

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

August 31, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff— Terry Camp and Holly Baker
Subcommittee on Federal Lands (x67736)

Markup: **H.R. 6599 (Rep. Stephen Knight)**, To modify the application of temporary limited appointment regulations to the National Park Service, and for other purposes.
September 5, 2018, 10:15 AM; 1324 Longworth House Office Building

Summary of the Bill

H.R. 6599, introduced by Representative Stephen Knight (R-CA-25), would allow the Director of the National Park Service to modify regulations related to the hiring of temporary seasonal workers for the National Park Service.

Co-sponsors

Rep. Jimmy Panetta [D-CA-20]

Background

Every year, millions of people from the United States and abroad visit our national parks. To protect park resources and to serve the public, the National Park Service (NPS) employs a permanent workforce and an essential temporary seasonal workforce. Thousands of temporary seasonal employees are hired every year to assist permanent staff at many NPS parks and offices.¹ They have proven to be indispensable to park operations, and represent a variety of positions, including park rangers, firefighters, trail crew, fee collectors, grounds crew and law enforcement officers.

Many NPS temporary seasonal employees will return to work at the same park for several summers. These employees may be rehired at the start of each season without reapplying for the same job they held the previous season. Temporary seasonal employees may only be rehired for the same job title at the same pay grade, and the reappointment is contingent upon a satisfactory performance review. This practice is authorized by the Code of Federal Regulations (CFR) and applies to all federal agencies.² Agencies benefit in cost and time savings from the reduced

¹ “Applying for a Job with the National Park Service.” About Us. National Park Service website.

<https://www.nps.gov/aboutus/how-to-apply.htm>

² “Temporary Limited Appointments”. Title 5 CFR 316.401-402. <https://www.gpo.gov/fdsys/pkg/CFR-2012-title5-vol1/pdf/CFR-2012-title5-vol1.pdf>

recruitment, interviewing, and vetting workload, and temporary seasonal employees gain an element of certainty in their summer employment plans.

Recently, the NPS's interpretation and implementation of the applicable federal hiring regulations have been called into question by the Office of Personnel Management (OPM). In October 2016, OPM conducted a human resources audit of NPS workforce strategies, staffing operations, and compliance with laws, regulations and policies.³ OPM was particularly concerned with the perceived misuse of time-limited appointing authorities, including the temporary seasonal rehire authority.

The crux of the issue is the interpretation of the term "major subdivision" in the applicable regulation found at section 316.401 of title 5, Code of Federal Regulations (CFR). For an employee to have rehire eligibility, the employee must not work more than six months in a major subdivision of an agency. OPM defines "major subdivision" as the bureau of a federal agency, e.g. the NPS. The NPS interpreted "major subdivision" as an individual park unit, e.g. Yellowstone National Park.⁴ NPS had been permitting temporary seasonal employees to work a summer season in one park and a winter season in a different park unit. In OPM's view, such an employee had worked more than six months and in cases where such an employee was subsequently rehired non-competitively, the NPS had violated the federal regulation.

The NPS was directed by OPM to make operational changes to ensure compliance with regulations that govern the hiring and rehiring of temporary seasonal employees.⁵ The implementation of the directive created confusion for NPS managers, hiring officials, and temporary seasonal employees expecting to return to their previously held positions.⁶ It also threatened the ability of parks to open and operate as normal for the upcoming season. Many temporary seasonal employees lost their ability to be rehired under this simplified authority, and were left unexpectedly out of a job they had planned on.⁷

H.R. 6599 would authorize the NPS Director to define the term "major subdivision" in the CFR as it pertains to the NPS. This specific reference is in section 316.401 of subpart D of part 316 of title 5, Code of Federal Regulations.⁸ This bill also states that the requirement that a position be in the same local commuting area shall not apply.

³ US Office of Personnel Management. October 2016. "HR Transformation and Talent Management at the National Park Service: FY15-FY16".

⁴ National Park Service Memorandum. May 15, 2018. "Updated Guidance for the Determination and Use of Non-Competitive Rehire Eligibility for Temporary Seasonal Appointments".

<https://www.nps.gov/aboutus/upload/Updated-Guidance-Non-Competitive-Rehire.pdf>

⁵ *Id.*

⁶ NTEU The National Treasury Employees Union. Letter from National President Anthony M. Reardon to the Honorable Tom McClintock, Chairman Subcommittee on Federal Lands and the Honorable Colleen Hanabusa, Ranking Member Subcommittee on Federal Lands. Dated April 16, 2018.

⁷ "Many Lose Jobs after National Park Service Changes Interpretation of Seasonal Work Rule". Government Executive. April 20, 2018. <https://www.govexec.com/management/2018/04/many-lose-jobs-after-national-park-service-changes-interpretation-seasonal-work-rule/147618/>

⁸ "Temporary Limited Appointments". Title 5 CFR 316.401-402. <https://www.gpo.gov/fdsys/pkg/CFR-2012-title5-vol1/pdf/CFR-2012-title5-vol1.pdf>

Some NPS temporary seasonal employees work at multiple parks in a calendar year to gain the experience they will need to qualify for permanent positions. Others enjoy working in different parts of the country and prefer the flexible lifestyle. In either case, temporary seasonal workers are often the face and backbone of our parks and are critical to the successful operation of the NPS. H.R. 6599 gives the NPS the flexibility it has long enjoyed to hire experienced workforce it needs to protect our parks and serve visitors from around the world.

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Administration Position

The Administration's position is currently unknown.

Anticipated Amendments

None.

Effect on Current Law (Ramseyer)

None.