

Union Calendar No. 94

115TH CONGRESS
1ST SESSION

H. R. 1461

[Report No. 115–146, Part I]

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 HOUSE OF REPRESENTATIVES

MARCH 9, 2017

Mr. ARRINGTON introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 23, 2017

Reported from the Committee on Veterans' Affairs with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MAY 23, 2017

The Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 9, 2017]

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Veterans, Employees,*
5 *and Taxpayers Protection Act of 2017” or the “VET Protec-*
6 *tion Act of 2017”.*

7 **SEC. 2. LABOR MANAGEMENT IN DEPARTMENT OF VET-**
8 **ERANS AFFAIRS.**

9 *(a) IN GENERAL.—Chapter 7 of title 38, United States*
10 *Code, is amended by adding at the end the following new*
11 *subchapter:*

12 **“SUBCHAPTER III—LABOR MANAGEMENT**

13 **“§ 741. Records on use of official time**

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

19 *“(b) ANNUAL REPORT.—(1) Not later than December*
20 *31 of each year, the Secretary shall submit to the Office*
21 *of Personnel Management and the Committees on Veterans’*
22 *Affairs of the House of Representatives and the Senate a*
23 *report on the use of official time by employees of the Depart-*
24 *ment during the most recently ended fiscal year.*

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

4 “(A) *The total amount of official time granted to*
5 *employees.*

6 “(B) *The total amount of official time expended*
7 *and the amount of official time expended per em-*
8 *ployee for term negotiations, mid-term negotiations,*
9 *general labor-management relations, and dispute reso-*
10 *lution.*

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

16 “(D) *The total number of employees to whom of-*
17 *ficial time was granted, and, of that total, the number*
18 *who were not engaged in any activities or purposes*
19 *except activities or purposes involving the use of offi-*
20 *cial time.*

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

23 “(F) *A description of any room or space des-*
24 *ignated at the Department where official time activi-*

1 *ties will be conducted, including the square footage of*
2 *any such room or space.*

3 *“(G) A list of any employee granted a waiver*
4 *under section 742(d) and justification for each such*
5 *waiver.*

6 *“(c) DEFINITION OF OFFICIAL TIME.—For purposes of*
7 *this section, the term ‘official time’ means any period of*
8 *time—*

9 *“(1) which may be granted to an employee under*
10 *chapter 71 of title 5 (including a collective bar-*
11 *gaining agreement entered into under such chapter)*
12 *or chapter 74 of this title to perform representational*
13 *or consultative functions; and*

14 *“(2) during which the employee would otherwise*
15 *be in a duty status.*

16 **“§ 742. Limitations on use of official time for certain**
17 **purposes and individuals**

18 *“(a) POLITICAL ACTIVITIES AND LOBBYING.—Not-*
19 *withstanding section 7131 of title 5 or any other provision*
20 *of law, any employee of the Department may not use official*
21 *time to carry out political activities or activities relating*
22 *to lobbying.*

23 *“(b) PROHIBITION ON USE OF OFFICIAL TIME BY CER-*
24 *TAIN EMPLOYEES.—The following employees of the Depart-*
25 *ment may not use official time for any purpose:*

1 “(1) *Any employee appointed under section*
2 7401(1).

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

5 “(3) *Any employee who is serving a proba-*
6 *tionary period.*

7 “(c) *LIMITATION ON ALL EMPLOYEES.—Any employee*
8 *of the Department not covered by subsection (b) may spend*
9 *no more than 25 percent of the time such employee would*
10 *otherwise be in a duty status on official time.*

11 “(d) *WAIVER.—(1) The Secretary may waive the re-*
12 *quirements of subsection (b) or (c) with respect to an em-*
13 *ployee of the Department if the Secretary certifies, in writ-*
14 *ing, that the waiver is reasonable, necessary, and in the*
15 *best interests of veterans.*

16 “(2) *The authority provided to the Secretary under*
17 *this subsection shall not be subject to bargaining under this*
18 *title or chapter 71 of title 5, and the exercise of, or failure*
19 *to exercise, such authority shall not be an unfair labor prac-*
20 *tice under this title or such chapter.*

21 “(e) *DEFINITION OF OFFICIAL TIME.—For purposes of*
22 *this section, the term ‘official time’ has the meaning given*
23 *that term in section 741(c).*

1 **“§ 743. Termination of collection of dues**

2 *“Notwithstanding section 7115 of title 5, any exclusive*
 3 *bargaining agreement entered into pursuant to chapter 71*
 4 *of such title by the Department shall provide that an em-*
 5 *ployee of the Department may terminate a voluntary allot-*
 6 *ment for the payment of dues at any time. Any deductions*
 7 *for dues made pursuant to such allotment shall cease begin-*
 8 *ning on the first pay period after the termination is*
 9 *made.”.*

10 **(b) APPLICABILITY.**—*Sections 742 and 743 of title 38,*
 11 *United States Code, as added by subsection (a), shall apply*
 12 *with respect to any collective bargaining agreement entered*
 13 *into before, on, or after the date of enactment of this Act.*

14 **(c) CLERICAL AMENDMENT.**—*The table of sections at*
 15 *the beginning of such chapter is amended by adding at the*
 16 *end the following:*

“SUBCHAPTER III—LABOR MANAGEMENT

“741. Records on use of official time.

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

“743. Termination of collection of dues.”.

17 **SEC. 3. REQUIRED PROBATIONARY PERIOD FOR NEW EM-**
 18 **PLOYEES OF DEPARTMENT OF VETERANS AF-**
 19 **FAIRS.**

20 **(a) PROBATIONARY PERIOD.**—

21 **(1) IN GENERAL.**—*Chapter 7 of title 38, United*
 22 *States Code, is further amended by inserting after sec-*
 23 *tion 717 the following new section:*

1 **“§ 719. Probationary period for employees**

2 “(a) *IN GENERAL.*—Notwithstanding sections 3321
3 and 3393(d) of title 5, the appointment of a covered em-
4 ployee shall become final only after such employee has
5 served a probationary period of 2 years.

6 “(b) *COVERED EMPLOYEE.*—In this section, the term
7 ‘covered employee’—

8 “(1) means any individual—

9 “(A) appointed to a permanent position
10 within the competitive service at the Depart-
11 ment; or

12 “(B) appointed as a career appointee (as
13 that term is defined in section 3132(a)(4) of title
14 5) within the Senior Executive Service at the
15 Department; and

16 “(2) does not include any individual with a pro-
17 bationary period prescribed by section 7403 of this
18 title.

19 “(c) *PERMANENT HIRES.*—Not later than 90 days be-
20 fore the expiration of a covered employee’s probationary pe-
21 riod under subsection (a), the supervisor of the employee
22 shall determine whether the appointment becomes final
23 based on regulations prescribed for such purpose by the Sec-
24 retary.

25 “(d) *APPLICATION.*—With respect to any individual
26 described in subsection (b)(1)(A) and to whom this section

1 *applies, sections 7501(1) and 7511(a)(1)(A)(ii) of title 5*
 2 *shall be applied to such individual by substituting ‘com-*
 3 *pleted 2 years’ for ‘completed 1 year’ in each instance it*
 4 *appears.”.*

5 (2) *CLERICAL AND CONFORMING AMENDMENTS.—*

6 (A) *CLERICAL.—The table of sections at the*
 7 *beginning of such chapter, as amended by section*
 8 *2, is further amended by inserting after the item*
 9 *relating to section 717 the following new item:*

“719. Probationary period for employees.”.

10 (B) *CONFORMING.—Title 5, United States*
 11 *Code, is amended—*

12 (i) *in section 3321(c)—*

13 (I) *by striking “Service, or” and*
 14 *inserting “Service,”; and*

15 (II) *by inserting at the end before*
 16 *the period the following: “, or any in-*
 17 *dividual covered by section 719 of title*
 18 *38”;*

19 (ii) *in section 3393(d), by inserting at*
 20 *the end before the period the following: “or*
 21 *section 719 of title 38”;*

22 (iii) *in sections 7501(1) and*
 23 *7511(a)(1)(A)(ii), by inserting “or section*
 24 *719 of title 38” after “title 10” in each in-*
 25 *stance it appears; and*

- 1 *(iv) in section 7541(1)(A)—*
2 *(I) by striking “title or” and in-*
3 *serting “title,”; and*
4 *(II) by inserting at the end before*
5 *the semicolon the following: “, or sec-*
6 *tion 719 of title 38”.*
- 7 ***(b) APPLICATION.—****Section 719 of title 38, United*
8 *States Code, as added by subsection (a)(1), shall apply to*
9 *any covered employee (as that term is defined in subsection*
10 *(b) of such section 719, as so added) appointed after the*
11 *date of the enactment of this Act.*

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A BILL

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