

115TH CONGRESS
1ST SESSION

H. R. 2500

To amend title 18, United States Code, to prohibit high-level Federal employees from participating in any matter substantially related to the appointee's former employment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2017

Mr. HUFFMAN introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit high-level Federal employees from participating in any matter substantially related to the appointee's former employment, 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 “Executive Appointee
5 Ethics Improvement Act”.

6 **SEC. 2. AMENDMENTS TO SECTION 207 OF TITLE 18.**

7 (a) EXTENSION OF POST-EMPLOYMENT BAN ON
8 LOBBYING FOR CERTAIN FORMER GOVERNMENT EM-

1 PLOYEES.—Section 207 of title 18, United States Code,
2 is amended—

3 (1) in subsection (c)—

4 (A) in the subsection heading, by striking
5 “ONE-YEAR” and inserting “TWO-YEAR”;

6 (B) in paragraph (1)—

7 (i) by striking “within 1 year after”
8 and inserting “within 2 years after”; and

9 (ii) by striking “within 1 year before
10 such termination”; and

11 (C) in paragraph (2), by adding at the end
12 the following:

13 “(D) Not later than 30 days after a waiver is
14 granted under subparagraph (C), the waiver shall be
15 published in the Federal Register and accompanied
16 by a signed statement by the Director of the Office
17 of Government Ethics describing in detail the rea-
18 sons for providing such waiver unless such a descrip-
19 tion would compromise national security.”;

20 (2) in subsection (d)(1), in the matter following
21 subparagraph (C), by striking “within 2 years” and
22 inserting “within 5 years”; and

23 (3) in subsection (d)(2)(A), by striking “in such
24 position” and all that follows through “terminated”.

1 (b) LIFETIME BAN ON REPRESENTATION OF FOR-
2 EIGN ENTITIES FOR CERTAIN HIGH-LEVEL FORMER EM-
3 PLOYEES.—Section 207(f) of such title is amended—

4 (1) in paragraph (1), by inserting “(or, in the
5 case of an individual described in paragraph (2), at
6 any time)” after “within 1 year”;

7 (2) in paragraph (2), by striking “paragraph
8 (1)” and inserting “paragraphs (1) and (2)”;

9 (3) by redesignating paragraphs (2) and (3) as
10 paragraphs (3) and (4); and

11 (4) by inserting after paragraph (1) the fol-
12 lowing new paragraph:

13 “(2) DESCRIPTION OF INDIVIDUALS SUBJECT
14 TO LIFETIME BAN.—An individual described in this
15 paragraph is any individual who was—

16 “(A) employed in a position described
17 under sections 5312 through 5316 of title 5,
18 United States Code (relating to the Executive
19 Schedule);

20 “(B) a limited term appointee, limited
21 emergency appointee, or noncareer appointee in
22 the Senior Executive Service, as defined under
23 paragraphs (5), (6), and (7), respectively, of
24 section 3132(a) of title 5, United States Code;

25 or

1 “(C) employed in a position of a confiden-
2 tial or policy-determining character under
3 schedule C of subpart C of part 213 of title 5
4 of the Code of Federal Regulations.”.

5 **SEC. 3. PROHIBITION ON PARTICIPATION IN MATTER RE-**
6 **LATING TO PREVIOUS EMPLOYMENT.**

7 (a) IN GENERAL.—Chapter 11 of title 18, United
8 States Code, is amended by inserting after section 219 the
9 following new section:

10 **“§ 220. Prohibition on participation in matter relat-**
11 **ing to previous employment**

12 “(a) During the 2-year period beginning on the date
13 an individual is appointed to a covered position at an agen-
14 cy, any such individual who has not received a waiver
15 under subsection (b)—

16 “(1) who participates in any particular matter
17 involving specific parties that is directly and sub-
18 stantially related to the individual’s former employer
19 or former clients, or

20 “(2) with respect to any such individual who
21 was a registered lobbyist under the Lobbying Dislo-
22 sure Act of 1995, or who was not a registered lob-
23 byist under such Act but who engaged in lobbying
24 activity as defined in subsection (c), during the 2-

1 year period preceding the date of such appointment,
2 who—

3 “(A) participates in any particular matter
4 on which the individual made a lobbying contact
5 (in the case of a registered lobbyist under such
6 Act), or engaged in such activity, during such
7 2-year period,

8 “(B) participates in the specific issue area
9 in which such particular matter falls, or

10 “(C) seeks or accepts employment with any
11 agency with respect to which the individual
12 made a lobbying contact (in the case of a reg-
13 istered lobbyist under such Act), or engaged in
14 such activity, during such 2-year period,

15 shall be punished as provided in section 216 of this title.

16 “(b)(1) The Director of the Office of Management
17 and Budget, in consultation with the Counsel to the Presi-
18 dent, may waive the requirements of subsection (a) with
19 respect to any individual covered by such subsection if the
20 Director certifies, in writing, to the Committee on Over-
21 sight and Government Reform of the House of Represent-
22 atives, the Committee on Homeland Security and Govern-
23 mental Affairs of the Senate, and the appropriate congres-
24 sional committees of jurisdiction, that it is in the public
25 interest to grant the waiver.

1 “(2) For purposes of carrying out paragraph (1)—

2 “(A) the public interest includes exigent cir-
3 cumstances relating to public health, public safety,
4 or national security;

5 “(B) de minimis contact with an agency shall
6 be cause for a waiver of subsection (a)(2); and

7 “(C) any waiver shall take effect when the cer-
8 tification is published in the Federal Register, ac-
9 companied by a signed statement by the Director de-
10 scribing in detail the reasons for providing the waiv-
11 er unless such a description would compromise na-
12 tional security.

13 “(c)(1) In this section, the term ‘lobbying activity’
14 means, with respect to an individual, knowingly making,
15 with the intent to influence, any communication to or ap-
16 pearance before any officer or employee of the Federal
17 Government on behalf of another person as an employee
18 of a lobbying firm or lobbying organization, in connection
19 with any matter on which such person seeks official action
20 by such officer or employee of the Federal Government.
21 The previous sentence applies only with respect to an indi-
22 vidual who spends greater than 20% of the individual’s
23 time as an employee of a lobbying firm or lobbying organi-
24 zation engaged in such lobbying activity.

1 “(2) In paragraph (1), the term ‘lobbying firm’
2 means any firm, corporation, or limited liability company
3 in which—

4 “(A) employees of the firm in the aggregate
5 make 2 or more lobbying contacts at any time on be-
6 half of a particular client; and

7 “(B) the firm receives or expects to receive
8 from a particular client for matters related to lob-
9 bying activities at least the amount specified in sec-
10 tion 4(a)(3)(A) of the Lobbying Disclosure Act of
11 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly pe-
12 riod during which registration would be made under
13 such Act.

14 “(3) In paragraph (1), the term ‘lobbying organiza-
15 tion’ includes any organization in which—

16 “(A) employees of the firm in the aggregate
17 make 2 or more lobbying contacts at any time on its
18 behalf; and

19 “(B) the organization expends in connection
20 with lobbying activities at least the amount specified
21 in section 4(a)(3)(B) of the Lobbying Disclosure Act
22 of 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly
23 period during which registration would be made
24 under such Act.

1 “(4) In this subsection, the term ‘employee’ has the
2 meaning given such term in section 3(5) of the Lobbying
3 Disclosure Act of 1995 (2 U.S.C. 1602(5)).

4 “(d) In this section, the following definitions apply:

5 “(1) The term ‘agency’ means an ‘Executive
6 agency’ (as that term is defined in section 105 of
7 title 5), the Executive Office of the President, the
8 United States Postal Service, and the Postal Regu-
9 latory Commission, but does not include the Govern-
10 ment Accountability Office.

11 “(2) The term ‘covered position’—

12 “(A) means any—

13 “(i) full-time, non-career position
14 which requires appointment by the Presi-
15 dent or Vice-President;

16 “(ii) non-career position within the
17 Senior Executive Service or other SES-
18 type system; or

19 “(iii) position that has been excepted
20 from the competitive service by reason of
21 being of a confidential or policymaking
22 character, including positions under sched-
23 ule C of subpart C of part 213 of title 5
24 of the Code of Federal Regulations; and

1 “(B) does not include any individual ap-
2 pointed as a member of the Senior Foreign
3 Service or solely as a uniformed service commis-
4 sioned officer.

5 “(3) The term ‘directly and substantially re-
6 lated to former employer or former clients’ means
7 matters in which the individual’s former employer or
8 a former client is a party or represents a party.

9 “(4) The term ‘former client’ means any person
10 for whom the individual served personally as agent,
11 attorney, or consultant, but does include instances
12 where the service provided was limited to a speech
13 or similar appearance or clients of the individual’s
14 former employer to whom the individual did not per-
15 sonally provide services.

16 “(5) The term ‘former employer’ means any
17 person for whom the individual has within the 2
18 years prior to the date of appointment served as an
19 employee, officer, director, trustee, or general part-
20 ner, but does not include any agency or other entity
21 of the Federal Government, Native American tribe,
22 or any United States territory or possession.

23 “(6) The term ‘lobbying contact’ has the mean-
24 ing given such term in section 3(8) of the Lobbying
25 Disclosure Act of 1995 (2 U.S.C. 1602(8)).

1 “(7) The term ‘particular matter’ has the
2 meaning given that term in section 207 and section
3 2635.402(b)(3) of title 5, Code of Federal Regula-
4 tions, or any successor regulation.

5 “(8) The term ‘participate’ means to participate
6 personally and substantially.

7 “(9) The term ‘particular matter involving spe-
8 cific parties’ has the meaning as set forth in section
9 2641.201(h) of title 5, Code of Federal Regulations,
10 or any successor regulation, except that it shall also
11 include any meeting or other communication relating
12 to the performance of an individual’s official duties
13 with a former employer or former client, unless the
14 communication applies to a particular matter of gen-
15 eral applicability and participation in the meeting or
16 other event is open to all interested parties.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 of chapter 11 of title 18, United States Code, is amended
19 by inserting after the item relating to section 219 the fol-
20 lowing new item:

“220. Prohibition on participation in matter relating to previous employment.”.

21 (c) APPLICATION.—The amendments made after sub-
22 section (a) shall apply to any individual appointed to a
23 covered position (as that term is defined in section

1 220(d)(2) of title 18, United States Code, as added by
2 such subsection) after the date of enactment of this Act.

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