

117TH CONGRESS
2D SESSION

H. R. 8550

To provide that all Federal employees in the executive branch of Government are at-will employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2022

Mr. ROY (for himself, Mrs. MILLER of Illinois, Mr. NEHLS, Mr. GOOD of Virginia, and Mrs. BOEBERT) introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To provide that all Federal employees in the executive branch of Government are at-will employees, 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 “Public Service Reform
5 Act”.

6 **SEC. 2. AT-WILL EMPLOYMENT FOR FEDERAL EXECUTIVE**
7 **BRANCH EMPLOYEES.**

8 (a) AT-WILL EMPLOYMENT.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, rule, or regulation, and except as

provided in paragraph (2), any employee in the executive branch of Government shall be considered at-will, and—

(A) may be subject to any adverse personnel action (up to and including removal) for good cause, bad cause, or no cause at all; and

(B) may not challenge or otherwise appeal such an action except as provided in subsection (b).

(2) LIMITATION.—

(A) IN GENERAL.—An employee may not be subject to any adverse personnel action under this Act for any reason prohibited section 2302(b) of title 5, United States Code.

(B) PROCEDURES.—The President shall establish procedures to enforce compliance with paragraph (1), including providing for disciplinary measures against any employee who violates such paragraph. Nothing in this subparagraph shall be construed to grant an employee the right to review or appeal an adverse personnel action outside such procedures.

(b) REMOVAL OF CAREER EMPLOYEES.—With respect to the removal of a career employee, the following procedures shall apply:

1 (1) Before an agency removes the employee, the
2 agency official authorized to propose such action (in
3 this subsection referred to as the “proposing offi-
4 cial”) shall provide the employee with written notifi-
5 cation of the proposed removal and the reasons
6 therefore. The employee shall have 14 days to pro-
7 vide a written response, except that the agency head
8 or designee shall have sole and exclusive discretion
9 to alter the response period on a case-by-case basis.

10 (2) Under procedures prescribed by the agency
11 head, in the head’s sole and exclusive discretion, an
12 agency official other than the proposing official (in
13 this subsection referred to as the “deciding official”)
14 shall decide whether to remove or retain such career
15 employee. The deciding official shall review the pro-
16 posed removal and employee response under para-
17 graph (1), and may, in their sole and exclusive dis-
18 cretion, conduct a hearing on the matter. After such
19 review or hearing (as the case may be), the deciding
20 official shall determine whether the employee shall
21 be removed.

22 (3) The deciding official’s determination under
23 paragraph (2) shall be the agency’s final decision
24 unless, within the 7-day period following such deter-
25 mination, the agency head or designee reverses the

1 decision, in which case the agency head's or des-
2 ignee's decision shall be the final agency decision.

3 (4) An agency's final decision under paragraph
4 (3) shall be final and not subject to any appeal or
5 challenge, unless the President overrules the agen-
6 cy's final decision.

7 (c) APPLICATION.—Chapter 43 of title 5, United
8 States Code, shall not apply to any personnel action taken
9 with respect to an employee under this Act.

10 (d) ABOLISHMENT OF MSPB.—On the date of enact-
11 ment of this Act, the Merit Systems Protection Board is
12 hereby abolished. The Chairman of the Board may take
13 such actions as are necessary to dispose of the assets, obli-
14 gations, and liabilities of the Board.

15 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) REPEAL.—The following provisions of title
17 5, United States Code, are hereby repealed:

18 (A) Subchapter I of chapter 12.

19 (B) Section 1212(c).

20 (C) Subsections (b)(1), (b)(2)(B) through
21 (D), (b)(3), (b)(4), (c), (g), and (i) of section
22 1214.

23 (D) Sections 1215 and 1221.

24 (E) Section 4303.

25 (F) Chapter 75.

1 (G) Chapter 77.

2 (2) OTHER AMENDMENTS.—Chapter 71 of title
3 5, United States Code, is amended—

4 (A) in section 7103(a)(14), by redesign-
5 nating subparagraphs (B) and (C) as subpara-
6 graphs (C) and (D), respectively, and by insert-
7 ing after subparagraph (A) the following:

8 “(B) relating to adverse personnel actions,
9 as provided by the Public Service Reform Act;”;
10 and

11 (B) in section 7121(c), by amending para-
12 graph (3) to read as follows:

13 “(3) any adverse personnel action under the
14 Public Service Reform Act;”.

15 (f) WHISTLEBLOWER PROTECTIONS.—

16 (1) IN GENERAL.—Within the 14-day period de-
17 scribed in subsection (b)(1), the Office of Special
18 Counsel may make a recommendation to the agency
19 head or deciding official on whether an adverse per-
20 sonnel action taken against an individual was in re-
21 taliation for making a whistleblowing disclosure.

22 (2) APPEAL.—An individual subject to an ad-
23 verse personnel action who claims such action was
24 taken in retaliation described in section 2302(b)(8)
25 or (b)(9) of title 5, United States Code, may appeal

1 such action to the United States court of appeals in
2 the circuit in which the duty station of the individual
3 is located.

4 (3) DECISION.—

5 (A) If such court is finds that the individ-
6 ual's appeal under paragraph (2) is in bad faith
7 or frivolous, the individual's annuity under
8 chapter 83 or 84 of such title shall be reduced
9 by 25 percent.

10 (B) If the individual prevails under an ap-
11 peal under paragraph (2), the individual shall—

12 (i) be placed, as nearly as possible, in
13 the position the individual would have been
14 in had the adverse personnel action not oc-
15 curred; and

16 (ii) be reimbursed for attorney's fees,
17 back pay, and related benefits, medical
18 costs incurred, travel expenses, any other
19 reasonable and foreseeable consequential
20 damages, and compensatory damages (in-
21 cluding interest, reasonable expert witness
22 fees, and costs).

23 (g) EEOC APPEALS.—Notwithstanding any other
24 provision of law, including section 717 of the Civil Rights
25 Act of 1964, an individual who is an employee or applicant

1 to be an employee and who alleges that the individual was
2 subject to an adverse personnel action that is a prohibited
3 personnel action described in section 2302(b)(1) of title
4 5, United States Code, shall seek relief for such action
5 from the Equal Employment Opportunity Commission as
6 if such individual was an employee of an employer (as that
7 term is defined in section 701 of such Act).

8 (h) DEFINITIONS.—In this Act—

9 (1) the term “adverse personnel action” means
10 a removal, a suspension for more than 14 days, a re-
11 duction in grade or a reduction in pay, and a fur-
12 lough of 30 days or less;

13 (2) the term “career employee” means any em-
14 ployee who is not a political employee;

15 (3) the term “employee” has the meaning given
16 that term in section 2105 of title 5, United States
17 Code, and includes—

18 (A) an officer or employee of the United
19 States Postal Service or the Postal Regulatory
20 Commission; and

21 (B) notwithstanding subsection (b) of sec-
22 tion 7425 of title 38, United States Code, any
23 employee described under subsection (a) of such
24 section; and

1 (4) the term “political employee” means any
2 employee who is—

3 (A) appointed by the President;

4 (B) a noncareer appointee (as that term is
5 defined in section 3132(a)(7) of title 5, United
6 States Code) in the Senior Executive Service;

7 (C) occupying a position under schedule C
8 of subpart C of part 213 of title 5, Code of
9 Federal Regulations; or

10 (D) in any other civil service (as that term
11 is defined in section 2101 of title 5, United
12 States Code) position classified as a political
13 position after the date of enactment of this Act
14 under regulations as the Director of the Office
15 of Personnel Management may prescribe.

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