

111TH CONGRESS
1ST SESSION

H. R. 1517

To allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2009

Mr. ENGEL (for himself and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Oversight and Government 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 allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive 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. DEFINITIONS.**

4 For purposes of this Act—

1 (1) the term “Commissioner” means the Com-
2 missioner of U.S. Customs and Border Protection;

3 (2) the term “U.S. Customs and Border Pro-
4 tection” means U.S. Customs and Border Protection
5 of the Department of Homeland Security;

6 (3) the term “competitive service” has the
7 meaning given such term by section 2102 of title 5,
8 United States Code; and

9 (4) the term “overseas limited appointment”
10 means an appointment under—

11 (A) subpart B of part 301 of title 5 of the
12 Code of Federal Regulations, as in effect on
13 January 1, 2008; or

14 (B) any similar antecedent or succeeding
15 authority, as determined by the Commissioner.

16 **SEC. 2. AUTHORITY TO CONVERT CERTAIN OVERSEAS LIM-**
17 **ITED APPOINTMENTS TO PERMANENT AP-**
18 **POINTMENTS.**

19 (a) IN GENERAL.—Notwithstanding chapter 33 of
20 title 5, United States Code, or any other provision of law
21 relating to the examination, certification, and appointment
22 of individuals in the competitive service, the Commissioner
23 may convert an employee serving under an overseas lim-
24 ited appointment within U.S. Customs and Border Protec-

1 tion to a permanent appointment in the competitive serv-
2 ice within U.S. Customs and Border Protection, if—

3 (1) as of the time of conversion, the employee
4 has completed at least 2 years of current continuous
5 service under 1 or more overseas limited appoint-
6 ments; and

7 (2) the employee's performance has, throughout
8 the period of continuous service referred to in para-
9 graph (1), been rated at least fully successful or the
10 equivalent.

11 An employee whose appointment is converted under the
12 preceding sentence acquires competitive status upon con-
13 version.

14 (b) INDEMNIFICATION AND PRIVILEGES.—

15 (1) INDEMNIFICATION.—The United States
16 shall, in the case of any individual whose appoint-
17 ment is converted under subsection (a), indemnify
18 and hold such individual harmless from any claim
19 arising from any event, act, or omission—

20 (A) that arises from the exercise of such
21 individual's official duties, including by reason
22 of such individual's residency status, in the for-
23 eign country in which such individual resides at
24 the time of conversion,

1 (B) for which the individual would not
2 have been liable had the individual enjoyed the
3 same privileges and immunities in the foreign
4 country as an individual who either was a per-
5 manent employee, or was not a permanent resi-
6 dent, in the foreign country at the time of the
7 event, act, or omission involved, and

8 (C) that occurs before, on, or after the
9 date of the enactment of this Act,
10 including any claim for taxes owed to the foreign
11 country or a subdivision thereof.

12 (2) SERVICES AND PAYMENTS.—

13 (A) IN GENERAL.—In the case of any indi-
14 vidual whose appointment is converted under
15 subsection (a), the United States shall provide
16 to such individual (including any dependents)
17 services and monetary payments—

18 (i) equivalent to the services and mon-
19 etary payments provided to other Customs
20 and Border Protection employees in similar
21 positions (and their dependents) in the
22 same country of assignment by inter-
23 national agreement, an exchange of notes,
24 or other diplomatic policy; and

1 (ii) for which such individual (includ-
2 ing any dependents) was not eligible by
3 reason of such individual's overseas limited
4 appointment.

5 (B) APPLICABILITY.—Services and pay-
6 ments under this paragraph shall be provided to
7 an individual (including any dependents) to the
8 same extent and in the same manner as if such
9 individual had held a permanent appointment in
10 the competitive service throughout the period
11 described in subsection (a)(1). The preceding
12 sentence shall, in the case of any individual, be
13 effective as of the first day of the period de-
14 scribed in subsection (a)(1) with respect to such
15 individual.

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