

The Land Management Workforce Flexibility Act

The seasonal work of land management agencies is accomplished by a mix of permanent seasonal employees and temporary seasonal employees. Many temporary employees return for multiple seasons, and in so doing acquire valuable knowledge and skills. Bureaucratic barriers impede their ability to compete for permanent jobs. The bill would remove these barriers, giving them a path to permanence.

The Bureaucratic Barrier



Joe Katz began working for the Forest Service in 1975. He has held his current position in trails and recreation for 21 of the past 22 seasons. In spite of over two decades of service, Joe is still a temporary employee.



Rene Eustace has worked in fire for 37 seasons; his training represents a substantial investment and his qualifications and experience are valuable assets. Joe and Rene are exceptions. Because of the lack of an opportunity for advancement, most temporary employees leave after 5 or fewer seasons.



Temporary employees cannot compete for permanent jobs under merit promotion procedures available to other federal employees. As the Merit Systems Protection Board noted, “legal and procedural barriers...often preclude the consideration of many temporary employees for permanent positions regardless of how well they have performed.”



The situation is even worse when agencies “convert” mission-critical positions from temporary to permanent status. Under regulations, this must be done by abolishing one position and creating a new one, with no connection between the two. The employees in the abolished temporary positions, even if they have performed the work for decades, cannot be converted along with the job – and in many cases cannot even compete for it.



Attrition among seasonal employees trapped in temporary positions is high, leading to high training costs and a less capable and less safe workforce. The Land Management Workforce Flexibility Act would fix this wasteful and dysfunctional system by removing illogical statutory barriers to their career advancement. It would provide long-serving temporary employees with opportunity. It would allow agencies to take advantage of this valuable source of human capital.

What the Bill Does

The bill is modeled on similar authorities already in place for the Internal Revenue Service and the National Aeronautics and Space Administration. In this case, coverage is limited to land management agencies where seasonal employment is a major and unique aspect of agency operations. There, it does two things:

- Subsection 9602(a) allows temporary employees who have 24 or more months of service in time-limited appointments within a land management agency to compete for permanent positions within that same agency using internal competitive promotion procedures, *i.e.*, it bestows a limited competitive status.
 - Other relevant criteria, such as good performance, must be met.
 - A 24-month period of service is consistent with the limit placed on temporary employment for all cases except for the loophole at 5 CFR 316.401(d) that permits unlimited temporary seasonal employment. It is also consistent with the probationary trial period for employees appointed to the excepted service.
 - This provision is consistent with the support of the Office of Personnel Management (OPM) for the concept that “long-term temporaries who have demonstrated their abilities on the job should not have to compete with the public for permanent vacancies.” See [Federal Register, Vol. 59, No. 176, September 13, 1994](#).
- Subsection 9602(b) provides for the direct placement of a temporary employee into a permanent job if that permanent job is the same job the employee has successfully performed for 24 or more months.
 - The limited scope of this direct-placement authority is consistent with the recommendation by the Merit System Protection Board (MSPB) that “conversions of temporary employees to permanent status should be limited to those temporary employees placed in permanent positions closely related in their duties and organizational location (e.g., a particular work unit) to those held by the employees under temporary appointment.” See MSPB, “[Temporary Federal Employment: In Search of Flexibility and Fairness](#),” (Sept. 1994).
 - If two or more temporary employees are eligible for placement, veteran’s preference applies.

What the Bill Does Not Do

Cost anything. Vacancies in permanent seasonal positions can occur by attrition or by the conversion of temporary positions to permanent seasonal positions. The bill would only affect whether temporary seasonal employees may compete for and be placed in such vacant positions. The bill does not change this. Thus, the bill itself has no cost, except minimal administrative costs.

For More Information

Text of Bill: <http://www.gpo.gov/fdsys/pkg/BILLS-113hr533ih/pdf/BILLS-113hr533ih.pdf>

Reform History: http://www.nffe-fsc.org/committees/legislative/temps/Reform_History_120723.docx

Employee Comments: http://www.nffe-fsc.org/committees/legislative/temps/Employee_Comments.docx

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