

103^D CONGRESS
1ST SESSION

H. R. 2846

To clarify the application of certain employment protection laws to the Congress, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1993

Mrs. SCHROEDER (for herself, Ms. SNOWE, and Ms. NORTON) introduced the following bill; which was referred jointly to the Committees on House Administration, Rules, Education and Labor, Government Operations, and the Judiciary

A BILL

To clarify the application of certain employment protection laws to the Congress, 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 “Congressional Employ-
5 ees Fairness Act”.

6 **SEC. 2. APPLICATION OF FEDERAL LAWS.**

7 (a) LAWS WHICH WILL APPLY.—Within 90 days
8 after the date final regulations take effect under section
9 4(a)(2), the following laws shall apply to the Congress:

1 (1) The Fair Labor Standards Act of 1938 (29
2 U.S.C. 201 et seq.).

3 (2) Title VII of the Civil Rights Act of 1964
4 (42 U.S.C. 2000e et seq.).

5 (3) Sections 102 through 104 of the Americans
6 With Disabilities Act of 1990 (42 U.S.C. 12112-
7 12114).

8 (4) Section 15 of the Age Discrimination in
9 Employment Act of 1967 (29 U.S.C. 633a).

10 (5) The Family and Medical Leave Act of 1993
11 (29 U.S.C. 2611 et seq.).

12 (b) LAWS WHICH MAY BE MADE APPLICABLE.—Any
13 provision of Federal law shall, to the extent that it relates
14 to—

15 (1) the terms and conditions of employment (in-
16 cluding hiring, promotion or demotion, salary and
17 wages, overtime compensation, benefits, work assign-
18 ments or reassignments, and termination) of employ-
19 ees,

20 (2) protection from discrimination in personnel
21 actions,

22 (3) the health and safety of employees,

23 (4) the availability of information to the public,

24 or

1 (5) other areas deemed appropriate by the
2 Independent Office of Compliance,
3 apply to the House of Representatives and the Senate
4 (hereinafter in this Act referred to jointly as the “Con-
5 gress”) in accordance with approval of a recommendation
6 made under section 4(b).

7 **SEC. 3. OFFICE OF COMPLIANCE.**

8 (a) **ESTABLISHMENT.**—There is established in the
9 legislative branch for the Congress an Independent Office
10 of Compliance (hereinafter in this Act referred to as the
11 “Office”).

12 (b) **COMPOSITION.**—

13 (1) **IN GENERAL.**—The Office shall be com-
14 posed of a Board of Directors and staff. The Board
15 of Directors shall consist of 15 individuals appointed
16 jointly by the Speaker of the House of Representa-
17 tives, the Majority Leader of the Senate, and the
18 Minority Leaders of the House of Representatives
19 and the Senate after consultation with individuals
20 who represent the interests of congressional employ-
21 ees. Appointments to the Board of Directors shall be
22 completed not later than 120 days after the date of
23 the enactment of this Act.

24 (2) **QUALIFICATIONS.**—

1 (A) MEMBERS WITH GENERAL AUTHOR-
2 ITY.—The members of the Board of Directors
3 who shall have the authority to carry out the
4 functions of the Office under this Act shall be
5 9 individuals appointed under paragraph (1)
6 from nominations submitted by organizations
7 the membership of which are primarily com-
8 posed of individuals experienced in adjudicating
9 or arbitrating personnel matters. Individuals
10 nominated by such organizations shall be indi-
11 viduals with training or expertise in—

12 (i) the application of the laws referred
13 to in section 2 to employment, and

14 (ii) employment in the Congress.

15 (B) MEMBERS WITH LIMITED AUTHOR-
16 ITY.—The members of the Board of Directors
17 who shall have the authority to issue the regu-
18 lations, conduct the study, and take the con-
19 tinuing action referred to in subsections (a),
20 (b), and (c) of section 4 shall be 6 individuals
21 appointed under paragraph (1) of which 2 shall
22 be Members of the House of Representatives, 2
23 shall be Senators, 1 shall be an employee of the
24 House of Representatives, and 1 shall be an
25 employee of the Senate.

1 (C) SPECIFIC QUALIFICATIONS.—

2 (i) LOBBYING.—No individual who en-
3 gages in, or is otherwise employed in, lob-
4 bying of the Congress shall be considered
5 eligible for appointment to, or service on,
6 the Board of Directors.

7 (ii) OFFICE.—No member appointed
8 under subparagraph (A) may hold the po-
9 sition of Member of the House of Rep-
10 resentatives, Senator, or employee of the
11 House of Representatives or the Senate.

12 (3) POLITICAL AFFILIATION.—Not more than
13 one Member of the House of Representatives who is
14 a member of the Board of Directors and not more
15 than one Senator who is a member of the Board of
16 Directors may be of the same political party.

17 (4) HOLDING OFFICE.—If during a term of of-
18 fice a member of the Board of Directors no longer
19 holds the position qualifying such member or en-
20 gages in an activity described in paragraph
21 (2)(C)(i), such position shall be declared vacant and
22 a successor shall be selected in accordance with
23 paragraph (2). If the term of office of a member of
24 the Board of Directors expires and such member is
25 a member of a hearing board hearing a complaint

1 under section 8, such member may continue in office
2 until the decision or order of the hearing board be-
3 comes final.

4 (5) VACANCIES.—A vacancy in the Board of
5 Directors shall be filled in the manner in which the
6 original appointment was made.

7 (c) AUTHORITY.—

8 (1) IN GENERAL.—The 15 members of the
9 Board of Directors appointed under subsection
10 (b)(1) shall have the authority to carry out the func-
11 tions described in subsections (a) and (b) of section
12 4.

13 (2) OFFICE.—The 9 members of the Board of
14 Directors appointed under subsection (b)(2)(A) shall
15 have the authority to carry out the functions de-
16 scribed in sections 4 through 10.

17 (d) TERM OF OFFICE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), membership on the Board of Directors
20 shall be for 5 years.

21 (2) FIRST APPOINTMENTS.—Of the members
22 first appointed to the Board of Directors—

23 (A) 5 shall have a term of office of one
24 year,

1 (B) 5 shall have a term of office of 3
2 years, and

3 (C) 5 shall have a term of office of 5
4 years,

5 as designated at the time of appointment by the per-
6 sons specified in subsection (b)(1).

7 (3) REAPPOINTMENT.—A member of the Board
8 of Directors may not be reappointed.

9 (e) REMOVAL.—A member of the Board of Directors
10 may only be removed for cause, including malfeasance in
11 office, inefficiency, or a violation of subsection (b)(2)(C)(i)
12 by a vote of a majority of the Board of Directors.

13 (f) CHAIRMAN.—The Chairman of the Board of Di-
14 rectors shall be appointed from the members of the Board
15 of Directors by the members of the Board.

16 (g) BASIC PAY.—Members of the Board of Directors
17 shall serve without pay except that members of the Board
18 of Directors who serve as hearing officers under section
19 8 shall receive for each day engaged in the performance
20 of the duties of such an officer compensation at a rate
21 not to exceed the daily equivalent of the annual rate of
22 basic pay in effect for grade GS–15 of the General Sched-
23 ule under subchapter III of chapter 53 of title 5, United
24 States Code.

1 (h) STAFF.—The Board of Directors may appoint
2 and fix the compensation of such staff as are necessary
3 to carry out the Board of Director’s functions. Appoint-
4 ments to the staff shall be made on the basis of experience
5 in labor law and not on political affiliation. Current or
6 former employees of the Congress are not eligible for ap-
7 pointment to the staff.

8 (i) DETAILEES.—The Board of Directors may, with
9 the prior consent of the Government department or agency
10 concerned, use on a reimbursable or nonreimbursable
11 basis the services of any such department or agency, in-
12 cluding the services of members or personnel of the Gen-
13 eral Accounting Office Personnel Appeals Board.

14 (j) CONSULTANTS.—In carrying out the functions of
15 the Office, the Board of Directors may procure the tem-
16 porary (not to exceed 1 year) or intermittent services of
17 individual consultants, or organizations thereof.

18 **SEC. 4. BOARD FUNCTIONS.**

19 (a) REGULATIONS FOR THE APPLICATION OF LAWS
20 APPLICABLE TO CONGRESS.—The Board of Directors
21 shall issue regulations respecting the remedies available
22 under sections 5 through 10 of this Act to individuals cov-
23 ered under the laws referred to in section 2(a). Regula-
24 tions respecting such laws shall be issued within 120 days

1 of the date of the first appointment of members of the
2 Board of Directors.

3 (b) RECOMMENDATIONS FOR APPLICATION OF
4 LAWS.—

5 (1) STUDY.—The Board of Directors shall con-
6 duct a study of the application to Congress of the
7 laws referred to in section 2(b) and as amended by
8 section 15 The Board of Directors shall complete
9 such study and report the results to Congress not
10 later than 180 days after the date of the first ap-
11 pointment of the Board of Directors. Act.

12 (2) RECOMMENDATIONS.—

13 (A) IN GENERAL.—Not later than 120
14 days after the date of the completion of the
15 study under subsection (a), the Board of Direc-
16 tors shall, in accordance with section 553 of
17 title 5, United States Code, make recommenda-
18 tions to the Congress which specify which of the
19 laws referred to in section 2(b) should apply to
20 Congress. Such recommendations—

21 (i) shall take into account the costs
22 associated with the application of such
23 laws to the Congress,

24 (ii) shall be consistent with the provi-
25 sion of law made applicable to Congress,

1 except as otherwise specifically provided in
2 sections 5 through 13 of this Act, and

3 (iii) may specify specific dates for the
4 application of specific laws and may specify
5 specific means for the application of such
6 laws.

7 (B) APPROVAL.—When a recommendation
8 made under subparagraph (A) is received by
9 the Congress, it shall be introduced as a joint
10 resolution in the House of Representatives and
11 the Senate. Such a joint resolution shall be a
12 joint resolution which states after the resolving
13 clause that the Congress approves the rec-
14 ommendation and includes an appropriate iden-
15 tification of such recommendation. When such a
16 joint resolution is introduced in the House of
17 Representatives it shall be referred to the ap-
18 propriate committee and when it is introduced
19 in the Senate it shall be referred to the appro-
20 priate committee. Subsections (c), (d), (e), and
21 (f) of section 152 of the Trade Act of 1974 (19
22 U.S.C. 2912) shall be applicable to such a joint
23 resolution, except that final action on such rec-
24 ommendation shall be completed within 45 days

1 of the date of the submission to Congress of the
2 joint resolution.

3 (3) REGULATIONS FOR ACTIONS ON REC-
4 COMMENDATIONS.—The Board of Directors shall
5 issue regulations respecting the remedies available
6 under sections 5 through 10 of this Act to individ-
7 uals covered under the laws made applicable to the
8 Congress by approval of a recommendation made
9 under paragraph (2). Regulations respecting such
10 laws shall be issued within 60 days of the date of
11 the enactment of a law in response to a rec-
12 ommendation made under paragraph (2).

13 (c) CONTINUING ACTION.—On an ongoing basis the
14 Board of Directors shall study the application to the Con-
15 gress of laws referred to in section 2(b) which are enacted
16 after the date of the enactment of this Act and may issue
17 recommendations and regulations with respect to such
18 laws in accordance with subsection (b).

19 (d) RULES OF THE OFFICE.—The Board of Directors
20 shall adopt rules governing the procedures of the Office,
21 including the procedures under sections 5 through 8,
22 which shall be submitted for publication in the Congres-
23 sional Record. The rules may be amended in the same
24 manner. The Board of Directors may consult with the

1 Chairman of the Administrative Conference of the United
2 States on the adoption of such rules.

3 (e) DUTIES.—The Office shall—

4 (1) carry out a program of education for Mem-
5 bers of Congress and other employing authorities of
6 the Congress respecting the laws made applicable to
7 them and a program to inform individuals of their
8 rights under laws applicable to Congress and under
9 sections 5 through 10,

10 (2) in carrying out the program under para-
11 graph (1), distribute the telephone number and ad-
12 dress of the Office, procedures for action under sec-
13 tions 5 through 10, and any other information the
14 Board of Directors deems appropriate for distribu-
15 tion, distribute such information to Members of Con-
16 gress and other employing authorities in a manner
17 suitable for posting, provide such information to new
18 Congressional employees, distribute such information
19 to the residences of Congressional employees, and
20 conduct seminars and other activities designed to
21 educate employers and employees in such informa-
22 tion,

23 (3) compile and publish statistics on the use of
24 the Office by Congressional employees, including the
25 number and type of contacts made with the Office,

1 on the reason for such contacts, on the number of
2 employees who initiated proceedings with the Office
3 under sections 5 through 10 and the result of such
4 proceedings, on the number of employees who filed
5 a complaint under section 8, the basis for the com-
6 plaint, and the action taken on the complaint, and

7 (4) within 180 days of the initial appointment
8 of the members of the Board of Directors and in
9 conjunction with the Clerk of the House of Rep-
10 resentatives and the Secretary of the Senate, develop
11 a system for the collection of demographic data re-
12 specting the composition of the employees of the
13 Congress, including race, sex, and wages, and a sys-
14 tem for the collection of information on employment
15 practices, including family leave and flexible work
16 hours, in Congressional offices.

17 (f) REPORT.—Within one year of the date the system
18 referred to in subsection (e)(5) is developed and annually
19 thereafter, the Board of Directors shall submit to Con-
20 gress a report on the information collected under such sys-
21 tem. Each report after the first report shall contain a com-
22 parison and evaluation of data contained in the previous
23 report.

24 (g) IDENTIFICATION OF DISCRIMINATORY PRAC-
25 TICES.—From the information collected under subsection

1 (e)(5) the Board of Directors shall identify discriminatory
2 wage setting practices in the Congress and promptly re-
3 port to the Congress such identification together with rec-
4 ommendations for corrective action.

5 **SEC. 5. PROCEDURE FOR CONSIDERATION OF ALLEGED**
6 **VIOLATIONS.**

7 The procedure for consideration of alleged violations
8 of laws made applicable to Congress under the regulation
9 promulgated under section 4(a) consists of 4 steps as fol-
10 lows:

11 (1) Step I, counseling, as set forth in section 6.

12 (2) Step II, mediation, as set forth in section
13 7.

14 (3) Step III, formal complaint and hearing by
15 a hearing board, as set forth in section 8.

16 (4) Step IV, judicial review of a hearing board
17 decision, as set forth in section 9.

18 **SEC. 6. STEP I: COUNSELING.**

19 (a) IN GENERAL.—A Congressional employee alleg-
20 ing a violation of a law made applicable to Congress under
21 section 2(a) or 4(b) may request counseling by the Office.
22 The Office shall provide the employee with all relevant in-
23 formation with respect to the rights of the employee, in-
24 cluding the procedures (including deadlines) for claims
25 under section 8. A request for counseling shall be made

1 not later than 180 days after the alleged violation forming
2 the basis of the request for counseling occurred.

3 (b) PERIOD OF COUNSELING.—The period for coun-
4 seling shall be 30 days unless the employee and the Office
5 agree to reduce the period. The period shall begin on the
6 date the request for counseling is received.

7 (c) EMPLOYEES OF THE ARCHITECT OF THE CAP-
8 ITOL AND CAPITOL POLICE.—In the case of an employee
9 of the Architect of the Capitol or an employee who is a
10 member of the Capitol Police, the Director may refer the
11 employee to the Architect of the Capitol or the Capitol
12 Police Board for resolution of the employee's complaint
13 through the internal grievance procedures of the Architect
14 of the Capitol or the Capitol Police Board for a specific
15 period of time, which shall not count against the time
16 available for counseling or mediation under this Act.

17 **SEC. 7. STEP II: MEDIATION.**

18 (a) IN GENERAL.—Not later than 15 days after the
19 end of the counseling period under section 6, the employee
20 who alleged a violation of a law made applicable to Con-
21 gress under section 4 may file a request for mediation with
22 the Office. Mediation—

23 (1) may include the Office, the employee, the
24 employing office, and individuals who are rec-

1 ommended to the Director by the Federal Mediation
2 and Conciliation Service, and

3 (2) shall be a process involving meetings with
4 the parties separately or jointly for the purpose of
5 resolving the dispute between the employee and the
6 employing office.

7 (b) **MEDIATION PERIOD.**—The mediation period shall
8 be 30 days beginning on the date the request for mediation
9 is received and may be extended for an additional 30 days
10 at the discretion of the Office. The Office shall notify the
11 employee and the head of the employing office when the
12 mediation period has ended. For purposes of this section,
13 the term “head of employing office” means the individual
14 who has final authority to appoint, hire, discharge, and
15 set the terms, conditions or privileges of the Congressional
16 employment of an employee.

17 **SEC. 8. STEP III: FORMAL COMPLAINT AND HEARING.**

18 (a) **FORMAL COMPLAINT AND REQUEST FOR HEAR-**
19 **ING.**—Not later than 30 days after receipt by the Congres-
20 sional employee of notice from the Office of the end of
21 the mediation period under section 7, the Congressional
22 employee may file a formal complaint with the Office. No
23 complaint may be filed unless the employee has made a
24 timely request for counseling and has completed the proce-
25 dures set forth in sections 6 and 7.

1 (b) HEARING OFFICERS.—A board of 3 hearing offi-
2 cers (hereinafter in this Act referred to as a “hearing
3 board”), who are chosen by lot from the Board of Direc-
4 tors (one of whom shall be designated by the Board of
5 Directors as the presiding hearing officer) shall be as-
6 signed to consider each complaint filed under subsection
7 (a). A hearing board shall act by majority vote.

8 (c) DISMISSAL OF FRIVOLOUS CLAIMS.—Prior to a
9 hearing under subsection (d), a hearing board may dismiss
10 any claim that it finds to be frivolous.

11 (d) HEARING.—A hearing shall be conducted—

12 (1) in closed session on the record by a hearing
13 board,

14 (2) no later than 30 days after filing of the
15 complaint under subsection (a), except that the Of-
16 fice may, for good cause, extend up to an additional
17 60 days the time for conducting a hearing, and

18 (3) except as specifically provided in this Act
19 and to the greatest extent practicable, in accordance
20 with the principles and procedures set forth in sec-
21 tions 554 through 557 of title 5, United States
22 Code.

23 (e) DISCOVERY.—Reasonable prehearing discovery
24 shall be permitted at the discretion of the hearing board.

25 (f) SUBPOENA POWER.—

1 (1) IN GENERAL.—A hearing board may au-
2 thorize subpoenas, which shall be issued by the pre-
3 siding hearing officer on behalf of the hearing board,
4 for the attendance of witnesses at proceedings of the
5 hearing board and for the production of correspond-
6 ence, books, papers, documents, and other records.
7 The attendance of witnesses and the production of
8 evidence may be required from any place within the
9 United States.

10 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
11 son refuses to obey a subpoena issued under para-
12 graph (1), the hearing board may apply to a United
13 States district court for an order requiring that per-
14 son to appear before the hearing board to give testi-
15 mony, produce evidence, or both, relating to the
16 matter under investigation. The application may be
17 made within the judicial district where the hearing
18 is conducted or where that person is found, resides,
19 or transacts business. Any failure to obey the order
20 of the court may be punished by the court as civil
21 contempt.

22 (3) SERVICE OF SUBPOENAS.—The subpoenas
23 of the hearing board shall be served in the manner
24 provided for subpoenas issued by a United States

1 district court under the Federal Rules of Civil Pro-
2 cedure for the United States district courts.

3 (4) SERVICE OF PROCESS.—All process of any
4 court to which application is be made under para-
5 graph (2) may be served in the judicial district in
6 which the person required to be served resides or
7 may be found.

8 (5) IMMUNITY.—The hearing board is an agen-
9 cy of the United States for the purpose of part V
10 of title 18, United States Code (relating to immunity
11 of witnesses).

12 (g) DECISION.—As expeditiously as possible, but in
13 no case more than 45 days after the conclusion of the
14 hearing, the hearing board shall issue a decision in the
15 matter for which the hearing was held. The decision of
16 the hearing board shall be transmitted by the Office to
17 the employee and the employing office. The decision shall
18 state the issues raised by the complaint, describe the evi-
19 dence in the record, and contain a determination as to
20 whether a violation of a law made applicable to Congress
21 under section 4 has occurred. Any decision of the hearing
22 board shall contain a written statement of the reasons for
23 the Board's decision.

24 (h) REMEDY ORDER.—If the hearing board deter-
25 mines that a violation of a law made applicable to Con-

1 gress under section 2(a) or 4(b) has occurred, it shall
2 order such remedies as would be appropriate under the
3 law which has been violated, including attorneys' fees. The
4 hearing board shall have no authority to award punitive
5 damages. The entry of an order under this subsection shall
6 constitute a final decision for purposes of review under
7 section 9.

8 **SEC. 9. JUDICIAL REVIEW.**

9 (a) IN GENERAL.—Any Congressional employee ag-
10 grieved by a dismissal under section 8(c), a final decision
11 under section 8(g), or an order under section 8(h), or any
12 Member of the House of Representatives or Senate ag-
13 grieved by a final decision under section 8(g) or who would
14 be subject to an order issued under section 8(h), may peti-
15 tion for review by the United States Court of Appeals for
16 the Federal Circuit.

17 (b) LAW APPLICABLE.—Chapter 158 of title 28,
18 United States Code, shall apply to a review under sub-
19 section (a) except that—

20 (1) with respect to section 2344 of title 28,
21 United States Code, service of the petition shall be
22 on the House or Senate Legal Counsel, as the case
23 may be, rather than on the Attorney General,

1 (2) the provisions of section 2348 of title 28,
2 United States Code, on the authority of the Attorney
3 General, shall not apply,

4 (3) the petition for review shall be filed not
5 later than 90 days after the entry in the Office of
6 a final decision under section 8(g) or order under
7 section 8(h),

8 (4) the Office shall be an “agency” as that
9 term is used in chapter 158 of title 28, United
10 States Code, and

11 (5) the Office shall be the respondent in any
12 proceeding under subsection (a).

13 (c) STANDARD OF REVIEW.—To the extent necessary
14 to decision and when presented, the court shall decide all
15 relevant questions of law and interpret constitutional and
16 statutory provisions. The court shall set aside a final deci-
17 sion under section 8(h) or order under section 8(g) if it
18 is determined that the decision or order was—

19 (1) arbitrary, capricious, an abuse of discretion,
20 or otherwise not consistent with law;

21 (2) not made consistent with required proce-
22 dures; or

23 (3) unsupported by substantial evidence.

24 In making the foregoing determinations, the court shall
25 review the whole record, or those parts of it cited by a

1 party, and due account shall be taken of the rule of preju-
2 dicial error. The record on review shall include the record
3 before the hearing board, the decision of the hearing
4 board, and the order of the hearing board.

5 (d) FEES.—In an action brought under subsection
6 (a), the court may allow the prevailing party a reasonable
7 attorney’s fees (including expert witness fees) as part of
8 the costs.

9 **SEC. 10. OTHER REVIEW.**

10 (a) PERSONNEL APPEALS BOARD.—If the judicial re-
11 view of a dismissal notice, decision, or order under section
12 8(c), 8(g), or 8(h) under section 9 is held to be unconstitu-
13 tional, the review of such notice, decision, or order shall
14 be conducted by the Personnel Appeals Board of the Gen-
15 eral Accounting Office (hereinafter in this section referred
16 to as the “Board”).

17 (b) PETITION FOR REVIEW.—Any Congressional em-
18 ployee aggrieved by a dismissal under section 8(c), a final
19 decision under section 8(g), or an order under section
20 8(h), or any Member of the House of Representatives or
21 Senate aggrieved by a final decision under section 8(g)
22 or who would be subject to an order issued under section
23 8(h), may petition for review by the Board.

24 (c) STANDARD OF REVIEW.—To the extent necessary
25 to decision and when presented, the Board shall decide

1 all relevant questions of law and interpret constitutional
2 and statutory provisions. The Board shall set aside a final
3 decision under section 8(h) or order under section 8(g)
4 if it is determined that the decision or order was—

5 (1) arbitrary, capricious, an abuse of discretion,
6 or otherwise not in accordance with law,

7 (2) made without observance of procedure re-
8 quired by law, or

9 (3) unsupported by substantial evidence.

10 In making the foregoing determinations, the Board shall
11 review the whole record, or those parts of it cited by a
12 party, and due account shall be taken of the rule of preju-
13 dicial error. The record on review shall include the record
14 before the hearing board, the decision of the hearing
15 board, and the order of the hearing board.

16 (d) ATTORNEY'S FEES.—If an employee is the pre-
17 vailing party in a proceeding under this section, attorney's
18 fees may be allowed by the Board in accordance with the
19 standards prescribed under section 706(k) of the Civil
20 Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

21 **SEC. 11. RESOLUTION OF COMPLAINT.**

22 If, after a formal complaint is filed under section 8,
23 the employee and the head of the employing office resolve
24 the issues involved, the employee may withdraw the com-

1 plaint or the parties may enter into a written agreement,
2 subject to the approval of the Board of Directors.

3 **SEC. 12. COLLECTION AND PRESERVATION OF DOCU-**
4 **MENTS.**

5 Beginning on the date a respondent receives a com-
6 plaint under section 8 and ending on the date final action
7 has been taken on the complaint, the respondent shall col-
8 lect and preserve all documents and other information rel-
9 evant to such complaint.

10 **SEC. 13. PROHIBITION OF INTIMIDATION.**

11 Any intimidation of, or reprisal against, any employee
12 by any Member, officer, or employee of the House of Rep-
13 resentatives or the Senate, or by the Architect of the Cap-
14 itol, or anyone employed by the Architect of the Capitol,
15 as the case may be, because of the exercise of a right
16 under this Act or because of appearance as a witness in
17 a case under this Act constitutes an unlawful employment
18 practice, which may be remedied in the same manner
19 under this Act as is a violation of a law made applicable
20 to Congress under section 2(a) or 4(b).

21 **SEC. 14. CONFIDENTIALITY.**

22 (a) COUNSELING.—All counseling shall be strictly
23 confidential except that the Office and the employee may
24 agree to notify the head of the employing office of the alle-
25 gations.

1 (b) MEDIATION.—All mediation shall be strictly con-
2 fidential.

3 (c) HEARINGS.—Except as provided in subsection
4 (d), the hearings, deliberations, and decisions of the hear-
5 ing board shall be confidential.

6 (d) RELEASE OF RECORDS FOR REVIEW.—The
7 records and decisions of hearing boards may be made pub-
8 lic if required for the purpose of review under section 9
9 or 10.

10 **SEC. 15. TECHNICAL AND CONFORMING AMENDMENTS.**

11 (a) LAWS REFERRED TO IN SECTION 2(a).—

12 (1) FAIR LABOR STANDARDS ACT OF 1938.—

13 (A) DEFINITION.—Section 3(e)(2)(A)(iii)
14 of the Fair Labor Standards Act of 1938 (29
15 U.S.C. 203(e)(2)(A)(iii)) is amended to read as
16 follows:

17 “(iii) in the Congress or in any unit
18 of the judicial branch of the Government
19 which has positions in the competitive serv-
20 ice,”.

21 (B) COVERAGE.—Section 8 of the Fair
22 Labor Standards Amendments of 1989 is re-
23 pealed.

24 (2) TITLE VII OF THE CIVIL RIGHTS ACT OF
25 1964.—

1 (A) CIVIL RIGHTS ACT OF 1991.—Section
2 117 and title III of the Civil Rights Act of
3 1991 (2 U.S.C. 60l, 120l et seq.) are repealed.

4 (B) EQUAL EMPLOYMENT OPPOR-
5 TUNITY.—Section 717(a) of the Civil Rights
6 Act of 1964 (42 U.S.C. 2000e–16(a)) is amend-
7 ed by striking out “in those units of the legisla-
8 tive and judicial branches of the Federal Gov-
9 ernment having positions in the competitive
10 service” and inserting in lieu thereof “in all
11 units of the Congress and in those units of the
12 judicial branch of the Federal Government hav-
13 ing positions in the competitive service”.

14 (3) AMERICANS WITH DISABILITIES ACT OF
15 1990.—Section 509 of the Americans with Disabil-
16 ities Act of 1990 (42 U.S.C. 12209) is repealed and
17 section 101 of such Act (42 U.S.C. 12111) is
18 amended—

19 (A) in paragraph (5)(B), by striking out
20 “the United States” the first time it appears
21 and inserting in lieu thereof “the United States
22 (except as provided in paragraph (11))”, and

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

24 “(11) The Congress shall be deemed an employer en-
25 gaged in an industry affecting commerce.”.

1 (4) AGE DISCRIMINATION IN EMPLOYMENT ACT
2 OF 1967.—Section 11(b) of the Age Discrimination
3 in Employment Act of 1967 (29 U.S.C. 630(b)) is
4 amended (A) by striking out “and” before “(2)”,
5 (B) by inserting before “but” the following: “and (3)
6 the Congress”, and (C) by striking out “the United
7 States, or” and inserting in lieu thereof “the execu-
8 tive and judicial branch of the United States, or”.

9 (5) FAMILY AND MEDICAL LEAVE ACT OF
10 1993.—Title V of the Family and Medical Leave Act
11 of 1993 (2 U.S.C. 60m, 60n) is repealed.

12 (b) LAWS REFERRED TO IN SECTION 2(b).—

13 (1) OCCUPATIONAL SAFETY AND HEALTH.—

14 (A) DEFINITION OF EMPLOYER.—Section
15 3(5) of the Occupational Safety and Health Act
16 of 1970 (29 U.S.C. 652(5)) is amended by
17 striking out “, but does not include the United
18 States or” and inserting in lieu thereof “and in-
19 cludes the Congress (to the extent authorized
20 by a regulation of the Office of Compliance es-
21 tablished under section 4(c) of the Congres-
22 sional Accountability Act) but does not include
23 executive or judicial branch of the Federal Gov-
24 ernment or”.

1 (B) DEFINITION OF EMPLOYEE.—Section
2 3(6) of such Act (29 U.S.C. 652(6)) is amend-
3 ed by inserting before the period a comma and
4 the following: “and, to the extent authorized by
5 a regulation of the Office of Compliance estab-
6 lished under section 4(c) of the Congressional
7 Accountability Act, the employees of the Con-
8 gress shall be deemed to be employed in a busi-
9 ness affecting commerce for the purpose of this
10 Act”.

11 (2) FREEDOM OF INFORMATION.—Section
12 552(f) of title 5, United States Code, is amended by
13 striking out “or” before “any independent” and by
14 inserting before the period a comma and the follow-
15 ing: “or the Congress (to the extent authorized by
16 a regulation of the Office of Compliance established
17 under section 4(c) of the Congressional Accountabil-
18 ity Act)”.

19 (3) PRIVACY.—Section 552a(a)(1) of title 5,
20 United States Code, is amended by striking out
21 “552(e)” and inserting in lieu thereof “552(f)”.

22 (4) AGE DISCRIMINATION.—Section 309(3) of
23 the Age Discrimination Act of 1975 (42 U.S.C.
24 6107) is amended by inserting after “means” the
25 following: “the Congress (to the extent authorized by

1 a regulation of the Office of Compliance established
2 under section 4(c) of the Congressional Accountabil-
3 ity Act) and”.

4 (c) RULE OF THE HOUSE OF REPRESENTATIVES.—
5 Rule LI of the House of Representatives is repealed.

6 **SEC. 16. POLITICAL AFFILIATION AND PLACE OF RESI-**
7 **DENCE.**

8 (a) IN GENERAL.—It shall not be a violation of a law
9 made applicable to Congress under section 4 to consider
10 the—

- 11 (1) party affiliation,
- 12 (2) domicile, or
- 13 (3) political compatibility with the employing
14 office,
- 15 of an employee with respect to employment decisions.

16 (b) DEFINITION.—For purposes of subsection (a),
17 the term “employee” means—

- 18 (1) an employee on the staff of the House of
19 Representatives or Senate leadership;
- 20 (2) an employee on the staff of a committee or
21 subcommittee;
- 22 (3) an employee on the staff of a Member of
23 the House of Representatives or Senate;
- 24 (4) an officer or employee of the House of Rep-
25 resentatives or Senate elected by the House of Rep-

1 representatives or Senate or appointed by a Member of
2 the House of Representatives or Senate, other than
3 those described in paragraphs (1) through (3); or
4 (5) an applicant for a position that is to be oc-
5 cupied by an individual described in paragraphs (1)
6 through (4).

7 **SEC. 17. REVIEW LIMIT.**

8 No Congressional employee may commence a judicial
9 proceeding to redress practices prohibited under a law
10 made applicable to Congress under section 2(a) or 4(b)
11 except as provided in this Act.

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