

Union Calendar No. 218

111TH CONGRESS
1ST SESSION

H. R. 1517

[Report No. 111-373, Part I]

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

DECEMBER 14, 2009

Additional sponsors: Mr. BILIRAKIS, Mrs. MILLER of Michigan, and Ms. RICHARDSON

DECEMBER 14, 2009

Reported from the Committee on Homeland Security with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

DECEMBER 14, 2009

Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 16, 2009]

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—*

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

7 *(2) the term “U.S. Customs and Border Protec-*
8 *tion” means U.S. Customs and Border Protection of*
9 *the Department of Homeland Security;*

10 *(3) the term “competitive service” has the mean-*
11 *ing given such term by section 2102 of title 5, United*
12 *States Code; and*

13 *(4) the term “overseas limited appointment”*
14 *means an appointment under—*

15 *(A) subpart B of part 301 of title 5 of the*
16 *Code of Federal Regulations, as in effect on Jan-*
17 *uary 1, 2008; or*

18 *(B) any similar antecedent or succeeding*
19 *authority, as determined by the Commissioner.*

20 **SEC. 2. AUTHORITY TO CONVERT CERTAIN OVERSEAS LIM-**
21 **ITED APPOINTMENTS TO PERMANENT AP-**
22 **POINTMENTS.**

23 *(a) IN GENERAL.—Notwithstanding chapter 33 of title*
24 *5, United States Code, or any other provision of law relat-*
25 *ing to the examination, certification, and appointment of*

1 *individuals in the competitive service, the Commissioner*
2 *may convert an employee serving under an overseas limited*
3 *appointment within U.S. Customs and Border Protection*
4 *to a permanent appointment in the competitive service*
5 *within U.S. Customs and Border Protection, if—*

6 (1) *as of the time of conversion, the employee has*
7 *completed at least 2 years of current continuous serv-*
8 *ice under 1 or more overseas limited appointments;*
9 *and*

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

14 *An employee whose appointment is converted under the pre-*
15 *ceding sentence acquires competitive status upon conver-*
16 *sion.*

17 (b) *INDEMNIFICATION AND PRIVILEGES.—*

18 (1) *INDEMNIFICATION.—The United States shall,*
19 *in the case of any individual whose appointment is*
20 *converted under subsection (a), indemnify and hold*
21 *such individual harmless from any claim arising*
22 *from any event, act, or omission—*

23 (A) *that arises from the exercise of such in-*
24 *dividual's official duties, including by reason of*
25 *such individual's residency status, in the foreign*

1 *country in which such individual resides at the*
2 *time of conversion,*

3 *(B) for which the individual would not have*
4 *been liable had the individual enjoyed the same*
5 *privileges and immunities in the foreign country*
6 *as an individual who either was a permanent*
7 *employee, or was not a permanent resident, in*
8 *the foreign country at the time of the event, act,*
9 *or omission involved, and*

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

14 (2) *SERVICES AND PAYMENTS.—*

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

20 *(i) equivalent to the services and mone-*
21 *tary payments provided to other Customs*
22 *and Border Protection employees in similar*
23 *positions (and their dependents) in the*
24 *same country of assignment by inter-*

1 *national agreement, an exchange of notes, or*
2 *other diplomatic policy; and*

3 *(ii) for which such individual (includ-*
4 *ing any dependents) was not eligible by rea-*
5 *son of such individual's overseas limited ap-*
6 *pointment.*

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

18 *(c) GUIDANCE ON IMPLEMENTATION.—The Commis-*
19 *sioner shall implement the conversion of an employee serv-*
20 *ing under an overseas limited appointment to a permanent*
21 *appointment in the competitive service in a manner that—*

22 *(1) meets the operational needs of the U.S. Cus-*
23 *toms and Border Protection; and*

24 *(2) to the greatest extent practicable, is not dis-*
25 *ruptive to the employees affected under this Act.*

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