

117TH CONGRESS
1ST SESSION

H. R. 4448

To restore administrative law judges to the competitive service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2021

Mr. CONNOLLY (for himself and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To restore administrative law judges to the competitive service, 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 “Administrative Law
5 Judges Competitive Service Restoration Act”.

6 **SEC. 2. APPOINTMENT OF ADMINISTRATIVE LAW JUDGES.**

7 (a) IN GENERAL.—Section 3105 of title 5, United
8 States Code, is amended to read as follows:

1 **“§ 3105. Appointment of administrative law judges**

2 “(a) SELECTION; EXAMINATION.—Administrative
3 law judges shall be appointed by the head of an Executive
4 agency from a list of eligible candidates provided by the
5 Office of Personnel Management based upon successful
6 examination and approval of the qualifications of the indi-
7 vidual by the Office.

8 “(b) MINIMUM QUALIFICATIONS AND CONDITIONS
9 OF EMPLOYMENT.—

10 “(1) LICENSURE.—At the time of application
11 for a position, the individual must possess a profes-
12 sional license to practice law under the laws of a
13 State, the District of Columbia, the Commonwealth
14 of Puerto Rico, or any territorial court.

15 “(2) QUALIFYING EXPERIENCE.—To be eligible
16 to serve as an administrative law judge, an indi-
17 vidual shall have not less than 7 years of experience
18 as a licensed attorney preparing for, litigating, adju-
19 dicating, participating in, or reviewing formal hear-
20 ings or trials involving civil, criminal, or administra-
21 tive law at the Federal, State, or local level.

22 “(c) COMPETITIVE SERVICE.—Administrative law
23 judge positions shall be positions in the competitive serv-
24 ice.

25 “(d) ASSIGNMENT.—Administrative law judges shall
26 be assigned to cases in rotation as far as practicable, and

1 may not perform duties inconsistent with their duties and
2 responsibilities as administrative law judges.

3 “(e) AUTHORITY AND ROLE OF ADMINISTRATIVE
4 LAW JUDGES IN RELATION TO EXECUTIVE AGENCY
5 HEADS.—

6 “(1) CHIEF ALJ.—A chief administrative law
7 judge shall report directly to the head of the Execu-
8 tive agency at which the chief is appointed.

9 “(2) ALJ.—An administrative law judge (in
10 this paragraph referred to as an ‘ALJ’) shall report
11 directly to the chief administrative law judge (if any)
12 of the Executive agency at which the ALJ is ap-
13 pointed. If there is no chief administrative law
14 judge, the ALJ shall report directly to the head of
15 such Executive agency.

16 “(3) CLARIFICATION.—Nothing in this sub-
17 section shall be construed to limit or otherwise miti-
18 gate the ability or independence of an administrative
19 law judge in carrying out his or her duties and re-
20 sponsibilities as an administrative law judge.”.

21 (b) EXEMPTION FROM PROBATIONARY PERIOD.—
22 Section 3321(e) of title 5, United States Code, is amended
23 to read as follows:

24 “(c) Subsections (a) and (b) of this section shall not
25 apply with respect to appointments in the Senior Execu-

1 tive Service, the Federal Bureau of Investigation and
2 Drug Enforcement Administration Senior Executive Serv-
3 ice, any individual covered by section 1599e of title 10,
4 or any individual appointed to an administrative law judge
5 position.”.

6 (c) CLARIFICATION OF APPLICATION OF DISCIPLI-
7 NARY PROCEDURES.—Notwithstanding the amendments
8 made by this Act that classify administrative law judges
9 within the competitive service, an administrative law judge
10 shall not be subject to subchapter I or II of chapter 75
11 of title 5, United States Code, and shall be subject to the
12 requirements of subchapter III of such chapter.

13 (d) CONVERSIONS.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), with respect to any individual serving on
16 the date of the enactment of this Act in an excepted
17 service position as an administrative law judge ap-
18 pointed under section 3105 of title 5, United States
19 Code, as in effect on the day before the date of the
20 enactment of this Act, not later than 30 days after
21 such date of enactment the head of an Executive
22 agency (as that term is defined in section 105 of
23 such title) employing the individual shall non-
24 competitively convert such individual to a career ap-

1 pointment in the competitive service in the Executive
2 agency.

3 (2) EXCEPTION.—Paragraph (1) shall not
4 apply to any individual serving on the date of the
5 enactment of this Act in an excepted service position
6 as an administrative law judge and who was ap-
7 pointed under such section 3105, as in effect on the
8 day before the date of the enactment of this Act,
9 during the period beginning on July 11, 2018, and
10 ending on such date of enactment.

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