

117TH CONGRESS
1ST SESSION

H. R. 903

To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration who provide screening of all passengers and property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of Mississippi introduced the following bill; which was referred to the Committee on _____

A BILL

To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration who provide screening of all passengers and property, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rights for the Transportation Security Administration Workforce Act of 2021” or the “Rights for the TSA Workforce Act of 2021”.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term “adjusted basic pay” means—

(A) the rate of pay fixed by law or administrative action for the position held by a covered employee before any deductions; and

(B) any regular, fixed supplemental payment for non-overtime hours of work creditable as basic pay for retirement purposes, including any applicable locality payment and any special rate supplement;

(2) the term “Administrator” means the Administrator of the Transportation Security Administration;

(3) the term “covered employee” means an employee who holds a covered position;

(4) the term “covered position” means a position within the Transportation Security Administration;

(5) the term “conversion date” means the date as of which paragraphs (1) through (4) of section 3(c) take effect;

(6) the term “2019 Determination” means the publication, entitled “Determination on Transportation Security Officers and Collective Bargaining”, issued on July 13, 2019, by Administrator David P. Pekoske;

(7) the term “employee” has the meaning given such term by section 2105 of title 5, United States Code;

(8) the term “Secretary” means the Secretary of Homeland Security; and

(9) the term “TSA personnel management system” means any personnel management system established or modified under—

(A) section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note); or

(B) section 114(n) of title 49, United States Code.

SEC. 3. CONVERSION OF TSA PERSONNEL.

(a) RESTRICTIONS ON CERTAIN PERSONNEL AUTHORITIES.—
Notwithstanding any other provision of law, effective as of the date of the enactment of this Act—

(1) any TSA personnel management system in use for covered employees and covered positions on the day before such date of enactment, and any TSA personnel management policy, letters, guideline, or directive in effect on such day may not be modified;

(2) no TSA personnel management policy, letter, guideline, or directive that was not established before such date issued pursuant to section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) or section 114(n) of title 49, United States Code, may be established; and

(3) any authority to establish or adjust a human resources management system under chapter 97 of title 5, United States Code, shall terminate with respect to covered employees and covered positions.

(b) PERSONNEL AUTHORITIES DURING TRANSITION PERIOD.—Any TSA personnel management system in use for covered employees and covered positions on the day before the date of enactment of this Act and any TSA personnel management policy, letter, guideline, or directive in effect on the day before the date of enactment of this Act shall remain in effect until the effective date under subsection (c).

(c) TRANSITION TO GENERAL PERSONNEL MANAGEMENT SYSTEM APPLICABLE TO CIVIL SERVICE EMPLOYEES.—Effective as of the date determined by the Secretary, but in no event later than 180 days after the date of the enactment of this Act—

(1) each provision of law cited in section 2(9) is repealed;

(2) any TSA personnel management policy, letter, guideline, and directive, including the 2019 Determination, shall cease to be effective;

(3) any human resources management system established or adjusted under chapter 97 of title 5, United States Code, with respect to covered employees or covered positions shall cease to be effective; and

(4) covered employees and covered positions shall be subject to the provisions of title 5, United States Code.

(d) SAFEGUARDS ON GRIEVANCES.—In carrying out this Act, the Secretary shall take such actions as are necessary to provide an opportunity to each covered employee with a grievance or disciplinary action (including an adverse action) pending within TSA on the date of the enactment of this Act or at any time during the transition period described in subsection (c) to have such grievance removed to proceedings pursuant to title 5, United States Code, or continued within TSA.

SEC. 4. TRANSITION RULES.

(a) NONREDUCTION IN PAY AND COMPENSATION.—Under pay conversion rules as the Secretary may prescribe to carry out this Act, a covered employee converted from a TSA personnel management system to the provisions of title 5, United States Code, pursuant to section 2(c)(4) shall not be subject to any reduction in the rate of adjusted basic pay payable, or total compensation provided, to such covered employee.

(b) PRESERVATION OF OTHER RIGHTS.—In the case of each covered employee as of the conversion date, the Secretary shall take any actions necessary to ensure that—

(1) any annual leave, sick leave, or other paid leave accrued, accumulated, or otherwise available to a covered employee immediately before the conversion date shall remain available to the employee until used; and

(2) the Government share of any premiums or other periodic charges under chapter 89 of title 5, United States Code, governing group health insurance shall remain at least the same as was the case immediately before the conversion date.

(c) GAO STUDY ON TSA PAY RATES.—Not later than the date that is nine months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the differences in rates of pay, classified by pay system, between Transportation Security Administration employees—

(1) with duty stations in the contiguous 48 States; and

(2) with duty stations outside of such States, including those employees located in any territory or possession of the United States.

(d) **RULE OF CONSTRUCTION.**—During the transition period and after the conversion date, the Secretary shall ensure that the Transportation Security Administration continues to prevent the hiring of individuals who have been convicted of a sex crime, an offense involving a minor, a crime of violence, or terrorism.

SEC. 5. CONSULTATION REQUIREMENT.

(a) **EXCLUSIVE REPRESENTATIVE.**—The labor organization certified by the Federal Labor Relations Authority on June 29, 2011, or successor labor organization shall be treated as the exclusive representative of full- and part-time non-supervisory TSA personnel carrying out screening functions under section 44901 of title 49, United States Code, and shall be the exclusive representative for such personnel under chapter 71 of title 5, United States Code, with full rights under such chapter. Any collective bargaining agreement covering such personnel on the date of enactment of this Act shall remain in effect, consistent with subsection (d).

(b) **CONSULTATION RIGHTS.**—Not later than seven days after the date of the enactment of this Act, the Secretary shall consult with the exclusive representative for the personnel described in subsection (a) under chapter 71 of title 5, United States Code, on the formulation of plans and deadlines to carry out the conversion of covered employees and covered positions under this Act. Prior to the conversion date, the Secretary shall provide (in writing) to such exclusive representative the plans for how the Secretary intends to carry out the conversion of covered employees and covered positions under this Act, including with respect to such matters as—

(1) the anticipated conversion date; and

(2) measures to ensure compliance with sections 3 and 4.

(c) **REQUIRED AGENCY RESPONSE.**—If any views or recommendations are presented under subsection (b) by the exclusive representative, the Secretary shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented and provide the

exclusive representative a written statement of the reasons for the final actions to be taken.

(d) SUNSET PROVISION.—The provisions of this section shall cease to be effective as of the conversion date.

SEC. 6. NO RIGHT TO STRIKE.

Nothing in this Act may be considered—

(1) to repeal or otherwise affect—

(A) section 1918 of title 18, United States Code (relating to disloyalty and asserting the right to strike against the Government); or

(B) section 7311 of title 5, United States Code (relating to loyalty and striking); or

(2) to otherwise authorize any activity which is not permitted under either provision of law cited in paragraph (1).

SEC. 7. RULE OF CONSTRUCTION WITH RESPECT TO CERTAIN CRIMES RELATING TO TERRORISM.

Nothing in this Act may be construed to contradict chapter 113B of title 18, United States Code, including with respect to—

(1) section 2332b (relating to acts of terrorism transcending national boundaries);

(2) section 2339 (relating to harboring or concealing terrorists); and

(3) section 2339A (relating to providing material support to terrorists).

SEC. 8. REPORT BY GAO REGARDING TSA RECRUITMENT.

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the efforts of the Transportation Security Administration regarding recruitment, including recruitment efforts relating to veterans and the dependents of veterans

and members of the Armed Forces and the dependents of such members. Such report shall also include recommendations regarding how the Administration may improve such recruitment efforts.

SEC. 9. SENSE OF CONGRESS.

It is the sense of Congress that the Transportation Security Administration's personnel system provides insufficient benefits and workplace protections to the workforce that secures the nation's transportation systems and that the Transportation Security Administration's workforce should be provided protections and benefits under title 5, United States Code.

SEC. 10. ASSISTANCE FOR FEDERAL AIR MARSHAL SERVICE.

The Administrator of the Transportation Security Administration shall engage and consult with public and private entities associated with the Federal Air Marshal Service to address concerns regarding Federal Air Marshals related to the following:

- (1) Mental health.
- (2) Suicide rates.
- (3) Morale and recruitment.
- (4) Any other personnel issues the Administrator determines appropriate.

SEC. 11. PROHIBITION ON CERTAIN SOCIAL MEDIA APPLICATION.

Beginning on the date of the enactment of this Act, covered employees may not use or have installed on United States Government-issued mobile devices the social media video application known as "TikTok" or any successor application.

SEC. 12. VETERANS HIRING.

The Secretary shall prioritize the hiring of veterans, including disabled veterans, and other preference eligible individuals, including widows and widowers of veterans, as defined in section 2108 of title 5, United States Code, for covered positions.

SEC. 13. PREVENTION AND PROTECTION AGAINST CERTAIN ILLNESS.

The Administrator of the Transportation Security Administration, in coordination with the Director of Centers for Disease Control and Prevention and the Director of the National Institute of Allergy and Infectious Diseases, shall ensure that covered employees are provided proper guidance regarding prevention and protections against coronavirus, including appropriate resources.