

113TH CONGRESS  
1ST SESSION

# S. 1120

To provide authorities for the appropriate conversion of temporary seasonal wildland firefighters and other temporary seasonal employees in Federal land management agencies who perform regularly recurring seasonal work to permanent seasonal positions.

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IN THE SENATE OF THE UNITED STATES

JUNE 7, 2013

Mr. TESTER (for himself and Mr. UDALL of Colorado) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide authorities for the appropriate conversion of temporary seasonal wildland firefighters and other temporary seasonal employees in Federal land management agencies who perform regularly recurring seasonal work to permanent seasonal positions.

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 “Land Management  
5       Workforce Flexibility Act”.

1 **SEC. 2. PERSONNEL FLEXIBILITIES RELATING TO LAND**  
 2 **MANAGEMENT AGENCIES.**

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

6 **“CHAPTER 96—PERSONNEL FLEXIBILI-**  
 7 **TIES RELATING TO LAND MANAGE-**  
 8 **MENT AGENCIES**

“Sec.

“9601. Definition.

“9602. Competitive service; time-limited appointments.

9 **“§ 9601. Definitions**

10 “For purposes of this chapter—

11 “(1) the term ‘land management agency’  
 12 means—

13 “(A) the Forest Service of the Department  
 14 of Agriculture;

15 “(B) the Bureau of Land Management of  
 16 the Department of the Interior;

17 “(C) the National Park Service of the De-  
 18 partment of the Interior;

19 “(D) the Fish and Wildlife Service of the  
 20 Department of the Interior;

21 “(E) the Bureau of Indian Affairs of the  
 22 Department of the Interior; and

23 “(F) the Bureau of Reclamation of the De-  
 24 partment of the Interior;

1           “(2) the term ‘successor permanent position’  
 2           means, with respect to a time-limited position, a per-  
 3           manent position in the competitive service with the  
 4           same or substantially similar major duties and quali-  
 5           fication requirements in the same major subdivision  
 6           of the same land management agency as the time-  
 7           limited position; and

8           “(3) the term ‘time-limited appointment’ in-  
 9           cludes a temporary appointment and a term appoint-  
 10          ment, as defined by the Office of Personnel Manage-  
 11          ment.

12 **“§ 9602. Competitive service; time-limited appoint-**  
 13 **ments**

14          “(a) ELIGIBILITY TO COMPETE FOR PERMANENT  
 15          APPOINTMENTS.—Notwithstanding chapter 33 or any  
 16          other provision of law relating to the examination, certifi-  
 17          cation, and appointment of individuals in the competitive  
 18          service, an employee of a land management agency serving  
 19          under a time-limited appointment in the competitive serv-  
 20          ice is eligible to compete for a permanent appointment in  
 21          the competitive service under the merit promotion proce-  
 22          dures of the land management agency if—

23                 “(1) the employee was appointed initially under  
 24                 open, competitive examination under subchapter I of  
 25                 chapter 33 to the time-limited appointment;

1           “(2) the employee has served under 1 or more  
2 time-limited appointments by the land management  
3 agency for a period or periods totaling not less than  
4 24 months without an intervening break of 2 or  
5 more years; and

6           “(3) the performance of the employee under the  
7 time-limited appointments has been at an acceptable  
8 level of performance during the period of service de-  
9 scribed in paragraph (2).

10          “(b) CONVERSION TO SUCCESSOR PERMANENT POSI-  
11 TIONS.—

12           “(1) IN GENERAL.—Notwithstanding chapter  
13 33 or any other provision of law relating to the ex-  
14 amination, certification, and appointment of individ-  
15 uals in the competitive service, an employee of a  
16 land management agency serving under a time-lim-  
17 ited appointment in the competitive service shall be  
18 offered any successor permanent position that the  
19 land management agency decides to fill and, with  
20 the agreement of the employee, be appointed to the  
21 successor permanent position if—

22           “(A) the employee was appointed initially  
23 under open, competitive examination under sub-  
24 chapter I of chapter 33 to the time-limited ap-  
25 pointment;

1           “(B)(i) the job announcement for the time-  
2 limited position stated that there was potential  
3 for the position to become permanent; or

4           “(ii) the first time-limited appointment of  
5 the employee by the land management agency  
6 occurred before the date of enactment of this  
7 chapter;

8           “(C) the employee has served under 1 or  
9 more time-limited appointments in a position or  
10 positions in the land management agency with  
11 the same or substantially similar major duties  
12 and qualification requirements as the successor  
13 permanent position for a period or periods to-  
14 taling not less than 24 months without an in-  
15 tervening break of 2 or more years; and

16           “(D) the performance of the employee  
17 under the time-limited appointments has been  
18 at an acceptable level of performance during the  
19 period of service described in subparagraph (C).

20           “(2) PREFERENCE ELIGIBLES.—If 2 or more  
21 employees are eligible to be offered a successor per-  
22 manent position under paragraph (1), the land man-  
23 agement agency shall give priority to such an em-  
24 ployee who is a preference eligible.

1           “(3) EQUAL PREFERENCE.—If 2 or more em-  
2           ployees are eligible to be offered a successor perma-  
3           nent position under paragraph (1) and have equal  
4           priority for the successor permanent position, the  
5           land management agency shall use competitive pro-  
6           cedures consistent with merit system principles to  
7           determine to which employee the successor perma-  
8           nent position will be offered.

9           “(c) TREATMENT OF APPOINTED EMPLOYEES.—An  
10          appointment to a position under subsection (a) or (b) shall  
11          be a career-conditional appointment, unless the employee  
12          has otherwise completed the service requirements for a ca-  
13          reer appointment.

14          “(d) COMPETITIVE STATUS.—An employee appointed  
15          to a position under subsection (a) or (b) shall acquire com-  
16          petitive status upon appointment.

17          “(e) TIME-LIMITED EMPLOYEES SEPARATED FROM  
18          SERVICE.—

19                 “(1) IN GENERAL.—This section shall apply  
20                 with respect to an employee of a land management  
21                 agency serving under a time-limited appointment  
22                 who has been separated from service for reasons  
23                 other than misconduct or unacceptable performance.

24                 “(2) APPLICATION.—For an employee described  
25                 in paragraph (1)—

1           “(A) this section shall apply as if the em-  
 2           ployee occupied the time-limited position from  
 3           which the employee was most recently sepa-  
 4           rated; and

5           “(B) a land management agency shall be  
 6           deemed to have met the requirements under  
 7           this section relating to the employee if notice is  
 8           sent to the last known address of the employee  
 9           not later than 21 days before a successor per-  
 10          manent position for which the employee is eligi-  
 11          ble is filled.

12          “(f) REGULATIONS.—The Office of Personnel Man-  
 13          agement shall prescribe such regulations as may be nec-  
 14          essary to carry out this section.”.

15          (b) CLERICAL AMENDMENT.—The analysis for part  
 16          III of title 5, United States Code, is amended by inserting  
 17          after the item for chapter 95 the following:

“96. Personnel flexibilities relating to land management agencies ..... 9601”.

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