

110TH CONGRESS
1ST SESSION

H. R. 3774

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2007

Mr. DAVIS of Illinois (for himself, Mr. KUCINICH, Ms. NORTON, Mr. CUMMINGS, Mr. CLAY, Mr. LYNCH, Mr. SARBANES, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

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 “Senior Executive Serv-
5 ice Diversity Assurance Act”.

6 **SEC. 2. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.**

7 (a) DEFINITIONS.—For purposes of this section—

8 (1) the term “Director” means the Director of
9 the Office of Personnel Management;

1 (2) the term “Senior Executive Service” has the
2 meaning given such term by section 2101a of title
3 5, United States Code;

4 (3) the terms “agency”, “career appointee”,
5 and “career reserved position” have the meanings
6 given them by section 3132 of title 5, United States
7 Code; and

8 (4) the term “SES Resource Office” means the
9 Senior Executive Service Resource Office, estab-
10 lished under subsection (b).

11 (b) ESTABLISHMENT.—Not later than January 1,
12 2009, the Director shall establish within the Office of Per-
13 sonnel Management an office to be known as the Senior
14 Executive Service Resource Office. The mission of the
15 SES Resource Office shall be—

16 (1) to improve the efficiency, effectiveness, and
17 productivity of the Senior Executive Service through
18 policy formulation and oversight;

19 (2) to advance the professionalism of the Senior
20 Executive Service; and

21 (3) to ensure that, in seeking to achieve a Sen-
22 ior Executive Service reflective of the Nation’s diver-
23 sity, recruitment is from qualified individuals from
24 appropriate sources.

1 (c) FUNCTIONS.—It shall be the function of the SES
2 Resource Office to make recommendations to the Director
3 with respect to regulations, and to provide guidance to
4 agencies, concerning the structure, management, and di-
5 verse composition of the Senior Executive Service. In
6 order to carry out the purposes of this section, the SES
7 Resource Office shall—

8 (1) take such actions as the SES Resource Of-
9 fice considers necessary to manage and promote an
10 efficient, elite, and diverse corps of senior executives
11 by—

12 (A) creating policies for the management
13 and improvement of the Senior Executive Serv-
14 ice;

15 (B) providing oversight of the perform-
16 ance, structure, and composition of the Senior
17 Executive Service; and

18 (C) providing guidance and oversight to
19 agencies in the management of senior executives
20 and candidates for the Senior Executive Serv-
21 ice;

22 (2) be responsible for the policy development,
23 management, and oversight of the Senior Executive
24 Service pay system;

1 (3) develop standards for certification of each
2 agency's Senior Executive Service performance man-
3 agement system and evaluate all agency applications
4 for certification;

5 (4) be responsible for developing and moni-
6 toring programs for the advancement and training of
7 senior executives, including the Senior Executive
8 Service Federal Candidate Development Program;

9 (5) provide oversight of and guidance to agency
10 executive resources boards;

11 (6) be responsible for the administration of the
12 qualifications review board;

13 (7) establish and maintain lists (in a form that
14 renders them useful to appointing authorities and
15 candidates) of—

16 (A) the total number of career reserved po-
17 sitions at each agency;

18 (B) the total number of vacant career re-
19 served positions at each agency;

20 (C) whether candidates are being sought
21 for each such vacant position; and

22 (D) the names and (to the extent avail-
23 able) the race, ethnicity, gender, and any dis-
24 abilities of individuals who have been certified,
25 in accordance with section 3393(d) of title 5,

1 United States Code (as so redesignated by sec-
2 tion 3(a)), as having the executive qualifications
3 necessary for initial appointment as a career
4 appointee;

5 (8) establish mentoring programs for individ-
6 uals described in paragraph (7)(D);

7 (9) collect and maintain statistics relating to
8 the composition of the Senior Executive Service
9 based on race, ethnicity, gender, age, and persons
10 with disabilities;

11 (10) publish annually in the Federal Register
12 statistics relating to—

13 (A) the data collected by the SES Re-
14 source Office under paragraph (7); and

15 (B) the composition of the Senior Execu-
16 tive Service based on the factors listed in para-
17 graph (7)(D); and

18 (11) conduct a continuing program for the re-
19 cruitment of women, members of racial and ethnic
20 minority groups, and the disabled for Senior Execu-
21 tive Service positions, with special efforts directed at
22 recruiting from educational institutions, professional
23 associations, and other sources.

24 (d) PUBLIC ACCESS TO STATISTICS.—The SES Re-
25 source Office shall make the statistics under subsection

1 (c)(10) accessible to the public through an Internet
2 website.

3 **SEC. 3. CAREER APPOINTMENTS.**

4 (a) ESTABLISHMENT AND ROLE OF SES EVALUA-
5 TION PANELS.—Section 3393 of title 5, United States
6 Code, is amended—

7 (1) by redesignating subsections (b) through (g)
8 as subsections (c) through (h), respectively; and

9 (2) by inserting after subsection (a) the fol-
10 lowing:

11 “(b)(1)(A) Each agency shall establish one or more
12 Senior Executive Service evaluation panels, as appro-
13 priate, the members of which shall be appointed by the
14 head of the agency (or his or her designee)—

15 “(i) from among senior executives of the
16 agency or commissioned officers of the uni-
17 formed services serving on active duty in such
18 agency; or

19 “(ii) from among senior executives of or
20 commissioned officers of the uniformed services
21 serving on active duty in another agency, if—

22 “(I) subparagraph (B) could not (but
23 for this clause) otherwise be satisfied; and

24 “(II) the consent of the head of the
25 other agency is obtained.

1 “(B) Each panel shall consist of 3 members, of whom
2 at least 1 shall be a woman and 1 other shall be a member
3 of a racial or ethnic minority group.

4 “(2) It shall be the function of a Senior Executive
5 Service evaluation panel, with respect to any Senior Exec-
6 utive Service position for which a vacancy announcement
7 is posted—

8 “(A) to review the executive qualifications of
9 each candidate for a position which is to be filled by
10 a career appointee; and

11 “(B) to certify to the appropriate executive re-
12 sources board the names of candidates who, in the
13 judgment of the panel, are best qualified for such
14 position.

15 Nothing in subparagraph (A) shall be considered to apply
16 in the case of any candidate who is already a career ap-
17 pointee.”.

18 (b) ROLE OF EXECUTIVE RESOURCES BOARDS.—
19 Paragraph (1) of section 3393(c) of title 5, United States
20 Code (as so redesignated by subsection (a)), is amended
21 to read as follows:

22 “(1) for each career reserved position for which
23 a vacancy is posted, review the executive qualifica-
24 tions of candidates certified under subsection (b)
25 with respect to such position; and”.

1 (c) DEFINITION OF APPOINTING AUTHORITY.—Sec-
 2 tion 3393 of title 5, United States Code, is amended by
 3 adding after subsection (h) (as so redesignated by sub-
 4 section (a)) the following:

5 “(i) For purposes of this section, the term ‘appoint-
 6 ing authority’ means, with respect to a position within an
 7 agency, the head of such agency (or his or her designee).”.

8 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1) Section 3592(a)(1) of title 5, United States
 10 Code, is amended by striking “3393(d)” and insert-
 11 ing “3393(e)”.

12 (2) Section 3593 of such title is amended—

13 (A) in subsection (a)—

14 (i) in the matter before paragraph
 15 (1), by striking “3393(b) and (c)” and in-
 16 serting “3393(c) and (d)”; and

17 (ii) in paragraph (1), by striking
 18 “3393(d)” and inserting “3393(e)”; and

19 (B) in subsection (c)(1)—

20 (i) in the matter before subparagraph
 21 (A), by striking “3393(b) and (c)” and in-
 22 serting “3393(c) and (d)”; and

23 (ii) in subparagraph (C), by striking
 24 “3393(d)” and inserting “3393(e)”.

1 (3) Section 3594 of such title is amended in
2 subsections (a) and (b) by striking “3393(d)” and
3 inserting “3393(e)”.

4 (4) Section 3595(b)(1) of such title is amended
5 by striking “3393(d)” and inserting “3393(e)”.

6 (5) Section 7541(1)(A) of such title is amended
7 by striking “3393(d)” and inserting “3393(e)”.

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