

111TH CONGRESS
1ST SESSION

H. R. 2721

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2009

Mr. DAVIS of Illinois (for himself, Mr. CUMMINGS, Ms. NORTON, Mr. GONZALEZ, Mr. JOHNSON of Georgia, and Mr. CLAY) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service.

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 “Senior Executive Serv-
5 ice Diversity Assurance Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) according to the Government Accountability

9 Office—

1 (A) minorities made up 22.5 percent of the
2 individuals serving at the GS-15 and GS-14
3 levels and 15.8 percent of the Senior Executive
4 Service in 2007;

5 (B) women made up 34.3 percent of the
6 individuals serving at the GS-15 and GS-14
7 levels and 29.1 percent of the Senior Executive
8 Service in 2007; and

9 (C) although the number of career Senior
10 Executive Service members increased from
11 6,110 in 2,000 to 6,555 in 2007, the represen-
12 tation of African-American men in the career
13 Senior Executive Service declined during that
14 same period from 5.5 percent to 5.0 percent;
15 and

16 (2) according to the Office of Personnel Man-
17 agement—

18 (A) black employees represented 6.1 per-
19 cent of employees at the Senior Pay levels and
20 17.8 percent of the permanent Federal work-
21 force compared to 10.1 percent in the civilian
22 labor force in 2007;

23 (B) Hispanic employees represented 4.0
24 percent of employees at the Senior Pay levels
25 and 7.8 percent of the permanent Federal

1 workforce compared to 13.3 percent of the civil-
2 ian labor force in 2007; and

3 (C) women represented 28.2 percent of
4 employees at the Senior Pay levels and 43.9
5 percent of the permanent Federal workforce
6 compared to 45.7 percent of the civilian labor
7 force in 2007.

8 **SEC. 3. DEFINITIONS.**

9 For purposes of this Act—

10 (1) the term “Director” means the Director of
11 the Office of Personnel Management;

12 (2) the term “Senior Executive Service” has the
13 meaning given such term by section 2101a of title
14 5, United States Code;

15 (3) the terms “agency”, “career appointee”,
16 and “career reserved position” have the meanings
17 given them by section 3132 of title 5, United States
18 Code; and

19 (4) the term “SES Resource Office” means the
20 Senior Executive Service Resource Office, estab-
21 lished under section 4.

22 **SEC. 4. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.**

23 (a) ESTABLISHMENT.—Not later than 180 days after
24 the date of the enactment of this Act, the Director shall
25 establish within the Office of Personnel Management an

1 office to be known as the Senior Executive Service Re-
2 source Office. The mission of the SES Resource Office
3 shall be—

4 (1) to improve the efficiency, effectiveness, and
5 productivity of the Senior Executive Service through
6 policy formulation and oversight;

7 (2) to advance the professionalism of the Senior
8 Executive Service; and

9 (3) to ensure that, in seeking to achieve a Sen-
10 ior Executive Service reflective of the Nation's diver-
11 sity, recruitment is from qualified individuals from
12 appropriate sources.

13 (b) FUNCTIONS.—It shall be the function of the SES
14 Resource Office to make recommendations to the Director
15 with respect to regulations, and to provide guidance to
16 agencies, concerning the structure, management, and di-
17 verse composition of the Senior Executive Service. In
18 order to carry out the purposes of this section, the SES
19 Resource Office shall—

20 (1) take such actions as the SES Resource Of-
21 fice considers necessary to manage and promote an
22 efficient, elite, and diverse corps of senior executives
23 by—

1 (A) creating policies for the management
2 and improvement of the Senior Executive Serv-
3 ice;

4 (B) providing oversight of the perform-
5 ance, structure, and composition of the Senior
6 Executive Service; and

7 (C) providing guidance and oversight to
8 agencies in the management of senior executives
9 and candidates for the Senior Executive Serv-
10 ice;

11 (2) be responsible for the policy development,
12 management, and oversight of the Senior Executive
13 Service pay system;

14 (3) develop standards for certification of each
15 agency's Senior Executive Service performance man-
16 agement system and evaluate all agency applications
17 for certification;

18 (4) be responsible for developing and moni-
19 toring programs for the advancement and training of
20 senior executives, including the Senior Executive
21 Service Federal Candidate Development Program;

22 (5) provide oversight of, and guidance to, agen-
23 cy executive resources boards;

24 (6) be responsible for the administration of the
25 qualifications review board;

1 (7) establish and maintain annual statistics (in
2 a form that renders them useful to appointing au-
3 thorities and candidates) on—

4 (A) the total number of career reserved po-
5 sitions at each agency;

6 (B) the total number of vacant career re-
7 served positions at each agency;

8 (C) of the positions under subparagraph
9 (B), the number for which candidates are being
10 sought;

11 (D) the number of individuals who have
12 been certified in accordance with section
13 3393(c) of title 5, United States Code, and the
14 composition of that group of individuals with
15 regard to race, ethnicity, sex, age, and individ-
16 uals with disabilities;

17 (E) the composition of the Senior Execu-
18 tive Service with regard to race, ethnicity, sex,
19 age, and individuals with disabilities;

20 (F) the composition of executive resources
21 boards with regard to race, ethnicity, sex, and
22 individuals with disabilities; and

23 (G) the composition of qualifications re-
24 view boards with regard to race, ethnicity, sex,
25 and individuals with disabilities;

1 (8) make available to the public through the of-
2 ficial public internet site of the Office of Personnel
3 Management, the data collected under paragraph
4 (7);

5 (9) establish mentoring programs for potential
6 candidates for the Senior Executive Service, includ-
7 ing candidates who have been certified as having the
8 executive qualifications necessary for initial appoint-
9 ment as a career appointee under a program estab-
10 lished pursuant to section 3396(a) of title 5, United
11 States Code;

12 (10) conduct a continuing program for the re-
13 cruitment of women, members of racial and ethnic
14 minority groups, and individuals with disabilities for
15 Senior Executive Service positions, with special ef-
16 forts directed at recruiting from educational institu-
17 tions, professional associations, and other sources;

18 (11) advise agencies on the best practices for
19 an agency in utilizing or consulting with an agency's
20 equal employment or diversity office or official (if
21 the agency has such an office or official) with regard
22 to the agency's Senior Executive Service appoint-
23 ments process; and

24 (12) evaluate and implement strategies to en-
25 sure that agencies conduct appropriate outreach to

1 other agencies to identify candidates for Senior Ex-
2 ecutive Service positions.

3 (c) PROTECTION OF INDIVIDUALLY IDENTIFIABLE
4 INFORMATION.—For purposes of subsection (b)(8), the
5 SES Resource Office may combine data for any agency
6 that is not named in section 901(b) of chapter 31, United
7 States Code, to protect individually identifiable informa-
8 tion.

9 (d) COOPERATION OF AGENCIES.—The head of each
10 agency shall provide the Office of Personnel Management
11 with such information as the SES Resource Office may
12 require in order to carry out subsection (b)(7).

13 **SEC. 5. CAREER APPOINTMENTS.**

14 (a) PROMOTING DIVERSITY IN THE CAREER AP-
15 POINTMENTS PROCESS.—Section 3393 of title 5, United
16 States Code, is amended—

17 (1) in subsection (b), by inserting after the first
18 sentence the following: “In establishing an executive
19 resources board, the head of the agency shall, to the
20 extent practicable, ensure diversity of the board and
21 of any subgroup thereof or other evaluation panel re-
22 lated to the merit staffing process for career ap-
23 pointees, by including members of racial and ethnic
24 minority groups, women, and individuals with dis-
25 abilities.”; and

1 (2) in subsection (c)(1), by adding after the last
2 sentence the following: “Notwithstanding the pre-
3 ceding sentence, consideration should also be given
4 to improving diversity by including members of ra-
5 cial and ethnic minority groups, women, and individ-
6 uals with disabilities on such boards.”.

7 (b) REGULATIONS.—Within 1 year after the date of
8 the enactment of this Act, the Director shall promulgate
9 regulations to implement the amendments made by sub-
10 section (a) and to improve diversity in executive resources
11 boards and qualifications review boards.

12 (c) REPORT.—Within 1 year after the date of the en-
13 actment of this Act, the Director shall submit to the Com-
14 mittee on Oversight and Government Reform of the House
15 of Representatives and the Committee on Homeland Secu-
16 rity and Governmental Affairs of the Senate a report eval-
17 uating agency efforts to improve diversity in executive re-
18 sources boards and of the members designated by agencies
19 to serve on qualifications review boards, based on the in-
20 formation collected by the SES Resource Office under sub-
21 paragraphs (F) and (G) of section 4(b)(7).

22 **SEC. 6. ENCOURAGING A MORE DIVERSE SENIOR EXECU-**
23 **TIVE SERVICE.**

24 (a) SENIOR EXECUTIVE SERVICE DIVERSITY
25 PLANS.—Within 1 year after the date of the enactment

1 of this Act, each agency, in consultation with the Office
2 of Personnel Management, shall submit to the Office of
3 Personnel Management a plan to enhance and maximize
4 opportunities for the advancement and appointment of mi-
5 norities, women, and individuals with disabilities in the
6 agency to the Senior Executive Service. Agency plans shall
7 address how the agency is identifying and eliminating bar-
8 riers that impair the ability of minorities, women, and in-
9 dividuals with disabilities to obtain appointments to the
10 Senior Executive Service and any actions the agency is
11 taking to provide advancement opportunities, including—

12 (1) conducting outreach to minorities, women,
13 and individuals within the agency and outside the
14 agency;

15 (2) establishing and maintaining training and
16 education programs to foster leadership develop-
17 ment;

18 (3) identifying career enhancing opportunities
19 for agency employees;

20 (4) assessing internal availability of candidates
21 for Senior Executive Service positions; and

22 (5) conducting an inventory of employee skills
23 and addressing current and potential gaps in skills
24 and the distribution of skills.

1 Agency plans shall be updated at least every 2 years dur-
2 ing the 10 years following enactment of this Act. An agen-
3 cy plan shall be reviewed by the Office of Personnel Man-
4 agement and, if determined to provide sufficient assur-
5 ances, procedures, and commitments to provide adequate
6 opportunities for the advancement and appointment of mi-
7 norities, women, and individuals with disabilities to the
8 Senior Executive Service, shall be approved by such Office.
9 An agency may, in updating its plan, submit to the Office
10 of Personnel Management an assessment of the impacts
11 of the plan.

12 (b) SUMMARY AND EVALUATION.—Within 180 days
13 after the deadline for the submission of any report or up-
14 date under subsection (a), the Director shall transmit to
15 the Committee on Oversight and Government Reform of
16 the House of Representatives and the Committee on
17 Homeland Security and Governmental Affairs of the Sen-
18 ate a report summarizing and evaluating the agency plans
19 or updates (as the case may be) so submitted.

20 (c) COORDINATION.—The Office of Personnel Man-
21 agement shall, in carrying out subsection (a), evaluate ex-
22 isting requirements under section 717 of the Civil Rights
23 Act of 1964 (42 U.S.C. 2000e–16) and section 501 of the
24 Rehabilitation Act of 1973 (29 U.S.C. 791) and determine
25 how agency reporting can be performed so as to be con-

- 1 sistent with, but not duplicative of, such sections and any
- 2 other similar requirements.

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