

115TH CONGRESS
2D SESSION

S. 2288

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to submit an annual report to Congress relating to the use of official time by employees of the Department of Veterans Affairs, to limit the instances in which official time may be granted for certain purposes to employees of the Department, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2018

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to submit an annual report to Congress relating to the use of official time by employees of the Department of Veterans Affairs, to limit the instances in which official time may be granted for certain purposes to employees of the Department, 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.**

2 This Act may be cited as the “Veterans, Employees,
3 and Taxpayers Protection Act of 2017” or the “VET Pro-
4 tection Act of 2017”.

5 **SEC. 2. LABOR MANAGEMENT IN DEPARTMENT OF VET-**
6 **ERANS AFFAIRS.**

7 (a) IN GENERAL.—Chapter 7 of title 38, United
8 States Code, is amended by adding at the end the fol-
9 lowing new subchapter:

10 “SUBCHAPTER IV—LABOR MANAGEMENT
11 “§ 751. Records on use of official time

12 “(a) TRACKING OF OFFICIAL TIME.—The Secretary
13 shall track the use of official time by employees of the
14 Department of Veterans Affairs in a manner that accounts
15 for such time accurately and to a specific degree without
16 the use of estimates or ranges of time.

17 “(b) ANNUAL REPORT.—(1) Not later than Decem-
18 ber 31 of each year, the Secretary shall submit to the Of-
19 fice of Personnel Management and the Committee on Vet-
20 erans’ Affairs of the Senate and the Committee on Vet-
21 erans’ Affairs of the House of Representatives a report
22 on the use of official time by employees of the Department
23 during the most recently ended fiscal year.

24 “(2) Each report under paragraph (1) shall include,
25 with respect to the fiscal year covered by the report, the
26 following information:

1 “(A) The total amount of official time granted
2 to employees.

3 “(B) The total amount of official time expended
4 and the amount of official time expended per em-
5 ployee for term negotiations, mid-term negotiations,
6 general labor-management relations, and dispute
7 resolution.

8 “(C) The specific types of activities or purposes
9 for which official time was granted, and the impact
10 which the granting of such official time for such ac-
11 tivities or purposes had on the operations of the De-
12 partment.

13 “(D) The total number of employees to whom
14 official time was granted, and, of that total, the
15 number who were not engaged in any activities or
16 purposes except activities or purposes involving the
17 use of official time.

18 “(E) The total annual salary, job title, and
19 amount of official time afforded to any employee.

20 “(F) A description of any room or space des-
21 ignated at the Department where official time activi-
22 ties will be conducted, including the square footage
23 of any such room or space.

24 “(c) OFFICIAL TIME DEFINED.—In this section, the
25 term ‘official time’ means any period—

1 “(1) which may be granted to an employee
2 under chapter 71 of title 5 (including a collective
3 bargaining agreement entered into under such chap-
4 ter) or chapter 74 of this title to perform represen-
5 tational or consultative functions; and

6 “(2) during which the employee would otherwise
7 be in a duty status.

8 **“§ 752. Limitations on use of official time for certain**
9 **purposes and individuals**

10 “(a) POLITICAL ACTIVITIES AND LOBBYING.—Not-
11 withstanding section 7131 of title 5 or any other provision
12 of law, any employee of the Department may not use offi-
13 cial time to carry out political activities or activities relat-
14 ing to lobbying.

15 “(b) PROHIBITION ON USE OF OFFICIAL TIME BY
16 CERTAIN EMPLOYEES.—The following employees of the
17 Department may not use official time for any purpose:

18 “(1) Any employee appointed under section
19 7401(1) of this title.

20 “(2) Any employee with an annual rate of basic
21 pay equal to or greater than \$100,000.

22 “(3) Any employee who is serving a proba-
23 tionary period.

24 “(c) LIMITATION ON ALL EMPLOYEES.—Any em-
25 ployee of the Department not covered by subsection (b)

1 may spend no more than 25 percent of the time such em-
 2 ployee would otherwise be in a duty status on official time.

3 “(d) OFFICIAL TIME DEFINED.—In this section, the
 4 term ‘official time’ has the meaning given such term in
 5 section 751(c) of this title.

6 **“§ 753. Termination of collection of dues**

7 “Notwithstanding section 7115 of title 5, any exclu-
 8 sive bargaining agreement entered into pursuant to chap-
 9 ter 71 of such title by the Department shall provide that
 10 an employee of the Department may terminate a voluntary
 11 allotment for the payment of dues at any time. Any deduc-
 12 tions for dues made pursuant to such allotment shall cease
 13 beginning on the first pay period after the termination is
 14 made.”.

15 (b) APPLICABILITY.—Sections 752 and 753 of title
 16 38, United States Code, as added by subsection (a), shall
 17 apply with respect to any collective bargaining agreement
 18 entered into before, on, or after the date of enactment of
 19 this Act.

20 (c) CLERICAL AMENDMENT.—The table of sections
 21 at the beginning of such chapter is amended by adding
 22 at the end the following:

“SUBCHAPTER IV—LABOR MANAGEMENT

“751. Records on use of official time.

“752. Limitations on use of official time for certain purposes and individuals.

“753. Termination of collection of dues.”.

1 **SEC. 3. REQUIRED PROBATIONARY PERIOD FOR NEW EM-**
2 **PLLOYEES OF DEPARTMENT OF VETERANS AF-**
3 **FAIRS.**

4 (a) PROBATIONARY PERIOD.—

5 (1) IN GENERAL.—Chapter 7 of title 38, United
6 States Code, is further amended by inserting after
7 section 717 the following new section:

8 **“§ 718. Probationary period for employees**

9 “(a) IN GENERAL.—Notwithstanding sections 3321
10 and 3393(d) of title 5, the appointment of a covered em-
11 ployee shall become final only after such employee has
12 served a probationary period of two years.

13 “(b) COVERED EMPLOYEES.—For purposes of this
14 section, a covered employee is—

15 “(1) any individual—

16 “(A) appointed to a permanent position
17 within the competitive service at the Depart-
18 ment; or

19 “(B) appointed as a career appointee (as
20 defined in section 3132(a) of title 5) within the
21 Senior Executive Service at the Department;
22 and

23 “(2) not an individual with a probationary pe-
24 riod prescribed by section 7403 of this title.

25 “(c) PERMANENT HIRES.—Not later than 90 days
26 before the expiration of a covered employee’s probationary

1 period under subsection (a), the supervisor of the em-
 2 ployee shall determine whether the appointment becomes
 3 final based on regulations prescribed for such purpose by
 4 the Secretary.

5 “(d) APPLICATION.—With respect to any individual
 6 described in subsection (b)(1)(A) and to whom this section
 7 applies, sections 7501(1) and 7511(a)(1)(A)(ii) of title 5
 8 shall be applied to such individual by substituting ‘com-
 9 pleted 2 years’ for ‘completed 1 year’ in each instance it
 10 appears.”.

11 (2) CLERICAL AND CONFORMING AMEND-
 12 MENTS.—

13 (A) CLERICAL.—The table of sections at
 14 the beginning of such chapter, as amended by
 15 section 2, is further amended by inserting after
 16 the item relating to section 717 the following
 17 new item:

“718. Probationary period for employees.”.

18 (B) CONFORMING.—Title 5, United States
 19 Code, is amended—

20 (i) in section 3321(e)—

21 (I) by striking “Service, or” and
 22 inserting “Service,”; and

23 (II) by inserting at the end be-
 24 fore the period the following: “, or

1 any individual covered by section 718
2 of title 38”;

3 (ii) in section 3393(d), by inserting at
4 the end before the period the following: “or
5 section 718 of title 38”;

6 (iii) in sections 7501(1) and
7 7511(a)(1)(A)(ii), by inserting “or section
8 718 of title 38” after “title 10” in each in-
9 stance it appears; and

10 (iv) in section 7541(1)(A)—

11 (I) by striking “title or” and in-
12 serting “title,”; and

13 (II) by inserting at the end be-
14 fore the semicolon the following: “, or
15 section 718 of title 38”.

16 (b) APPLICATION.—Section 718 of title 38, United
17 States Code, as added by subsection (a)(1), shall apply
18 to any covered employee (as that term is defined in sub-
19 section (b) of such section, as so added) appointed after
20 the date of the enactment of this Act.

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