

Union Calendar No. 113

113TH CONGRESS
1ST SESSION

H. R. 2067

[Report No. 113-156]

To amend title 5, United States Code, to make permanent the authority of the Secretary of the Treasury to establish a separate compensation and performance management system with respect to persons holding critical scientific, technical, or professional positions within the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2013

Mr. MEADOWS introduced the following bill; which was referred to the
Committee on Oversight and Government Reform

JULY 16, 2013

Additional sponsor: Mr. CONNOLLY

JULY 16, 2013

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To amend title 5, United States Code, to make permanent the authority of the Secretary of the Treasury to establish a separate compensation and performance management system with respect to persons holding critical scientific, technical, or professional positions within the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury.

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 “Alcohol and Tobacco
5 Tax and Trade Bureau Personnel Flexibilities Act”.

6 **SEC. 2. ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.**

7 (a) IN GENERAL.—Subpart I of part III of title 5,
8 United States Code, is amended by inserting after chapter
9 95 the following:

10 **“CHAPTER 96—ALCOHOL AND TOBACCO**
11 **TAX AND TRADE BUREAU**

“9601. Definitions; applicability.

“9602. Compensation and performance management system.

12 **“§ 9601. Definitions; applicability**

13 “(a) DEFINITIONS.—For purposes of this chapter—

14 “(1) the term ‘Secretary’ means the Secretary
15 of the Treasury;

16 “(2) the term ‘Bureau’ means the Alcohol and
17 Tobacco Tax and Trade Bureau, Department of the
18 Treasury; and

19 “(3) the terms ‘senior executive’ and ‘Senior
20 Executive Service position’ have the respective mean-
21 ings given them in section 3132(a).

22 “(b) APPLICABILITY.—A compensation and perform-
23 ance management system established under section 9602
24 shall not cover, and nothing in any such system shall be

1 considered to apply with respect to, a senior executive or
2 a Senior Executive Service position.

3 **“§ 9602. Compensation and performance management**
4 **system**

5 “(a) ESTABLISHMENT.—

6 “(1) IN GENERAL.—The Secretary shall estab-
7 lish a system, applying such criteria and procedures
8 as the Secretary considers appropriate, which shall
9 govern the compensation and performance manage-
10 ment of any number of employees holding critical
11 scientific, technical, or professional positions in the
12 Bureau.

13 “(2) AUTHORITY.—Subject to the provisions of
14 this chapter—

15 “(A) the establishment of a compensation
16 and performance management system under
17 this section shall not be limited by any lack of
18 specific authority under this title to take the ac-
19 tion contemplated, or by any provision of this
20 title or any rule or regulation prescribed under
21 this title which is inconsistent with the action;
22 and

23 “(B) the total number of positions covered
24 by the system or systems established under au-
25 thority of this section (determined on a full-

1 time equivalent basis) may not at any time ex-
2 ceed the number equal to 50 percent of the
3 total number of positions within the Bureau (so
4 determined).

5 “(3) CONSULTATION.—The Secretary shall con-
6 sult with the Director of the Office of Personnel
7 Management in the exercise of any authority under
8 this section.

9 “(b) NONWAIVABLE PROVISIONS; COLLABORA-
10 TION.—A compensation and performance management
11 system established under this section—

12 “(1) may not provide for a waiver of any provi-
13 sion of law, rule, or regulation identified in section
14 4703(e); and

15 “(2) shall be established and implemented in a
16 manner consistent with subsections (f) and (g) of
17 section 4703.

18 “(c) LIMITATIONS ON COMPENSATION.—Except as
19 otherwise provided by law—

20 “(1) no employee compensated under a system
21 established under this section may be paid at a rate
22 of basic pay in excess of the rate payable for level
23 III of the Executive Schedule under section 5314;
24 and

1 “(2) total payments made to employees under a
 2 system so established shall be subject to any limita-
 3 tion on payments under section 5307, to the same
 4 extent and in the same manner as would apply in
 5 the case of employees paid under section 5376.

6 “(d) LEVELS OF PERFORMANCE.—A system estab-
 7 lished under this section shall have not less than 2 levels
 8 of performance above a retention standard.

9 “(e) DISCLOSURE OF INFORMATION.—The Secretary
 10 of the Treasury, on request of the Director of the Office
 11 of Personnel Management, shall furnish information relat-
 12 ing to the operation of any compensation and performance
 13 management system established under this section.”.

14 (b) COMPLIANCE USING A PREEXISTING SYSTEM.—
 15 Nothing in this Act shall be considered to require that the
 16 Secretary of the Treasury discontinue any compensation
 17 and performance management system, originally imple-
 18 mented as a demonstration project, or postpone any plans
 19 to modify any such system, so long as such system (as
 20 so implemented or modified) satisfies the requirements of
 21 chapter 96 of title 5, United States Code, as amended by
 22 this Act.

23 (c) CLERICAL AMENDMENT.—The analysis for part
 24 III of title 5, United States Code, is amended by inserting
 25 after the item relating to chapter 95 the following:

“96. Alcohol and Tobacco Tax and Trade Bureau 9601”.

1 **SEC. 3. STUDY.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of the establishment of a compensation and perform-
4 ance management system under section 9602 of title 5,
5 United States Code, as amended by this Act (or, in any
6 circumstance described in section 2(b), after the earliest
7 date, on or after the date of the enactment of this Act,
8 as of which a system satisfying the requirements of chap-
9 ter 96 of such title, as so amended, is in operation) the
10 Government Accountability Office shall submit to the ap-
11 propriate committees of Congress a report on—

12 (1) the operation of such system; and

13 (2) the operation of ongoing demonstration
14 projects, whether under section 4703 of title 5,
15 United States Code, or other authority, testing the
16 use of a pay and classification system different from
17 the system set forth in chapter 51 and subchapter
18 III of chapter 53 of such title 5 (relating to the Gen-
19 eral Schedule).

20 The report shall, with respect to each system covered by
21 such report, include an assessment of the overall effective-
22 ness of such system (particularly as compared to the sys-
23 tem which is based on the General Schedule) and rec-
24 ommendations for any legislation or administrative action
25 which the Government Accountability Office considers ap-
26 propriate.

1 (b) APPROPRIATE COMMITTEES OF CONGRESS.—For
2 purposes of this section, the term “appropriate committees
3 of Congress” means—

4 (1) the Committee on Oversight and Govern-
5 ment Reform of the House of Representatives; and

6 (2) the Committee on Homeland Security and
7 Governmental Affairs of the Senate.

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