

103^D CONGRESS
2^D SESSION

H. R. 4514

To amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1994

Mr. HOYER (for himself, Mr. BOEHLERT, Mr. LANTOS, Mr. HUNTER, Mr. FAZIO, Mrs. MORELLA, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, 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 “Firefighters Pay Fair-
5 ness Act of 1994”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

1 (1) improve pay equality between Federal fire-
2 fighters and municipal and other public sector fire-
3 fighters;

4 (2) enhance recruitment and retention of fire-
5 fighters in order to maintain the highest quality
6 Federal fire service; and

7 (3) encourage Federal firefighters to pursue
8 career advancement and training opportunities.

9 **SEC. 3. BIWEEKLY PAY PERIODS; COMPUTATION OF PAY.**

10 Section 5504 of title 5, United States Code, is
11 amended—

12 (1) by amending subsection (a) to read as fol-
13 lows:

14 “(a) The pay period for an employee covers 2 admin-
15 istrative workweeks. For the purpose of this section, the
16 term—

17 “(1) ‘employee’ means—

18 “(A) an employee in or under an executive
19 agency;

20 “(B) an employee in or under the judicial
21 branch;

22 “(C) an employee in or under the Office of
23 the Architect of the Capitol, the Botanic Gar-
24 den, and the Library of Congress, for whom a

1 basic administrative workweek is established
2 under section 6101(a)(5); and

3 “(D) an individual employed by the gov-
4 ernment of the District of Columbia;

5 but does not include an employee or individual ex-
6 cluded from the definition of an employee in section
7 5541(2) other than an employee or individual ex-
8 cluded by section 5541(2)(xvi);

9 “(2) ‘firefighter’ has the same meaning as such
10 term is defined under sections 8331 and 8401; and

11 “(3) ‘firefighting duties’ means those duties
12 usually performed by a firefighter in responding to
13 or engaging in the control and extinguishment of a
14 fire.”;

15 (2) in subsection (b) in the first sentence by in-
16 serting “(except as provided under subsection (c))”
17 after “in the case of an employee”;

18 (3) by redesignating subsection (c) as sub-
19 section (d); and

20 (4) by inserting after subsection (b) the follow-
21 ing subsection:

22 “(c)(1) For pay computation purposes affecting a
23 firefighter, the annual rate of basic pay established by or
24 under statute is deemed the annual basic pay to be used
25 in calculating payment for employment during 26 adminis-

1 trative biweekly work periods of up to 106 hours each.
2 When it is necessary for computation of pay under this
3 subsection to convert an annual rate of basic pay to a
4 basic hourly, daily, or biweekly rate, the following rules
5 govern:

6 “(A) To derive an hourly rate, divide the an-
7 nual rate by 2,087.

8 “(B) To derive a daily rate, multiply the hourly
9 rate by the number of hours in the regularly sched-
10 uled daily tour of duty.

11 “(C) To derive a biweekly rate, multiply the
12 hourly rate by the total number of hours not to ex-
13 ceed 106 hours, in the regularly scheduled tours of
14 duty during the biweekly period.

15 Rates are computed to the nearest cent, counting one-half
16 and over as a whole cent.

17 “(2) Notwithstanding the provisions of paragraph
18 (1), for pay computation purposes affecting an employee
19 who is not a firefighter but who performs firefighting du-
20 ties during a biweekly pay period, the biweekly pay for
21 that period shall be the greater of pay calculated under—

22 “(A) subsection (b) of this section and sections
23 5542(a), 5545, and 5546, using the employee’s an-
24 nual rate of basic pay; or

1 “(B) paragraph (1) and section 5542(d), using
2 the employee’s annual rate of basic pay.

3 Rates are computed to the nearest cent, counting one-half
4 and over as a whole cent.”.

5 **SEC. 4. OVERTIME.**

6 (a) APPLICATION OF FAIR LABOR STANDARDS ACT
7 OF 1938.—Section 5542(c) of title 5, United States Code,
8 is amended to read as follows:

9 “(c) Subsection (a) shall not apply to an employee
10 who is subject to the overtime provisions of section 7 of
11 the Fair Labor Standards Act of 1938 (29 U.S.C. 207).
12 In the case of a firefighter subject to the provisions of
13 section 7(k) of the Fair Labor Standards Act of 1938 (29
14 U.S.C. 207(k)), overtime shall be determined in accord-
15 ance with the provisions of subsection (d). In the case of
16 all other employees who would, were it not for the preced-
17 ing sentences, be subject to the provisions of subsection
18 (a), the Office of Personnel Management shall by regula-
19 tion prescribe what hours shall be deemed to be hours of
20 work and what hours of work shall be deemed to be over-
21 time hours for the purpose of such section 7 so as to en-
22 sure that no employee receives less pay by reason of the
23 preceding sentence.”.

1 (b) APPLICATION TO FIREFIGHTERS.—Section 5542
2 of title 5, United States Code, is amended by adding at
3 the end thereof the following new subsection:

4 “(d) Firefighters who are subject to the provisions
5 of section 7(k) of the Fair Labor Standards Act of 1938
6 (29 U.S.C. 207(k)), for full-time, part-time, and intermit-
7 tent tours of duty, hours ordered or approved which in
8 the aggregate exceed 106 hours in a biweekly period, shall
9 be compensated at one and one-half times the hourly rate
10 of basic pay of such employee as determined under sub-
11 section (b)(2). Payments calculated under this subsection
12 for hours in excess of 106 in the regularly scheduled bi-
13 weekly tour of duty shall be considered to be part of basic
14 pay for purposes of retirement under chapter 83 or 84,
15 as applicable, life insurance under chapter 87, and for
16 such other purposes as may be expressly provided for by
17 law or as the Office of Personnel Management may by
18 regulation prescribe.”.

19 (c) LIMITATION ON PAYMENT OF OTHER PREMIUM
20 PAY.—Section 5545(c) of title 5, United States Code, is
21 amended by adding a new sentence at the end thereof to
22 read as follows: “Paragraphs (1) and (2) of this subsection
23 shall not be applicable to employees who are subject to
24 the provisions of section 7(k) of the Fair Labor Standards

1 Act of 1938 (29 U.S.C. 207(k)) and the overtime calcula-
2 tions provided for under subsection (d).”.

3 **SEC. 5. MINIMUM PAY RATE FOR FIREFIGHTER PROMOTED**
4 **TO SUPERVISORY POSITION.**

5 (a) IN GENERAL.—Chapter 53 of title 5, United
6 States Code, is amended—

7 (1) by redesignating section 5385 as section
8 5386; and

9 (2) by inserting after section 5384 the following
10 new section:

11 **“§ 5385. Minimum pay rate for firefighter promoted**
12 **to supervisory position**

13 “(a) For purposes of this section, the term—

14 “(1) ‘agency’ has the meaning as such term is
15 defined under section 5102(1);

16 “(2) ‘employee’ has the meaning as such term
17 is defined under section 5102(2); and

18 “(3) ‘firefighter’ has the meaning as such term
19 is defined under sections 8331 and 8401.

20 “(b)(1) The position to which an employee described
21 under paragraph (2) is promoted shall be paid at a basic
22 rate of pay equal to or greater than the annual aggregate
23 rate of pay based on basic pay and regularly scheduled
24 overtime pay received by such employee in the calendar
25 year immediately preceding the promotion.

1 “(2) Paragraph (1) applies to an employee who—

2 “(A) is in a position as a firefighter;

3 “(B) is promoted to a supervisory position as a
4 firefighter; and

5 “(C) after such promotion, is not subject to the
6 provisions of section 7(k) of the Fair Labor Stand-
7 ards Act of 1938 (29 U.S.C. 207(k)).”.

8 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

9 The table of sections for chapter 53 of title 5, United
10 States Code, is amended by striking out the item relating
11 to section 5385 and inserting in lieu thereof the following:

“5385. Minimum pay rate for firefighter promoted to supervisory position.
“5386. Regulations.”.

12 **SEC. 6. TRAINING.**

13 Section 4109 of title 5, United States Code, is
14 amended by adding at the end thereof the following new
15 subsection:

16 “(d) Notwithstanding subsection (a)(1), a firefighter,
17 as defined under sections 8331 and 8401, who is selected
18 and assigned for training under this chapter, shall be paid
19 during the period of training at the rate of basic pay of
20 such employee and overtime which is normally paid for
21 the regularly scheduled tour of duty of such employee.”.

1 **SEC. 7. TECHNICIAN BONUSES.**

2 (a) IN GENERAL.—Chapter 45 of title 5, United
3 States Code, is amended by adding at the end thereof the
4 following new subchapter:

5 “SUBCHAPTER IV—AWARD TO FIREFIGHTERS
6 FOR SPECIAL SKILLS AND CERTIFICATIONS

7 “§4531. **Definitions**

8 “For the purpose of this subchapter, the term—

9 “(1) ‘firefighter’ has the same meaning as such
10 term is defined under sections 8331 and 8401; and

11 “(2) ‘firefighting duties’ means those duties
12 usually performed by a firefighter in responding to
13 or engaging in the control and extinguishment of a
14 fire.

15 “§4532. **Award authority**

16 “(a) An agency may pay a cash award of up to 5
17 percent of basic pay, to a firefighter or other employee
18 who performs firefighting duties, employed in or under
19 such agency who possesses and makes substantial use of
20 special skills or certifications, including handling hazard-
21 ous materials or certification as an emergency medical
22 technician.

23 “(b) Awards under this section shall be paid under
24 regulations prescribed by the head of the agency involved
25 or pursuant to negotiations as the case may be. Such regu-
26 lations or collective bargaining provisions shall include—

1 “(1) procedures under which such special skills
2 or certifications shall be ascertained;

3 “(2) criteria for determining the amount paid
4 to individuals for recognition under this section; and

5 “(3) any other provisions which may be nec-
6 essary to carry out the purposes of this sub-
7 chapter.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—
9 The table of sections for chapter 45 of title 5, United
10 States Code, is amended by adding at the end thereof the
11 following:

“SUBCHAPTER IV—AWARD TO FIREFIGHTERS FOR SPECIAL
SKILLS AND CERTIFICATIONS

“4531. Definitions.

“4532. Award authority.”.

12 **SEC. 8. EFFECTIVE DATES.**

13 The provisions of this Act shall become effective as
14 follows:

15 (1) Sections 3, 4, and 5 shall be effective begin-
16 ning with the applicable first pay period which be-
17 gins on or after 60 days after the date of the enact-
18 ment of this Act.

19 (2) Section 6 shall take effective 60 days after
20 the date of the enactment of this Act.

21 (3) Section 7 shall take effect on October 1,
22 1994.

○