

116TH CONGRESS
1ST SESSION

H. R. 2429

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

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2019

Mr. CUMMINGS (for himself, Mr. FITZPATRICK, Mr. NEAL, Mr. RODNEY DAVIS of Illinois, Mr. CONNOLLY, Mr. DANNY K. DAVIS of Illinois, Mr. SCOTT of Virginia, Mr. LARSON of Connecticut, Mr. COLE, and Mr. SMITH of New Jersey) 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 “ALJ Competitive Serv-
5 ice 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) APPOINTMENT.—

3 “(1) AUTHORITY.—The head of each Executive
4 department and agency shall appoint as many ad-
5 ministrative law judges as are necessary for pro-
6 ceedings required to be conducted in accordance with
7 sections 556 and 557.

8 “(2) SELECTION; EXAMINATION.—Administra-
9 tive law judges shall be appointed by the head of an
10 Executive department or an agency from a list of eli-
11 gible candidates provided by the Office of Personnel
12 Management based upon successful examination and
13 approval of the qualifications of the individual by the
14 Office.

15 “(b) MINIMUM QUALIFICATIONS AND CONDITIONS
16 OF EMPLOYMENT.—

17 “(1) LICENSURE.—At the time of application
18 for a position and while serving as an administrative
19 law judge, the individual must possess a professional
20 license to practice law under the laws of a State, the
21 District of Columbia, the Commonwealth of Puerto
22 Rico, or any territorial court.

23 “(2) QUALIFYING EXPERIENCE.—To be eligible
24 to serve as an administrative law judge, an indi-
25 vidual shall have not less than 7 years of experience
26 as a licensed attorney litigating or adjudicating for-

1 mal hearings or trials involving civil, criminal, or ad-
2 ministrative law at the Federal, State, or local level.

3 “(c) COMPETITIVE SERVICE.—Administrative law
4 judge positions shall be positions in the competitive serv-
5 ice.

6 “(d) ASSIGNMENT.—Administrative law judges shall
7 be assigned to cases in rotation as far as practicable, and
8 may not perform duties inconsistent with their duties and
9 responsibilities as administrative law judges.

10 “(e) AUTHORITY AND ROLE OF ADMINISTRATIVE
11 LAW JUDGES IN RELATION TO EXECUTIVE DEPARTMENT
12 OR AGENCY HEADS.—

13 “(1) CHIEF ALJ.—A chief administrative law
14 judge shall report directly to the head of the Execu-
15 tive department or agency at which the chief is ap-
16 pointed.

17 “(2) ALJ.—An administrative law judge (in
18 this paragraph referred to as an ‘ALJ’) shall report
19 directly to the chief administrative law judge (if any)
20 of the Executive department or agency at which the
21 ALJ is appointed. If there is no chief administrative
22 law judge, the ALJ shall report directly to the head
23 of such Executive department or agency.

24 “(3) CLARIFICATION.—Nothing in this sub-
25 section shall be construed to limit or otherwise miti-

1 gate the ability or independence of an administrative
2 law judge in carrying out his or her duties and re-
3 sponsibilities as an administrative law judge.”.

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

7 “(c) Subsections (a) and (b) of this section shall not
8 apply with respect to appointments in the Senior Execu-
9 tive Service, the Federal Bureau of Investigation and
10 Drug Enforcement Administration Senior Executive Serv-
11 ice, any individual covered by section 1599e of title 10,
12 or any individual appointed to an administrative law judge
13 position.”.

14 (c) CLARIFICATION OF APPLICATION OF DISCIPLI-
15 NARY PROCEDURES.—Notwithstanding the amendments
16 made by this Act that classify administrative law judges
17 within the competitive service, an administrative law judge
18 shall not be subject to subchapter I or II of chapter 75
19 of title 5, United States Code, and shall be subject to the
20 requirements of subchapter III of such chapter.

21 (d) CONVERSION OF POSITIONS.—With respect to
22 any individual serving on the date of the enactment of this
23 Act in an excepted service position as an administrative
24 law judge appointed under section 3105 of title 5, United
25 States Code, as in effect on the day before the date of

1 the enactment of this Act, not later than 30 days after
2 such date of enactment, the head of an Executive depart-
3 ment or the agency employing the administrative law
4 judge shall convert the appointment to a permanent ap-
5 pointment in the competitive service in the agency.

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