

MAY 3, 2022

RULES COMMITTEE PRINT 117-40
TEXT OF H.R. 903, THE RIGHTS FOR THE TSA
WORKFORCE ACT OF 2022

**[Showing the text of H.R. 903, as ordered reported by the
Committee on Homeland Security, with modifications.]**

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rights for the Trans-
3 portation Security Administration Workforce Act of
4 2022” or the “Rights for the TSA Workforce Act of
5 2022”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

8 (1) the term “adjusted basic pay” means—

9 (A) the rate of pay fixed by law or admin-
10 istrative action for the position held by a cov-
11 ered employee before any deductions; and

12 (B) any regular, fixed supplemental pay-
13 ment for non-overtime hours of work creditable
14 as basic pay for retirement purposes, including
15 any applicable locality payment and any special
16 rate supplement;

1 (2) the term “Administrator” means the Ad-
2 ministrator of the Transportation Security Adminis-
3 tration;

4 (3) the term “appropriate congressional com-
5 mittees” means the Committees on Homeland Secu-
6 rity and Oversight and Reform of the House of Rep-
7 resentatives and the Committees on Commerce,
8 Science, and Transportation and Homeland Security
9 and Governmental Affairs of the Senate;

10 (4) the term “at-risk employee” means a
11 Transportation Security Officer, Federal Air Mar-
12 shal, canine handler, or any other employee of the
13 Transportation Security Administration carrying out
14 duties that require substantial contact with the pub-
15 lic during the COVID–19 national emergency;

16 (5) the term “conversion date” means the date
17 as of which subparagraphs (A) through (F) of sec-
18 tion 3(c)(1) take effect;

19 (6) the term “covered employee” means an em-
20 ployee who holds a covered position;

21 (7) the term “covered position” means a posi-
22 tion within the Transportation Security Administra-
23 tion;

24 (8) the term “COVID–19 national emergency”
25 means the national emergency declared by the Presi-

1 dent under the National Emergencies Act (50
2 U.S.C. 1601 et seq.) on March 13, 2020, with re-
3 spect to the coronavirus;

4 (9) the term “employee” has the meaning given
5 such term by section 2105 of title 5, United States
6 Code;

7 (10) the term “Secretary” means the Secretary
8 of Homeland Security;

9 (11) the term “TSA personnel management
10 system” means any personnel management system
11 established or modified under—

12 (A) section 111(d) of the Aviation and
13 Transportation Security Act (49 U.S.C. 44935
14 note); or

15 (B) section 114(n) of title 49, United
16 States Code;

17 (12) the term “TSA” means the Transportation
18 Security Administration; and

19 (13) the term “2019 Determination” means the
20 publication, entitled “Determination on Transpor-
21 tation Security Officers and Collective Bargaining”,
22 issued on July 13, 2019, by Administrator David P.
23 Pecoske, as modified, or any superseding subsequent
24 determination.

1 **SEC. 3. CONVERSION OF TSA PERSONNEL.**

2 (a) RESTRICTIONS ON CERTAIN PERSONNEL AU-
3 THORITIES.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, and except as provided in para-
6 graph (2), effective as of the date of the enactment
7 of this Act—

8 (A) any TSA personnel management sys-
9 tem in use for covered employees and covered
10 positions on the day before such date of enact-
11 ment, and any TSA personnel management pol-
12 icy, letter, guideline, or directive in effect on
13 such day may not be modified;

14 (B) no TSA personnel management policy,
15 letter, guideline, or directive that was not estab-
16 lished before such date issued pursuant to sec-
17 tion 111(d) of the Aviation and Transportation
18 Security Act (49 U.S.C. 44935 note) or section
19 114(n) of title 49, United States Code, may be
20 established; and

21 (C) any authority to establish or adjust a
22 human resources management system under
23 chapter 97 of title 5, United States Code, shall
24 terminate with respect to covered employees
25 and covered positions.

26 (2) EXCEPTIONS.—

1 (A) PAY.—Notwithstanding paragraph
2 (1)(A), the limitation in that paragraph shall
3 not apply to any TSA personnel management
4 policy, letter, guideline, or directive related to
5 annual adjustments to pay schedules and local-
6 ity-based comparability payments in order to
7 maintain parity with such adjustments author-
8 ized under section 5303, 5304, 5304a, and
9 5318 of title 5, United States Code; and

10 (B) ADDITIONAL POLICY.—Notwith-
11 standing paragraph (1)(B), new TSA personnel
12 management policy may be issued if—

13 (i) such policy is needed to resolve a
14 matter not specifically addressed in policy
15 in effect on the date of enactment of this
16 Act; and

17 (ii) the Secretary provides such policy,
18 with an explanation of its necessity, to the
19 appropriate congressional committees not
20 later than 7 days of issuance.

21 (C) EMERGING THREATS TO TRANSPOR-
22 TATION SECURITY DURING TRANSITION PE-
23 RIOD.—Notwithstanding paragraph (1), any
24 TSA personnel management policy, letter,
25 guideline, or directive related to an emerging

1 threat to transportation security, including na-
2 tional emergencies or disasters and public
3 health threats to transportation security, may
4 be modified or established until the conversion
5 date. The Secretary shall provide to the appro-
6 priate congressional committees any modifica-
7 tion or establishment of such a TSA personnel
8 management policy, letter, guideline, or direc-
9 tive, with an explanation of its necessity, not
10 later than 7 days of such modification or estab-
11 lishment.

12 (b) PERSONNEL AUTHORITIES DURING TRANSITION
13 PERIOD.—Any TSA personnel management system in use
14 for covered employees and covered positions on the day
15 before the date of enactment of this Act and any TSA
16 personnel management policy, letter, guideline, or direc-
17 tive in effect on the day before the date of enactment of
18 this Act shall remain in effect until the conversion date.

19 (c) TRANSITION TO TITLE 5.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), effective as of the date determined by the
22 Secretary, but in no event later than December 31,
23 2022—

24 (A) the TSA personnel management sys-
25 tem shall cease to be in effect;

1 (B) section 114(n) of title 49, United
2 States Code, is repealed;

3 (C) section 111(d) of the Aviation and
4 Transportation Security Act (49 U.S.C. 44935
5 note) is repealed;

6 (D) any TSA personnel management pol-
7 icy, letter, guideline, and directive, including the
8 2019 Determination, shall cease to be effective;

9 (E) any human resources management sys-
10 tem established or adjusted under chapter 97 of
11 title 5, United States Code, with respect to cov-
12 ered employees or covered positions shall cease
13 to be effective; and

14 (F) covered employees and covered posi-
15 tions shall be subject to the provisions of title
16 5, United States Code.

17 (2) CHAPTERS 71 AND 77 OF TITLE 5.—Not
18 later than 90 days after the date of enactment of
19 this Act—

20 (A) chapter 71 and chapter 77 of title 5,
21 United States Code, shall apply to covered em-
22 ployees carrying out screening functions pursu-
23 ant to section 44901 of title 49, United States
24 Code; and

1 (B) any policy, letter, guideline, or direc-
2 tive issued under section 111(d) of the Aviation
3 and Transportation Security Act (49 U.S.C.
4 44935 note) related to matters otherwise cov-
5 ered by such chapter 71 or 77 shall cease to be
6 in effect.

7 (3) ASSISTANCE OF OTHER AGENCIES.—Not
8 later than 180 days after the date of enactment of
9 this Act or December 31, 2022, whichever is ear-
10 lier—

11 (A) the Office of Personnel Management
12 shall establish a position series and classifica-
13 tion standard for the positions of Transpor-
14 tation Security Officer, Federal Air Marshal,
15 Transportation Security Inspector, and other
16 positions requested by the Administrator; and

17 (B) the Department of Agriculture’s Na-
18 tional Finance Center shall make necessary
19 changes to its Financial Management Services
20 and Human Resources Management Services to
21 ensure payroll, leave, and other personnel proc-
22 essing systems for TSA personnel are commen-
23 surate with chapter 53 of title 5, United States
24 Code, and provide functions as needed to imple-
25 ment this Act.

1 (d) SAFEGUARDS ON GRIEVANCES AND APPEALS.—

2 (1) IN GENERAL.—Each covered employee with
3 a grievance or appeal pending within TSA on the
4 date of the enactment of this Act or initiated during
5 the transition period described in subsection (c) shall
6 have the right to have such grievance or appeal re-
7 moved to proceedings pursuant to title 5, United
8 States Code, or continued within the TSA.

9 (2) AUTHORITY.—With respect to any griev-
10 ance or appeal continued within the TSA pursuant
11 to paragraph (1), the Administrator may consider
12 and finally adjudicate such grievance or appeal not-
13 withstanding any other provision of this Act.

14 (3) PRESERVATION OF RIGHTS.—Notwith-
15 standing any other provision of law, any appeal or
16 grievance continued pursuant to this section that is
17 not finally adjudicated pursuant to paragraph (2)
18 shall be preserved and all timelines tolled until the
19 rights afforded by application of chapters 71 and 77
20 of title 5, United States Code, are made available
21 pursuant to section 3(c)(2) of this Act.

22 **SEC. 4. TRANSITION RULES.**

23 (a) NONREDUCTION IN PAY AND COMPENSATION.—
24 Under pay conversion rules as the Secretary may prescribe
25 to carry out this Act, a covered employee converted from

1 a TSA personnel management system to the provisions of
2 title 5, United States Code, pursuant to section
3 3(c)(1)(F)—

4 (1) shall not be subject to any reduction in ei-
5 ther the rate of adjusted basic pay payable or law
6 enforcement availability pay payable to such covered
7 employee; and

8 (2) shall be credited for years of service in a
9 specific pay band under a TSA personnel manage-
10 ment system as if the employee had served in an
11 equivalent General Schedule position at the same
12 grade, for purposes of determining the appropriate
13 step within a grade at which to establish the employ-
14 ee's converted rate of pay.

15 (b) RETIREMENT PAY.—Not later than 90 days after
16 the date of enactment of this Act, the Secretary shall sub-
17 mit to the appropriate congressional committees a pro-
18 posal, including proposed legislative changes if needed, for
19 determining a covered employee's average pay for pur-
20 poses of calculating the employee's retirement annuity,
21 consistent with title 5, United States Code, for any cov-
22 ered employee who retires within three years of the conver-
23 sion date, in a manner that appropriately accounts for
24 time in service and annual rate of basic pay following the
25 conversion date.

1 (c) LIMITATION ON PREMIUM PAY.—Notwith-
2 standing section 5547 of title 5, United States Code, or
3 any other provision of law, a Federal Air Marshal or crimi-
4 nal investigator hired prior to the date of enactment of
5 this Act may be eligible for premium pay up to the max-
6 imum level allowed by the Administrator prior to the date
7 of enactment of this Act. The Office of Personnel Manage-
8 ment shall recognize such premium pay as fully creditable
9 for the purposes of calculating pay and retirement bene-
10 fits.

11 (d) COLLECTIVE BARGAINING UNIT.—Notwith-
12 standing section 7112 of title 5, United States Code, fol-
13 lowing the application of chapter 71 pursuant to section
14 3(c)(2) of this Act, full- and part-time non-supervisory
15 Transportation Security Administration personnel car-
16 rying out screening functions under section 44901 of title
17 49, United States Code, shall remain eligible to form a
18 collective bargaining unit.

19 (e) PRESERVATION OF OTHER RIGHTS.—In the case
20 of each covered employee as of the conversion date, the
21 Secretary shall take any actions necessary to ensure
22 that—

23 (1) any annual leave, sick leave, or other paid
24 leave accrued, accumulated, or otherwise available to
25 a covered employee immediately before the conver-

1 sion date shall remain available to the employee
2 until used, notwithstanding any limitation on accu-
3 mulated leave under chapter 63 of title 5, United
4 States Code; and

5 (2) part-time personnel carrying out screening
6 functions under section 44901 of title 49, United
7 States Code, continue to pay Federal Employees
8 Health Benefits premiums on the same basis as full-
9 time TSA employees.

10 (f) PROVISION OF ADDITIONAL BENEFITS.—Subject
11 to negotiations with the exclusive representative of full-
12 and part-time non-supervisory Transportation Security
13 Administration personnel carrying out screening functions
14 under section 44901 of title 49, United States Code, pur-
15 suant to chapter 71 of title 5, United States Code, fol-
16 lowing the application of such chapter 71 pursuant to sec-
17 tion 3(e)(2) of this Act, the Administrator may—

18 (1) notwithstanding chapter 63 of title 5,
19 United States Code, provide leave benefits for cov-
20 ered employees that exceed those otherwise provided
21 under such chapter;

22 (2) notwithstanding chapter 55 of title 5,
23 United States Code, provide pay for covered employ-
24 ees that exceeds that otherwise provided under such
25 chapter; and

1 (3) notwithstanding sections 5753 and 5754 of
2 title 5, United States Code, set payable rates and
3 conditions for the payment of incentives and bonuses
4 that exceed those otherwise provided under such sec-
5 tions.

6 **SEC. 5. CONSULTATION REQUIREMENT.**

7 (a) **EXCLUSIVE REPRESENTATIVE.—**

8 (1) **IN GENERAL.—**

9 (A) Beginning on the date chapter 71 of
10 title 5, United States Code, begins to apply to
11 covered employees pursuant to section 3(c)(2),
12 the labor organization certified by the Federal
13 Labor Relations Authority on June 29, 2011,
14 or any successor labor organization, shall be
15 treated as the exclusive representative of full-
16 and part-time non-supervisory TSA personnel
17 carrying out screening functions under section
18 44901 of title 49, United States Code, and shall
19 be the exclusive representative for such per-
20 sonnel under chapter 71 of title 5, United
21 States Code, with full rights under such chap-
22 ter.

23 (B) Nothing in this subsection shall be
24 construed to prevent covered employees from
25 selecting an exclusive representative other than

1 the labor organization described under para-
2 graph (1) for purposes of collective bargaining
3 under such chapter 71.

4 (2) NATIONAL LEVEL.—Notwithstanding any
5 provision of such chapter 71, collective bargaining
6 for any unit of covered employees shall occur at the
7 national level, but may be supplemented by mutual
8 consent of the parties by local level bargaining and
9 local level agreements.

10 (3) CURRENT AGREEMENT.—Any collective bar-
11 gaining agreement covering such personnel in effect
12 on the date of enactment of this Act shall remain in
13 effect until a collective bargaining agreement is en-
14 tered into under such chapter 71, unless the Admin-
15 istrator and exclusive representative mutually agree
16 to revisions to such agreement.

17 (b) CONSULTATION PROCESS.—Not later than seven
18 days after the date of the enactment of this Act, the Sec-
19 retary shall consult with the exclusive representative for
20 the personnel described in subsection (a) under chapter
21 71 of title 5, United States Code, on the formulation of
22 plans and deadlines to carry out the conversion of full-
23 and part-time non-supervisory TSA personnel carrying out
24 screening functions under section 44901 of title 49,
25 United States Code, under this Act. Prior to the date such

1 chapter 71 begins to apply pursuant to section 3(c)(2),
2 the Secretary shall provide (in writing) to such exclusive
3 representative the plans for how the Secretary intends to
4 carry out the conversion of such personnel under this Act,
5 including with respect to such matters as—

6 (1) the anticipated conversion date; and

7 (2) measures to ensure compliance with sections
8 3 and 4.

9 (c) **REQUIRED AGENCY RESPONSE.**—If any views or
10 recommendations are presented under subsection (b) by
11 the exclusive representative, the Secretary shall consider
12 the views or recommendations before taking final action
13 on any matter with respect to which the views or rec-
14 ommendations are presented and provide the exclusive
15 representative a written statement of the reasons for the
16 final actions to be taken.

17 **SEC. 6. NO RIGHT TO STRIKE.**

18 Nothing in this Act may be considered—

19 (1) to repeal or otherwise affect—

20 (A) section 1918 of title 18, United States
21 Code (relating to disloyalty and asserting the
22 right to strike against the Government); or

23 (B) section 7311 of title 5, United States
24 Code (relating to loyalty and striking); or

1 (2) to otherwise authorize any activity which is
2 not permitted under either provision of law cited in
3 paragraph (1).

4 **SEC. 7. PROPOSAL ON HIRING AND CONTRACTING RE-**
5 **STRICTIONS.**

6 Not later than one year after the date of enactment
7 of this Act, the Secretary shall submit a plan to the appro-
8 priate congressional committees on a proposal to uni-
9 formly apply, for the purposes of hiring and for author-
10 izing or entering into any contract for service, the restric-
11 tions in section 70105(c) of title 46, United States Code,
12 and section 44936 of title 49, United States Code.

13 **SEC. 8. COMPTROLLER GENERAL REVIEWS.**

14 (a) REVIEW OF RECRUITMENT.—Not later than one
15 year after the date of the enactment of this Act, the Comp-
16 troller General shall submit to Congress a report on the
17 efforts of the TSA regarding recruitment, including re-
18 cruitment efforts relating to veterans and the dependents
19 of veterans and members of the Armed Forces and the
20 dependents of such members. Such report shall also in-
21 clude recommendations regarding how the TSA may im-
22 prove such recruitment efforts.

23 (b) REVIEW OF IMPLEMENTATION.—Not later than
24 60 days after the conversion date, the Comptroller General
25 shall commence a review of the implementation of this Act.

1 The Comptroller General shall submit to Congress a re-
2 port on its review no later than one year after such conver-
3 sion date.

4 **SEC. 9. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) the TSA’s personnel system provides insuf-
7 ficient benefits and workplace protections to the
8 workforce that secures the nation’s transportation
9 systems and that the TSA’s workforce should be
10 provided protections and benefits under title 5,
11 United States Code; and

12 (2) the provision of these title 5 protections and
13 benefits should not result in a reduction of pay or
14 benefits to current TSA employees.

15 **SEC. 10. ASSISTANCE FOR FEDERAL AIR MARSHAL SERV-
16 ICE.**

17 The Administrator may communicate with organiza-
18 tions representing a significant number of Federal Air
19 Marshals, to the extent provided by law, to address con-
20 cerns regarding Federal Air Marshals related to the fol-
21 lowing:

- 22 (1) Mental health.
- 23 (2) Suicide rates.
- 24 (3) Morale and recruitment.

1 (4) Any other personnel issues the Adminis-
2 trator determines appropriate.

3 **SEC. 11. PREVENTION AND PROTECTION AGAINST CERTAIN**
4 **ILLNESS.**

5 The Administrator, in coordination with the Director
6 of the Centers for Disease Control and Prevention and the
7 Director of the National Institute of Allergy and Infec-
8 tious Diseases, shall ensure that covered employees are
9 provided proper guidance regarding prevention and protec-
10 tions against the COVID–19 National Emergency, includ-
11 ing appropriate resources.

12 **SEC. 12. HAZARDOUS DUTY PAYMENTS.**

13 Not later than 90 days following the date of enact-
14 ment of this Act, the Administrator shall provide a one-
15 time bonus payment of \$3,000 to each at-risk employee.

16 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

17 There is authorized to be appropriated such sums as
18 may be necessary, to remain available until expended, to
19 carry out this Act.

