

116TH CONGRESS
1ST SESSION

S. 607

To amend the Department of Energy Organization Act to address insufficient compensation of employees and other personnel of the Federal Energy Regulatory Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2019

Mr. CASSIDY (for himself, Mr. GARDNER, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Department of Energy Organization Act to address insufficient compensation of employees and other personnel of the Federal Energy Regulatory Commission, 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 “Timely Review of In-
5 frastructure Act”.

1 **SEC. 2. ADDRESSING INSUFFICIENT COMPENSATION OF**
2 **EMPLOYEES AND OTHER PERSONNEL OF THE**
3 **FEDERAL ENERGY REGULATORY COMMIS-**
4 **SION.**

5 (a) IN GENERAL.—Section 401 of the Department of
6 Energy Organization Act (42 U.S.C. 7171) is amended
7 by adding at the end the following:

8 “(k) ADDRESSING INSUFFICIENT COMPENSATION OF
9 EMPLOYEES AND OTHER PERSONNEL OF THE COMMIS-
10 SION.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of law, if the Chairman publicly certifies
13 that compensation for a category of employees or
14 other personnel of the Commission is insufficient to
15 retain or attract employees and other personnel to
16 allow the Commission to carry out the functions of
17 the Commission in a timely, efficient, and effective
18 manner, the Chairman may fix the compensation for
19 the category of employees or other personnel without
20 regard to chapter 51 and subchapter III of chapter
21 53 of title 5, United States Code, or any other civil
22 service law.

23 “(2) CERTIFICATION REQUIREMENTS.—A cer-
24 tification issued under paragraph (1) shall—

25 “(A) apply with respect to a category of
26 employees or other personnel responsible for

1 conducting work of a scientific, technological,
2 engineering, or mathematical nature;

3 “(B) specify a maximum amount of rea-
4 sonable compensation for the category of em-
5 ployees or other personnel;

6 “(C) be valid for a 5-year period beginning
7 on the date on which the certification is issued;

8 “(D) be no broader than necessary to
9 achieve the objective of retaining or attracting
10 employees and other personnel to allow the
11 Commission to carry out the functions of the
12 Commission in a timely, efficient, and effective
13 manner; and

14 “(E) include an explanation for why the
15 other approaches available to the Chairman for
16 retaining and attracting employees and other
17 personnel are inadequate.

18 “(3) RENEWAL.—

19 “(A) IN GENERAL.—Not later than 90
20 days before the date of expiration of a certifi-
21 cation issued under paragraph (1), the Chair-
22 man shall determine whether the certification
23 should be renewed for a subsequent 5-year pe-
24 riod.

1 “(B) REQUIREMENT.—If the Chairman de-
2 termines that a certification should be renewed
3 under subparagraph (A), the Chairman may
4 renew the certification, subject to the certifi-
5 cation requirements under paragraph (2) that
6 were applicable to the initial certification.

7 “(4) NEW HIRES.—

8 “(A) IN GENERAL.—An employee or other
9 personnel that is a member of a category of em-
10 ployees or other personnel that would have been
11 covered by a certification issued under para-
12 graph (1), but was hired during a period in
13 which the certification has expired and has not
14 been renewed under paragraph (3) shall not be
15 eligible for compensation at the level that would
16 have applied to the employee or other personnel
17 if the certification had been in effect on the
18 date on which the employee or other personnel
19 was hired.

20 “(B) COMPENSATION OF NEW HIRES ON
21 RENEWAL.—On renewal of a certification under
22 paragraph (3), the Chairman may fix the com-
23 pensation of the employees or other personnel
24 described in subparagraph (A) at the level es-

1 tablished for the category of employees or other
2 personnel in the certification.

3 “(5) RETENTION OF LEVEL OF FIXED COM-
4 PENSATION.—A category of employees or other per-
5 sonnel, the compensation of which was fixed by the
6 Chairman in accordance with paragraph (1), may, at
7 the discretion of the Chairman, have the level of
8 fixed compensation for the category of employees or
9 other personnel retained, regardless of whether a
10 certification described under that paragraph is in ef-
11 fect with respect to the compensation of the category
12 of employees or other personnel.

13 “(6) CONSULTATION REQUIRED.—The Chair-
14 man shall consult with the Director of the Office of
15 Personnel Management in implementing this sub-
16 section, including in the determination of the
17 amount of compensation with respect to each cat-
18 egory of employees or other personnel.

19 “(7) EXPERTS AND CONSULTANTS.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), the Chairman may—

22 “(i) obtain the services of experts and
23 consultants in accordance with section
24 3109 of title 5, United States Code;

1 “(ii) compensate those experts and
2 consultants for each day (including travel
3 time) at rates not in excess of the rate of
4 pay for level IV of the Executive Schedule
5 under section 5315 of that title; and

6 “(iii) pay to the experts and consult-
7 ants serving away from the homes or reg-
8 ular places of business of the experts and
9 consultants travel expenses and per diem
10 in lieu of subsistence at rates authorized
11 by sections 5702 and 5703 of that title for
12 persons in Government service employed
13 intermittently.

14 “(B) LIMITATIONS.—The Chairman
15 shall—

16 “(i) to the maximum extent prac-
17 ticable, limit the use of experts and con-
18 sultants pursuant to subparagraph (A);
19 and

20 “(ii) ensure that the employment con-
21 tract of each expert and consultant em-
22 ployed pursuant to subparagraph (A) is
23 subject to renewal not less frequently than
24 annually.”.

25 (b) REPORTS.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, and every 2 years
3 thereafter for 10 years, the Chairman of the Federal
4 Energy Regulatory Commission shall submit to the
5 Committee on Energy and Commerce of the House
6 of Representatives and the Committee on Energy
7 and Natural Resources of the Senate a report on in-
8 formation relating to hiring, vacancies, and com-
9 pensation at the Federal Energy Regulatory Com-
10 mission.

11 (2) INCLUSIONS.—Each report under para-
12 graph (1) shall include—

13 (A) an analysis of any trends with respect
14 to hiring, vacancies, and compensation at the
15 Federal Energy Regulatory Commission; and

16 (B) a description of the efforts to retain
17 and attract employees or other personnel re-
18 sponsible for conducting work of a scientific,
19 technological, engineering, or mathematical na-
20 ture at the Federal Energy Regulatory Com-
21 mission.

22 (c) APPLICABILITY.—The amendment made by sub-
23 section (a) shall apply beginning on the date that is 30
24 days after the date of enactment of this Act.

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