end-
25 ing on the date before the date on which the

covered employee begins service in the Federal Government; and

“(B) does not include—

“(i) instances in which the service provided was limited to a speech or similar appearance by the covered employee; or

“(ii) a client of the former employer of the covered employee to whom the covered employee did not personally provide such services.

“(6) FORMER EMPLOYER.—The term ‘former employer’—

“(A) means a person for whom a covered employee served as an employee, officer, director, trustee, or general partner during the 2-year period ending on the date before the date on which the covered employee begins service in the Federal Government; and

“(B) does not include—

“(i) an entity in the Federal Government, including an executive branch agency;

“(ii) a State or local government;

“(iii) the District of Columbia;

1 “(iv) an Indian tribe, as defined in
2 section 4 of the Indian Self-Determination
3 and Education Assistance Act (25 U.S.C.
4 5304); or

5 “(v) the government of a territory or
6 possession of the United States.

7 “(7) PARTICULAR MATTER.—The term ‘par-
8 ticular matter’ has the meaning given that term in
9 section 207(i) of title 18, United States Code.

10 **“SEC. 602. CONFLICT OF INTEREST AND ELIGIBILITY**
11 **STANDARDS.**

12 “(a) IN GENERAL.—A covered employee may not use,
13 or attempt to use, the official position of the covered em-
14 ployee to participate in a particular matter in which the
15 covered employee knows a former employer or former cli-
16 ent of the covered employee has a financial interest.

17 “(b) WAIVER.—

18 “(1) IN GENERAL.—The head of the covered
19 agency employing a covered employee, in consulta-
20 tion with the Director, may grant a written waiver
21 of the restrictions under subsection (a) prior to en-
22 gaging in the action otherwise prohibited by sub-
23 section (a) if, and to the extent that, the head of the
24 covered agency certifies in writing that—

1 “(A) the application of the restriction to
2 the particular matter is inconsistent with the
3 purposes of the restriction; or

4 “(B) it is in the public interest to grant
5 the waiver.

6 “(2) PUBLICATION.—The head of the covered
7 agency shall provide a waiver under paragraph (1)
8 to the Director and post the waiver on the website
9 of the agency within 30 calendar days after granting
10 such waiver.

11 **“SEC. 603. PENALTIES AND INJUNCTIONS.**

12 “(a) CRIMINAL PENALTIES.—

13 “(1) IN GENERAL.—Any person who violates
14 section 602 shall be fined under title 18, United
15 States Code, imprisoned for not more than 1 year,
16 or both.

17 “(2) WILLFUL VIOLATIONS.—Any person who
18 willfully violates section 602 shall be fined under
19 title 18, United States Code, imprisoned for not
20 more than 5 years, or both.

21 “(b) CIVIL ENFORCEMENT.—

22 “(1) IN GENERAL.—The Attorney General may
23 bring a civil action in an appropriate district court
24 of the United States against any person who vio-
25 lates, or whom the Attorney General has reason to

1 believe is engaging in conduct that violates, section
2 602.

3 “(2) CIVIL PENALTY.—

4 “(A) IN GENERAL.—If the court finds by
5 a preponderance of the evidence that a person
6 violated section 602, the court shall impose a
7 civil penalty of not more than the greater of—

8 “(i) \$100,000 for each violation; or

9 “(ii) the amount of compensation the
10 person received or was offered for the con-
11 duct constituting the violation.

12 “(B) RULE OF CONSTRUCTION.—A civil
13 penalty under this subsection may be in addi-
14 tion to any other criminal or civil statutory,
15 common law, or administrative remedy available
16 to the United States or any other person.

17 “(3) INJUNCTIVE RELIEF.—

18 “(A) IN GENERAL.—In a civil action
19 brought under paragraph (1) against a person,
20 the Attorney General may petition the court for
21 an order prohibiting the person from engaging
22 in conduct that violates section 602.

23 “(B) STANDARD.—The court may issue an
24 order under subparagraph (A) if the court finds

1 by a preponderance of the evidence that the
 2 conduct of the person violates section 602.

3 “(C) RULE OF CONSTRUCTION.—The filing
 4 of a petition seeking injunctive relief under this
 5 paragraph shall not preclude any other remedy
 6 that is available by law to the United States or
 7 any other person.”.

8 **SEC. 4. PROHIBITION OF PROCUREMENT OFFICERS AC-**
 9 **CEPTING EMPLOYMENT FROM GOVERNMENT**
 10 **CONTRACTORS.**

11 (a) EXPANSION OF PROHIBITION ON ACCEPTANCE
 12 BY FORMER OFFICIALS OF COMPENSATION FROM CON-
 13 TRACTORS.—Section 2104 of title 41, United States Code,
 14 is amended—

15 (1) in subsection (a)—

16 (A) in the matter preceding paragraph
 17 (1)—

18 (i) by striking “or consultant” and in-
 19 serting “attorney, consultant, subcon-
 20 tractor, or lobbyist”; and

21 (ii) by striking “one year” and insert-
 22 ing “2 years”; and

23 (B) in paragraph (3), by striking “person-
 24 ally made for the Federal agency” and inserting

1 “participated personally and substantially in”;
2 and

3 (2) by striking subsection (b) and inserting the
4 following:

5 “(b) PROHIBITION ON COMPENSATION FROM AFFILI-
6 ATES AND SUBCONTRACTORS.—A former official respon-
7 sible for a Government contract referred to in paragraph
8 (1), (2), or (3) of subsection (a) may not accept compensa-
9 tion for 2 years after awarding the contract from any divi-
10 sion, affiliate, or subcontractor of the contractor.”.

11 (b) REQUIREMENT FOR PROCUREMENT OFFICERS
12 TO DISCLOSE JOB OFFERS MADE ON BEHALF OF REL-
13 ATIVES.—Section 2103(a) of title 41, United States Code,
14 is amended in the matter preceding paragraph (1) by in-
15 serting after “that official” the following: “, or for a rel-
16 ative (as defined in section 3110 of title 5) of that offi-
17 cial,”.

18 (c) REQUIREMENT ON AWARD OF GOVERNMENT
19 CONTRACTS TO FORMER EMPLOYERS.—

20 (1) IN GENERAL.—Chapter 21 of division B of
21 subtitle I of title 41, United States Code, is amend-
22 ed by adding at the end the following new section:

1 **“§ 2108. Prohibition on involvement by certain**
 2 **former contractor employees in procure-**
 3 **ments**

4 “An employee of the Federal Government may not
 5 be personally and substantially involved with any award
 6 of a contract to, or the administration of a contract award-
 7 ed to, a contractor that is a former employer of the em-
 8 ployee during the 2-year period beginning on the date on
 9 which the employee leaves the employment of the con-
 10 tractor.”.

11 (2) TECHNICAL AND CONFORMING AMEND-
 12 MENT.—The table of sections for chapter 21 of title
 13 41, United States Code, is amended by adding at
 14 the end the following new item:

“2108. Prohibition on involvement by certain former contractor employees
 in procurements.”.

15 (d) REGULATIONS.—The Administrator for Federal
 16 Procurement Policy and the Director of the Office of Man-
 17 agement and Budget shall—

18 (1) in consultation with the Director of the Of-
 19 fice of Personnel Management and the Counsel to
 20 the President, promulgate regulations to carry out
 21 and ensure the enforcement of chapter 21 of title
 22 41, United States Code, as amended by this section;
 23 and

1 (2) in consultation with designated agency eth-
2 ics officials (as that term is defined in section
3 109(3) of the Ethics in Government Act of 1978 (5
4 U.S.C. App.)), monitor compliance with that chapter
5 by individuals and agencies.

6 **SEC. 5. REVOLVING DOOR RESTRICTIONS ON EMPLOYEES**

7 **MOVING INTO THE PRIVATE SECTOR.**

8 (a) IN GENERAL.—Subsection (c) of section 207 of
9 title 18, United States Code, is amended—

10 (1) in the subsection heading, by striking
11 “ONE-YEAR” and inserting “TWO-YEAR”;

12 (2) in paragraph (1), by striking “1 year” in
13 each instance and inserting “2 years”; and

14 (3) in paragraph (2)(B), by striking “1-year”
15 and inserting “2-year”.

16 (b) APPLICATION.—The amendments made by sub-
17 section (a) shall apply to any individual covered by sub-
18 section (c) of section 207 of title 18, United States Code,
19 separating from the civil service on or after the date of
20 enactment of this Act.

21 **SEC. 6. SEVERABILITY.**

22 If any provision of this Act or amendment made by
23 this Act, or the application of a provision or amendment
24 to any person or circumstance, is held to be unconstitu-
25 tional, the remainder of this Act and amendments made

1 by this Act, and the application of the provisions and
2 amendment to any person or circumstance, shall not be
3 affected by the holding.

