

103^D CONGRESS
1ST SESSION

H. R. 1889

To provide that certain hearings functions of the Merit Systems Protection Board be performed only by administrative law judges, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 1993

Mr. GEKAS (for himself and Mr. KANJORSKI) introduced the following bill;
which was referred to the Committee on Post Office and Civil Service

A BILL

To provide that certain hearings functions of the Merit Systems Protection Board be performed only by administrative law judges, 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 “Merit Systems Protec-
5 tion Board Administrative Judges Protection Act of
6 1993”.

7 **SEC. 2. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—The Congress finds that—

9 (1) administrative law judges and other admin-
10 istrative judges who preside over agency proceedings,

1 many of which are of an adversarial nature, must be
2 able to maintain their impartiality in order to per-
3 form their duties effectively;

4 (2) administrative law judges appointed under
5 section 3105 of title 5, United States Code, are re-
6 quired to be assigned to cases in rotation, are enti-
7 tled to pay independent of agency recommendations
8 or ratings, and are not subject to agency perform-
9 ance appraisals under chapter 43 of title 5, United
10 States Code;

11 (3) because of such protections, administrative
12 law judges may perform their judicial functions inde-
13 pendently of influence from their agencies; and

14 (4) administrative judges of the Merit Systems
15 Protection Board, who lack such protections, may
16 not be able to act as impartially as administrative
17 law judges.

18 (b) PURPOSE.—It is the purpose of this Act to pro-
19 vide that certain hearing functions of the Merit Systems
20 Protection Board be performed only by administrative law
21 judges, in order to ensure the impartiality of individuals
22 presiding over administrative proceedings.

1 **SEC. 3. ADMINISTRATIVE JUDGES OF MERIT SYSTEMS PRO-**
2 **TECTION BOARD.**

3 (a) IN GENERAL.—Section 1204(b) of title 5, United
4 States Code, is amended—

5 (1) in paragraph (1)—

6 (A) by striking “, any administrative” and
7 inserting “and any administrative”; and

8 (B) by striking “, and any employee of the
9 Board designated by the Board”; and

10 (2) in paragraph (2)—

11 (A) by striking “, any administrative” and
12 inserting “and any administrative”; and

13 (B) by striking “, and any employee of the
14 Board designated by the Board”.

15 (b) STATUS OF EXISTING JUDGES.—Any employee
16 designated by the Merit Systems Protection Board under
17 paragraph (1) or (2) of section 1204(b) of title 5, United
18 States Code, to perform functions described in either such
19 paragraph before the enactment of this Act who was either
20 regularly performing such functions on January 1, 1993,
21 or was delegated to perform such functions on that date,
22 and who, immediately before such date of enactment, is
23 employed by the Board or meets the Office of Personnel
24 Management’s criteria for the position of administrative
25 law judge, shall, as of such date of enactment, be deemed
26 to be an administrative law judge appointed by the Merit

1 Systems Protection Board under section 3105 of title 5,
2 United States Code. No such employee shall suffer a loss
3 in grade, status, pay, or position as the result of a classi-
4 fication action taken pursuant to this subsection.

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