

111TH CONGRESS  
1ST SESSION

# H. R. 1881

To enhance the transportation security functions of the Department of Homeland Security by providing for an enhanced personnel system for employees of the Transportation Security Administration, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Mrs. LOWEY (for herself, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Mr. CARNEY, Mr. PASCRELL, Ms. ZOE LOFGREN of California, Mr. MARKEY of Massachusetts, Mrs. KIRKPATRICK of Arizona, Ms. KILPATRICK of Michigan, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. KIND, Mr. MCMAHON, Ms. MOORE of Wisconsin, Mr. GRIJALVA, Ms. NORTON, and Mr. FILNER) 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

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## A BILL

To enhance the transportation security functions of the Department of Homeland Security by providing for an enhanced personnel system for employees of the Transportation Security Administration, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Transportation Security Workforce Enhancement Act of  
 4 2009”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Conversion of transportation security personnel.
- Sec. 4. Transition rules.
- Sec. 5. Consultation requirement.
- Sec. 6. No right to strike.
- Sec. 7. Regulations.
- Sec. 8. Delegations to Assistant Secretary.
- Sec. 9. Authorization of appropriations.

7 **SEC. 2. DEFINITIONS.**

8 For purposes of this Act—

9 (1) the term “covered position” means—

10 (A) a position within the Transportation  
 11 Security Administration; and

12 (B) any position within the Department of  
 13 Homeland Security, not described in subpara-  
 14 graph (A), the duties and responsibilities of  
 15 which involve providing transportation security  
 16 in furtherance of the purposes of the Aviation  
 17 and Transportation Security Act (Public Law  
 18 107–71), as determined by the Secretary;

19 (2) the term “covered employee” means an em-  
 20 ployee who holds a covered position;

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

4           (4) the term “Secretary” means the Secretary  
5 of Homeland Security;

6           (5) the term “Assistant Secretary” means the  
7 official within the Department of Homeland Security  
8 who is responsible for overseeing and implementing  
9 transportation security pursuant to the Aviation and  
10 Transportation Security Act, whether designated as  
11 the Assistant Secretary of Homeland Security  
12 (Transportation Security Administration), the Ad-  
13 ministrator of the Transportation Security Adminis-  
14 tration, the Undersecretary of Transportation for  
15 Security, or otherwise;

16           (6) the term “TSA personnel management sys-  
17 tem” means any personnel management system, as  
18 established or modified under—

19                   (A) section 111(d) of the Aviation and  
20 Transportation Security Act; or

21                   (B) section 114(n) of title 49, United  
22 States Code;

23           (7) the term “agency” means an Executive  
24 agency, as defined by section 105 of title 5, United  
25 States Code; and

1           (8) the term “conversion date” means the date  
2           as of which paragraphs (1) through (3) of section  
3           3(b) take effect.

4 **SEC. 3. CONVERSION OF TRANSPORTATION SECURITY PER-**  
5 **SONNEL.**

6           (a) **TERMINATION OF CERTAIN PERSONNEL AU-**  
7 **THORITIES.**—Effective as of the date of the enactment of  
8 this Act—

9           (1) each provision of law cited in section 2(6)  
10          is repealed, and any authority to establish or modify  
11          a TSA personnel management system under either  
12          such provision of law shall terminate; and

13          (2) all authority to establish or adjust a human  
14          resources management system under chapter 97 of  
15          title 5, United States Code, shall terminate with re-  
16          spect to covered employees and covered positions.

17          (b) **COVERED EMPLOYEES AND POSITIONS MADE**  
18 **SUBJECT TO SAME PERSONNEL MANAGEMENT SYSTEM**  
19 **AS APPLIES TO CIVIL SERVICE EMPLOYEES GEN-**  
20 **ERALLY.**—Effective as of the date determined by the Sec-  
21 retary, but in no event later than 60 days after the date  
22 of the enactment of this Act—

23          (1) all TSA personnel management systems  
24          shall cease to be effective;

1           (2) any human resources management system  
2           established or adjusted under chapter 97 of title 5,  
3           United States Code, to the extent otherwise applica-  
4           ble with respect to covered employees or covered po-  
5           sitions, shall cease to be effective; and

6           (3) covered employees and covered positions  
7           shall become subject to the provisions of title 5,  
8           United States Code, and all other civil service laws  
9           which apply with respect to both—

10                   (A) any employees and positions within the  
11           Department of Homeland Security (other than  
12           covered employees and covered positions, and  
13           disregarding the effect of any action taken  
14           under chapter 97 of title 5, United States  
15           Code); and

16                   (B) employees and positions within agen-  
17           cies generally (outside of the Department of  
18           Homeland Security).

19 **SEC. 4. TRANSITION RULES.**

20           (a) **NONREDUCTION IN RATE OF PAY.**—Any conver-  
21           sion of an employee from a TSA personnel management  
22           system to the provisions of law made applicable with re-  
23           spect to such employee by section 3(b)(3) shall be effected,  
24           under pay conversion rules prescribed by the Secretary,

1 without any reduction in the rate of basic pay payable to  
2 such employee.

3 (b) PRESERVATION OF OTHER RIGHTS.—In the case  
4 of each individual who is a covered employee as of the con-  
5 version date, the Secretary shall take any actions which  
6 may be necessary to ensure that—

7 (1) all service performed by such individual as  
8 a covered employee before the conversion date shall  
9 be credited in the determination of such individual's  
10 length of service as an employee for purposes of ap-  
11 plying the provisions of law governing leave, pay,  
12 group life and health insurance, severance pay, ten-  
13 ure, and status, which are made applicable with re-  
14 spect to such individual by section 3(b)(3);

15 (2) all annual leave, sick leave, or other paid  
16 leave accrued, accumulated, or otherwise available to  
17 a covered employee immediately before the conver-  
18 sion date shall remain available to the employee,  
19 until used, so long as such individual remains con-  
20 tinuously employed by the Department of Homeland  
21 Security; and

22 (3) the Government share of any premiums or  
23 other periodic charges under the provisions of law  
24 governing group health insurance shall remain the  
25 same as was the case immediately before the conver-

1 sion date, so long as such individual remains con-  
2 tinuously employed by the Department of Homeland  
3 Security.

4 (c) PENDING PROCEEDINGS.—No provision of this  
5 Act shall affect any administrative or judicial proceeding  
6 commenced before the date of the enactment of this Act.  
7 Determinations in any such proceeding shall be made and  
8 appeals therefrom shall be taken as if this Act had not  
9 been enacted.

10 **SEC. 5. CONSULTATION REQUIREMENT.**

11 (a) QUALIFIED LABOR ORGANIZATION.—For pur-  
12 poses of this section, the term “qualified labor organiza-  
13 tion” means a labor organization which, as of the date  
14 of the enactment of this Act—

15 (1) satisfies the definition of a labor organiza-  
16 tion under section 7103(a)(4) of title 5, United  
17 States Code; and

18 (2) is receiving through payroll deductions,  
19 from at least 1,000 covered employees, dues payable  
20 to the labor organization.

21 (b) CONSULTATION RIGHTS.—A qualified labor orga-  
22 nization—

23 (1) shall, within 14 days after the date of the  
24 enactment of this Act, be informed by the Secretary  
25 in writing of the plans in accordance with which the

1 Secretary intends to carry out the conversion of cov-  
2 ered employees and covered positions under this Act,  
3 including with respect to such matters as—

4 (A) the proposed conversion date; and

5 (B) measures to ensure compliance with  
6 section 4; and

7 (2) shall be afforded a reasonable opportunity  
8 to present its views and recommendations regarding  
9 those plans.

10 (c) REQUIRED AGENCY RESPONSE.—If any views or  
11 recommendations are presented under subsection (b)(2) by  
12 a labor organization, the Secretary—

13 (1) shall consider the views or recommendations  
14 before taking final action on any matter with respect  
15 to which the views or recommendations are pre-  
16 sented; and

17 (2) shall provide the labor organization a writ-  
18 ten statement of the reasons for the final actions to  
19 be taken.

20 (d) RULE OF CONSTRUCTION REGARDING EXCLU-  
21 SIVE REPRESENTATION.—Nothing in this section shall be  
22 considered—

23 (1) to permit or require the application, or the  
24 continued application, of subsection (b) or (c) if any



1 labor organization has been accorded exclusive rec-  
2 ognition with respect to all covered employees; or

3 (2) to limit the right of any agency or exclusive  
4 representative to engage in collective bargaining.

5 (e) SUNSET PROVISION.—The provisions of this sec-  
6 tion shall cease to be effective as of the conversion date.

7 **SEC. 6. NO RIGHT TO STRIKE.**

8 Nothing in this Act shall be considered—

9 (1) to repeal or otherwise affect—

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

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

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

18 **SEC. 7. REGULATIONS.**

19 The Secretary may prescribe any regulations nec-  
20 essary to carry out this Act.

21 **SEC. 8. DELEGATIONS TO ASSISTANT SECRETARY.**

22 The Secretary may, with respect to any authority or  
23 function vested in the Secretary under any of the pre-  
24 ceding provisions of this Act, delegate any such authority  
25 or function to the Assistant Secretary under such terms,

1 conditions, and limitations, including the power of redele-  
2 gation, as the Secretary considers appropriate.

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

4       There are authorized to be appropriated such sums  
5 as may be necessary to carry out this Act.

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