

103^D CONGRESS
1ST SESSION

S. 1439

To provide for the application of certain employment protection laws to the Congress, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 30), 1993

Mr. LIEBERMAN introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide for the application of certain employment protection laws to the Congress, 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 “Congressional Ac-
5 countability Act”.

6 **SEC. 2. APPLICATION OF FEDERAL LAWS.**

7 (a) EMPLOYMENT.—Any provision of Federal law
8 shall, to the extent that the provision relates to—

9 (1) the terms and conditions of employment (in-
10 cluding hiring, promotion or demotion, salary or

1 wages, overtime compensation, benefits, work assign-
2 ments or reassignments, termination, and family or
3 medical leave) of employees;

4 (2) protection from discrimination in personnel
5 actions, including discrimination based on—

6 (A) race, color, religion, sex (including
7 marital and parental status), or national origin,
8 within the meaning of section 717 of the Civil
9 Rights Act of 1964 (42 U.S.C. 2000e-16);

10 (B) age, within the meaning of section 15
11 of the Age Discrimination in Employment Act
12 of 1967 (29 U.S.C. 633a); or

13 (C) handicap or disability, within the
14 meaning of section 501 of the Rehabilitation
15 Act of 1973 (29 U.S.C. 791) and sections 102
16 through 104 of the Americans with Disabilities
17 Act of 1990 (42 U.S.C. 12112-14); or

18 (3) the health and safety of employees,
19 apply, except as otherwise specifically provided in this Act,
20 to each employing office and each congressional employee,
21 in accordance with section 4.

22 (b) INFORMATION.—Any provision of Federal law, in-
23 cluding section 552 of title 5, United States Code (com-
24 monly known as the “Freedom of Information Act”), and
25 section 552a of title 5, United States Code, (commonly

1 known as the “Privacy Act of 1974”) shall, to the extent
2 the provision relates to the availability of information to
3 the public, apply, except as otherwise specifically provided
4 in this Act, to each office of the legislative branch of the
5 Federal Government and the information in the possession
6 of such office, in accordance with section 4.

7 **SEC. 3. OFFICE OF COMPLIANCE.**

8 (a) ESTABLISHMENT.—There is established in the
9 legislative branch for the Congress an Office of Compli-
10 ance (referred to in this Act as the “Office”).

11 (b) BOARD OF DIRECTORS.—

12 (1) IN GENERAL.—There shall be a Board of
13 Directors in the Office. The Board of Directors shall
14 consist of 13 individuals appointed jointly by the
15 Speaker of the House of Representatives, the Major-
16 ity Leader of the Senate, and the Minority Leaders
17 of the House of Representatives and the Senate. The
18 members first appointed to the Board of Directors
19 shall be appointed not later than 120 days after the
20 date of the enactment of this Act.

21 (2) QUALIFICATIONS.—

22 (A) IN GENERAL.—The Board of Directors
23 shall be composed of—

24 (i) 7 individuals with training or ex-
25 pertise in employment in the Congress, and

1 in the application of the provisions referred
2 to in section 2, including—

3 (I) at least 1 such individual with
4 training or expertise in the application
5 of the provisions referred to in section
6 2(b) to requests for information;

7 (II) at least 1 such individual
8 with training or expertise in the appli-
9 cation of the provisions described in
10 section 2(a)(1) to employment;

11 (III) at least 1 such individual
12 with training or expertise in the appli-
13 cation of the provisions described in
14 section 2(a)(2) to employment; and

15 (IV) at least 1 such individual
16 with training or expertise in the appli-
17 cation of the provisions described in
18 section 2(a)(3) to employment; and

19 (ii) 2 Members of the House of Rep-
20 resentatives, 2 Senators, 1 employee of the
21 House of Representatives, and 1 employee
22 of the Senate.

23 (B) SPECIFIC QUALIFICATIONS.—

24 (i) LOBBYING.—No individual who en-
25 gages in, or is otherwise employed in, lob-

1 bying of the Congress shall be considered
2 eligible for appointment to, or service on,
3 the Board of Directors.

4 (ii) OFFICE.—No Member of the
5 House of Representatives, Senator, or con-
6 gressional employee may be appointed as a
7 member of the Board of Directors under
8 subparagraph (A)(i).

9 (3) POLITICAL AFFILIATION.—Not more than
10 one Member of the House of Representatives who is
11 a member of the Board of Directors and not more
12 than one Senator who is a member of the Board of
13 Directors may be of the same political party.

14 (4) HOLDING OFFICE.—If during a term of of-
15 fice a member of the Board of Directors appointed
16 under paragraph (2)(A)(ii) on the basis of an office
17 or position described in such paragraph no longer
18 holds the office or position or a member of the
19 Board of Directors engages in an activity described
20 in paragraph (2)(B)(i), the position on the Board of
21 Directors held by the member involved shall be de-
22 clared vacant by the appointing authorities described
23 in paragraph (1) and a successor shall be selected in
24 accordance with paragraph (2).

1 (5) VACANCIES.—Any vacancy occurring in the
2 membership of the Board of Directors shall be filled
3 in the same manner as the original appointment for
4 the position being vacated. The vacancy shall not af-
5 fect the power of the remaining members to execute
6 the duties of the Board of Directors.

7 (c) AUTHORITY.—

8 (1) IN GENERAL.—The 13 members of the
9 Board of Directors appointed under subsection
10 (b)(1) shall have the authority to carry out the func-
11 tions described in subsections (a), (b), (d), and (e)
12 of section 4.

13 (2) LIMITED AUTHORITY.—The 6 members of
14 the Board of Directors appointed under subsection
15 (b)(2)(A)(ii) shall have no authority to carry out the
16 functions of the Office under sections 5 through 9
17 or sections 11 through 13 or under the regulations
18 issued in accordance with section 10(c)(3).

19 (d) TERM OF OFFICE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), members of the Board of Directors shall
22 be appointed for terms of 5 years.

23 (2) FIRST APPOINTMENTS.—Of the members
24 first appointed to the Board of Directors—

1 (A) 3 shall be appointed to a term of 1
2 year;

3 (B) 3 shall be appointed to a term of 2
4 years;

5 (C) 3 shall be appointed to a term of 3
6 years;

7 (D) 3 shall be appointed to a term of 4
8 years; and

9 (E) 3 shall be appointed to a term of 5
10 years,

11 as jointly designated at the time of appointment by
12 the appointing authorities describe in subsection
13 (b)(1).

14 (e) CHAIRPERSON.—The Board of Directors shall
15 elect a Chairperson from among the members of the
16 Board.

17 (f) BASIC PAY.—Members of the Board of Directors
18 who are not officers or employees of the United States
19 shall serve without compensation. All members of the
20 Board of Directors who are officers or employees of the
21 United States shall serve without compensation in addi-
22 tion to that received for their services as officers or em-
23 ployees of the United States.

24 (g) TRAVEL EXPENSES.—Each member of the Board
25 of Directors shall receive travel expenses, including per

1 diem in lieu of subsistence, at rates authorized for employ-
2 ees of agencies under subchapter I of chapter 57 of title
3 5, United States Code, for each day the member is en-
4 gaged in the performance of duties away from the home
5 or regular place of business of the member.

6 (h) STAFF.—The Office may appoint and fix the
7 compensation of such staff, including hearing officers, as
8 are necessary to carry out the Board of Director's func-
9 tions.

10 (i) DETAILEES.—The Office may, with the prior con-
11 sent of the Government department or agency concerned,
12 use on a reimbursable or nonreimbursable basis the serv-
13 ices of any such department or agency, including the serv-
14 ices of members or personnel of the General Accounting
15 Office Personnel Appeals Board.

16 (j) CONSULTANTS.—In carrying out the functions of
17 the Office, the Office may procure the temporary (not to
18 exceed 1 year) or intermittent services of individual con-
19 sultants, or organizations thereof.

20 **SEC. 4. BOARD FUNCTIONS.**

21 (a) INITIAL ACTION.—

22 (1) STUDY.—The Board of Directors shall con-
23 duct a study of the application to Congress of the
24 provisions referred to in section 2. The Board of Di-
25 rectors shall complete such study and submit to

1 Congress a report containing the results of the study
2 not later than 180 days after the date of the enact-
3 ment of this Act.

4 (2) REGULATIONS.—Not later than 180 days
5 after the date of the completion of the study under
6 subsection (a), the Board of Directors shall, in ac-
7 cordance with section 553 of title 5, United States
8 Code, propose regulations that specify which of such
9 provisions shall apply to Congress, which regula-
10 tions—

11 (A) shall take into account the costs asso-
12 ciated with the application of such provisions to
13 the Congress;

14 (B) shall be consistent with the portions of
15 such provisions, including portions relating to
16 remedies, that apply to employees of the United
17 States, except as otherwise specifically provided;
18 and

19 (C) may specify specific dates for the ap-
20 plication of specific provisions and may specify
21 specific means for the application of such provi-
22 sions.

23 (b) CONTINUING ACTION.—On an ongoing basis the
24 Board of Directors—

1 (1) shall study the application to the Congress
2 of provisions referred to in section 2 that are en-
3 acted after the date of the enactment of this Act;
4 and

5 (2) may propose regulations with respect to
6 such provisions in accordance with subsection (a)(2).

7 (c) CONGRESSIONAL APPROVAL.—

8 (1) IN GENERAL.—Regulations proposed by the
9 Board of Directors under subsection (a) or (b) shall
10 not take effect unless approved by the Congress by
11 concurrent resolution under this subsection.

12 (2) RULEMAKING.—The provisions of this sub-
13 section are enacted by the Congress—

14 (A) with respect to the application of this
15 subsection to regulations affecting employees of
16 the House of Representatives—

17 (i) as an exercise of the rulemaking
18 power of the House of Representatives,
19 and as such are deemed a part of the rules
20 of the House, but applicable only with re-
21 spect to the procedure to be followed in the
22 House in the case of concurrent resolutions
23 of regulation approval, and such provisions
24 supersede other rules of the House only to

1 the extent that they are inconsistent with
2 such other rules; and

3 (ii) with full recognition of the con-
4 stitutional right of the House to change
5 the rules (so far as relating to the proce-
6 dure of the House) at any time, in the
7 same manner and to the same extent as in
8 the case of any other rule of the House;
9 and

10 (B) with respect to the application of this
11 subsection to regulations affecting employees of
12 the Senate, as an exercise of the rulemaking
13 power of the Senate, with full recognition of the
14 right of the Senate to change its rules, in the
15 same manner, and to the same extent, as in the
16 case of any other rule of the Senate.

17 (3) REFERRAL.—

18 (A) HOUSE OF REPRESENTATIVES.—Con-
19 current resolutions relating to approval of regu-
20 lations proposed under subsection (a) or (b) (re-
21 ferred to in this section as a “concurrent reso-
22 lution of regulation approval”) shall, upon in-
23 troduction in the House of Representatives, be
24 immediately referred by the Speaker of the
25 House to the appropriate committee or commit-

1 tees of the House. Any such concurrent resolu-
2 tion received from the Senate shall be held at
3 the Speaker's table.

4 (B) SENATE.—Concurrent resolutions of
5 regulation approval shall, upon introduction in
6 the Senate be immediately referred by the Pre-
7 siding Officer of the Senate to the appropriate
8 committee or committees of the Senate. Any
9 such concurrent resolution received from the
10 House of Representatives shall be held at the
11 desk.

12 (4) COMMITTEE CONSIDERATION.—

13 (A) HOUSE OF REPRESENTATIVES.—Upon
14 the expiration of 6 days of continuous session
15 after the introduction of the first concurrent
16 resolution of regulation approval with respect to
17 any regulation, each committee to which such
18 concurrent resolution was referred shall be dis-
19 charged from further consideration of such con-
20 current resolution, and such concurrent resolu-
21 tion shall be referred to the appropriate cal-
22 endar, unless such concurrent resolution or an
23 identical resolution was previously reported by
24 each committee to which the concurrent resolu-
25 tion was referred.

1 (B) SENATE.—Upon the expiration of 6
2 days of continuous session after the introduc-
3 tion of the first concurrent resolution of regula-
4 tion approval with respect to any regulation,
5 each committee to which such concurrent reso-
6 lution was referred shall be discharged from
7 further consideration of such concurrent resolu-
8 tion, and such concurrent resolution shall be
9 placed on the calendar, unless such concurrent
10 resolution or an identical resolution was pre-
11 viously reported by each committee to which the
12 concurrent resolution was referred.

13 (5) CONSIDERATION.—

14 (A) HOUSE OF REPRESENTATIVES.—It
15 shall be in order for the Speaker to recognize
16 a Member of the House of Representatives fa-
17 voring a concurrent resolution of regulation ap-
18 proval to call up the concurrent resolution after
19 it has been on the appropriate calendar for 5
20 legislative days. When any such concurrent res-
21 olution is called up, the House shall proceed to
22 its immediate consideration and the Speaker
23 shall recognize the Member calling up such con-
24 current resolution and a Member opposed to
25 such concurrent resolution for 1 hour of debate

1 in the House, to be equally divided and controlled by such Members. When such time has
2 controlled by such Members. When such time has
3 expired, the previous question shall be considered as ordered on the concurrent resolution to
4 adoption without intervening motion. No
5 amendment to any such concurrent resolution
6 shall be in order, nor shall it be in order to
7 move to reconsider the vote by which such resolution is agreed to or disagreed to.

10 (B) SENATE.—It shall be in order for the
11 Presiding Officer to recognize a Senator favoring a concurrent resolution of regulation approval to call up the concurrent resolution after
12 it has been on the calendar for 5 legislative
13 days. When any such concurrent resolution is
14 called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Senator calling up such concurrent resolution and a Senator opposed to such concurrent resolution for 1 hour of debate in the
15 House, to be equally divided and controlled by
16 such Senators. When such time has expired, the
17 Senate shall proceed without any intervening
18 action to vote on the concurrent resolution. No
19 amendment to any such concurrent resolution
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1 shall be in order, nor shall it be in order to
2 move to reconsider the vote by which such reso-
3 lution is agreed to or disagreed to.

4 (6) CONCURRENT RESOLUTION FROM ANOTHER
5 HOUSE.—

6 (A) HOUSE OF REPRESENTATIVES.—If the
7 House receives from the Senate a concurrent
8 resolution of regulation approval with respect to
9 any regulation approval, then the following pro-
10 cedures shall apply:

11 (i) The concurrent resolution of the
12 Senate with respect to such regulation ap-
13 proval shall not be referred to a committee.

14 (ii) With respect to the concurrent
15 resolution of the House with respect to
16 such regulation the procedure with respect
17 to that or other concurrent resolutions of
18 the House with respect to such regulation
19 approval shall be the same as if no resolu-
20 tion from the Senate with respect to such
21 regulation had been received. On any vote
22 on final passage a concurrent resolution of
23 the House with respect to such regulation,
24 a resolution from the Senate with respect
25 to such regulation where the text is iden-

1 tical shall be automatically substituted for
2 the resolution of the House.

3 (B) SENATE.—If the Senate receives from
4 the House of Representatives a concurrent reso-
5 lution of regulation approval with respect to
6 any regulation approval, then the following pro-
7 cedures shall apply:

8 (i) The concurrent resolution of the
9 House of Representatives with respect to
10 such regulation approval shall not be re-
11 ferred to a committee.

12 (ii) With respect to the concurrent
13 resolution of the Senate with respect to
14 such regulation the procedure with respect
15 to that or other concurrent resolutions of
16 the Senate with respect to such regulation
17 approval shall be the same as if no resolu-
18 tion from the House of Representatives
19 with respect to such regulation had been
20 received. On any vote on final passage a
21 concurrent resolution of the Senate with
22 respect to such regulation, a resolution
23 from the House of Representatives with re-
24 spect to such regulation where the text is

1 identical shall be automatically substituted
2 for the resolution of the Senate.

3 (7) COMPUTATION OF DAYS.—For purposes of
4 this section—

5 (A) continuity of session of Congress is
6 broken only by an adjournment sine die; and

7 (B) the days on which either House is not
8 in session because of an adjournment of more
9 than 3 days to a day certain are excluded in the
10 computation of the 60-day period referred to in
11 paragraph (4).

12 (d) RULES OF THE OFFICE.—The Office shall adopt
13 rules governing the procedures of the Office, including the
14 procedures of hearing boards, which rules shall be submit-
15 ted for publication in the Congressional Record. The rules
16 may be amended in the same manner. The Board of Direc-
17 tors may consult with the Chairman of the Administrative
18 Conference of the United States on the adoption of rules.

19 (e) INFORMATION PROGRAM.—The Board of Direc-
20 tors shall carry out such information program as may be
21 appropriate to inform Members of the House of Rep-
22 resentatives, Senators, congressional employees, and heads
23 of employing offices as to the provisions, including rem-
24 edies, of the provisions made applicable to the Congress
25 under subsection (a) or (b).

1 **SEC. 5. PROCEDURE FOR CONSIDERATION OF ALLEGED**
2 **VIOLATIONS.**

3 The procedure for consideration of alleged violations
4 (other than violations to which the procedures described
5 in section 10 apply) consists of 4 steps as follows:

6 (1) Step I, counseling, as set forth in section 6.

7 (2) Step II, mediation, as set forth in section
8 7.

9 (3) Step III, formal complaint and hearing by
10 a hearing board, as set forth in section 8.

11 (4) Step IV, judicial review of a hearing board
12 decision, as set forth in section 9.

13 **SEC. 6. STEP I: COUNSELING.**

14 (a) IN GENERAL.—A congressional employee alleging
15 a violation may request counseling by the Office. The Of-
16 fice shall provide the employee with all relevant informa-
17 tion with respect to the rights of the employee. A request
18 for counseling shall be made not later than 180 days after
19 the alleged violation forming the basis of the request for
20 counseling occurred.

21 (b) PERIOD OF COUNSELING.—The period for coun-
22 seling shall be 30 days unless the employee and the Office
23 agree to reduce the period. The period shall begin on the
24 date the request for counseling is received.

25 (c) EMPLOYEES OF THE ARCHITECT OF THE CAP-
26 ITOL AND CAPITOL POLICE.—In the case of an employee

1 of the Architect of the Capitol or an employee who is a
2 member of the Capitol Police, the Director may refer the
3 employee to the Architect of the Capitol or the Capitol
4 Police Board for resolution of the employee's complaint
5 through the internal grievance procedures of the Architect
6 of the Capitol or the Capitol Police Board for a specific
7 period of time, which shall not count against the time
8 available for counseling or mediation under this Act.

9 **SEC. 7. STEP II: MEDIATION.**

10 (a) IN GENERAL.—Not later than 15 days after the
11 end of the counseling period under section 6, the employee
12 who alleged a violation may file a request for mediation
13 with the Office, which mediation—

14 (1) may include the Office, the employee, the
15 employing office, and individuals who are rec-
16 ommended to the Director by the Federal Mediation
17 and Conciliation Service; and

18 (2) shall be a process involving meetings with
19 the parties separately or jointly for the purpose of
20 resolving the dispute between the employee and the
21 employing office.

22 (b) MEDIATION PERIOD.—The mediation period shall
23 be 30 days beginning on the date the request for mediation
24 is received and may be extended for an additional 30 days
25 at the discretion of the Office. The Office shall notify the

1 employee and the head of the employing office when the
2 mediation period has ended.

3 **SEC. 8. STEP III: FORMAL COMPLAINT AND HEARING.**

4 (a) FORMAL COMPLAINT AND REQUEST FOR HEAR-
5 ING.—Not later than 30 days after receipt by the congres-
6 sional employee of notice from the Office of the end of
7 the mediation period under section 7, the congressional
8 employee may file a formal complaint with the Office. No
9 complaint may be filed unless the employee has made a
10 timely request for counseling and has completed the proce-
11 dures set forth in sections 6 and 7.

12 (b) HEARING BOARD.—A board of 3 independent
13 hearing officers (referred to in this Act as a “hearing
14 board”), who are not Members of the House of Represent-
15 atives, Senators, or congressional employees, chosen by the
16 Board of Directors (one of whom shall be designated by
17 the Board of Directors as the presiding hearing officer)
18 shall be assigned to consider each complaint filed under
19 subsection (a). The Board of Directors shall appoint hear-
20 ing officers after considering any candidates who are rec-
21 ommended to the Director by the Federal Mediation and
22 Conciliation Service, the Administrative Conference of the
23 United States, or organizations composed primarily of in-
24 dividuals experienced in adjudicating or arbitrating per-
25 sonnel matters. A hearing board shall act by majority vote.

1 (c) DISMISSAL OF FRIVOLOUS CLAIMS.—Prior to a
2 hearing under subsection (d), a hearing board may dismiss
3 any claim that it finds to be frivolous.

4 (d) HEARING.—A hearing shall be conducted—

5 (1) in closed session on the record by a hearing
6 board;

7 (2) no later than 30 days after filing of the
8 complaint under subsection (a), except that the Of-
9 fice may, for good cause, extend up to an additional
10 60 days the time for conducting a hearing; and

11 (3) except as specifically provided in this Act
12 and to the greatest extent practicable, in accordance
13 with the principles and procedures set forth in sec-
14 tions 554 through 557 of title 5, United States
15 Code.

16 (e) DISCOVERY.—Reasonable prehearing discovery
17 may be permitted at the discretion of the hearing board.

18 (f) SUBPOENA POWER.—

19 (1) IN GENERAL.—A hearing board may au-
20 thorize subpoenas, which shall be issued by the pre-
21 siding hearing officer on behalf of the hearing board,
22 for the attendance of witnesses at proceedings of the
23 hearing board and for the production of correspond-
24 ence, books, papers, documents, and other records.

25 The attendance of witnesses and the production of

1 evidence may be required from any place within the
2 United States.

3 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
4 son refuses to obey a subpoena issued under para-
5 graph (1), the hearing board may apply to a United
6 States district court for an order requiring that per-
7 son to appear before the hearing board to give testi-
8 mony, produce evidence, or both, relating to the
9 matter under investigation. The application may be
10 made within the judicial district where the hearing
11 is conducted or where that person is found, resides,
12 or transacts business. Any failure to obey the order
13 of the court may be punished by the court as civil
14 contempt.

15 (3) SERVICE OF SUBPOENAS.—The subpoenas
16 of the hearing board shall be served in the manner
17 provided for subpoenas issued by a United States
18 district court under the Federal Rules of Civil Pro-
19 cedure for the United States district courts.

20 (4) SERVICE OF PROCESS.—All process of any
21 court to which application is be made under para-
22 graph (2) may be served in the judicial district in
23 which the person required to be served resides or
24 may be found.

1 (5) IMMUNITY.—The hearing board is an agen-
2 cy of the United States for the purpose of part V
3 of title 18, United States Code (relating to immunity
4 of witnesses).

5 (g) DECISION.—As expeditiously as possible, but in
6 no case more than 45 days after the conclusion of the
7 hearing, the hearing board shall make a recommendation
8 to the Office for a decision in the matter for which the
9 hearing was held. The decision of the Office shall be trans-
10 mitted by the Office to the employee and the employing
11 office. The decision shall state the issues raised by the
12 complaint, describe the evidence in the record, and contain
13 a determination as to whether a violation has occurred.
14 Any decision of the Office shall contain a written state-
15 ment of the reasons for the Office’s decision.

16 (h) REMEDY ORDER.—If the Office determines that
17 a violation has occurred, it shall order such remedies as
18 are authorized under the regulations promulgated under
19 section 4. The Office shall have no authority to award pu-
20 nitive damages. The entry of an order under this sub-
21 section shall constitute a final decision for purposes of ju-
22 dicial review under section 9.

23 **SEC. 9. JUDICIAL REVIEW.**

24 (a) IN GENERAL.—Any congressional employee ag-
25 grieved by a dismissal under section 8(c), a final decision

1 under section 8(g), or an order under section 8(h), or any
2 Member of the House of Representatives or Senator ag-
3 grieved by a final decision under section 8(g) or who would
4 be subject to an order issued under section 8(h), may peti-
5 tion for review by the United States Court of Appeals for
6 the Federal Circuit.

7 (b) LAW APPLICABLE.—Chapter 158 of title 28,
8 United States Code, shall apply to a review under sub-
9 section (a) except that—

10 (1) with respect to section 2344 of title 28,
11 United States Code, service of the petition shall be
12 on the House or Senate Legal Counsel, as the case
13 may be, rather than on the Attorney General;

14 (2) the provisions of section 2348 of title 28,
15 United States Code, on the authority of the Attorney
16 General, shall not apply;

17 (3) the petition for review shall be filed not
18 later than 90 days after the entry in the Office of
19 a final decision under section 8(g) or order under
20 section 8(h);

21 (4) the Office shall be an “agency” as that
22 term is used in chapter 158 of title 28, United
23 States Code; and

24 (5) the Office shall be the respondent in any
25 proceeding under subsection (a).

1 (c) STANDARD OF REVIEW.—To the extent necessary
2 to decision and when presented, the court shall decide all
3 relevant questions of law and interpret constitutional and
4 statutory provisions. The court shall set aside a final deci-
5 sion under section 8(g) or order under section 8(h) if it
6 is determined that the decision or order was—

7 (1) arbitrary, capricious, an abuse of discretion,
8 or otherwise not consistent with law;

9 (2) not made consistent with required proce-
10 dures; or

11 (3) unsupported by substantial evidence.

12 In making the foregoing determinations, the court shall
13 review the whole record, or those parts of it cited by a
14 party, and due account shall be taken of the rule of preju-
15 dicial error. The record on review shall include the record
16 before the hearing board, the decision of the hearing
17 board, and the order of the hearing board.

18 (d) ATTORNEY'S FEES.—If a congressional employee
19 is the prevailing party in a proceeding under this section,
20 attorney's fees may be allowed by the court in accordance
21 with the standards prescribed under section 706(k) of the
22 Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

23 **SEC. 10. INFORMATION REQUIREMENTS.**

24 (a) IN GENERAL.—For the purposes of this Act, and
25 all regulations issued under this Act, section 552 of title

1 5, United States Code (commonly known as the “Freedom
2 of Information Act”), section 552a of title 5, United
3 States Code, (commonly known as the “Privacy Act of
4 1974”) and all similar provisions relating to the availabil-
5 ity of information to the public, shall apply to any office
6 of the legislative branch of the Federal Government (in-
7 cluding any Committee of the House of Representatives
8 or of the Senate, and any Joint Committee of Congress),
9 and the information in the possession of such office, unless
10 specifically exempted under this section.

11 (b) EXEMPTIONS.—

12 (1) TOTAL EXEMPTION.—The provisions de-
13 scribed in subsection (a) shall not apply to the fol-
14 lowing offices, or to any information in the posses-
15 sion of any of the following offices:

16 (A) The offices of the Legal Counsel of the
17 House of Representatives or of the Senate.

18 (B) The offices of the Attending Physi-
19 cians of the House of Representatives or of the
20 Senate.

21 (C) The Congressional Federal Credit
22 Union and the United States Senate Employees
23 Federal Credit Union.

24 (D) The escort assistance division of the
25 Capitol Police.

1 (E) Any staff organization.

2 (F) Any other office to which the Office of
3 Compliance determines that the provisions shall
4 not apply.

5 (2) PARTIAL EXEMPTION.—

6 (A) COVERED INFORMATION.—The provi-
7 sions described in subsection (a) shall apply to
8 the offices described in subparagraph (B) and
9 all information in the possession of the offices
10 described in subparagraph (B) to the same ex-
11 tent as such provisions apply to the President
12 and the Federal judicial branch, and all infor-
13 mation in their possession, except that such
14 provisions shall apply with respect to—

15 (i) the disclosure of personnel files of
16 such offices to an individual described in
17 subparagraph (A) or (C) of section 17(4)
18 who is the subject of the files, pursuant to
19 such regulations as the Office of Compli-
20 ance may issue;

21 (ii) administrative staff manuals of
22 such offices; and

23 (iii) descriptions of the staff organiza-
24 tion, the staff positions, and the total an-

1 nual budgets for staff and the total annual
2 official expenditures, of such offices.

3 (B) OFFICES.—The offices referred to in
4 subparagraph (A) shall consist of:

5 (i) The personal offices of Members of
6 the House of Representatives or of Mem-
7 bers of the Senate.

8 (ii) The offices of the President pro
9 tempore of the Senate, the President of the
10 Senate, or the Majority Leader of the
11 House of Representatives.

12 (iii) The offices and support organiza-
13 tions of the leaders of the House of Rep-
14 resentatives, or of the Senate.

15 (iv) The offices of any caucus or par-
16 tisan organization related to the Congress.

17 (v) The offices of the Secretary of the
18 Senate.

19 (vi) The offices of the Legislative
20 Counsel of the House of Representatives or
21 of the Senate.

22 (vii) The General Accounting Office.

23 (viii) The Office of Legislative Oper-
24 ations of the House of Representatives.

1 (ix) The office of the Parliamentarian
2 of the House of Representatives.

3 (x) The offices of the Doorkeepers of
4 the House of Representatives or of the
5 Senate.

6 (xi) The offices of the Clerks of the
7 House of Representatives or of the Senate.

8 (xii) The offices of the General Coun-
9 sel of the House of Representatives.

10 (xiii) The Office of Legislative Infor-
11 mation of the House of Representatives.

12 (xiv) Any other office to which the Of-
13 fice of Compliance determines that sub-
14 paragraph (A) shall apply.

15 (c) REGULATIONS.—

16 (1) IN GENERAL.—The Office of Compliance
17 shall propose, under the procedures described in sec-
18 tion 4, regulations for the application of any provi-
19 sions described in subsection (a) to offices of the leg-
20 islative branch and information in the possession of
21 such offices.

22 (2) EXCLUSIONS.—In proposing regulations
23 under paragraph (1), the Office of Compliance shall
24 propose regulations to exclude from production docu-
25 ments relating to national security, sensitive tech-

1 nologies, trade secrets, privileged commercial infor-
2 mation, law enforcement, and criminal or civil pro-
3 ceedings.

4 (3) PROCEDURES.—In proposing such regula-
5 tions under paragraph (1), the Office of Compliance
6 shall propose regulations that specify the procedure
7 for consideration of alleged violations of the provi-
8 sions described in subsection (a) by the Office of
9 Compliance. Such regulations shall provide, at a
10 minimum, for procedures similar to the procedures
11 described in subsections (a), (b), (c), and (d) of sec-
12 tion 8.

13 (d) REVIEW.—Any petitioner seeking information
14 from an office of the legislative branch of the Federal Gov-
15 ernment, or any such office, that is aggrieved by a final
16 decision of the Office of Compliance under the procedures
17 described in subsection (c)(3), may petition for review of
18 the decision by the District Court of the United States
19 for the District of Columbia. Such review shall be con-
20 ducted in accordance with subparagraphs (B), (C), (E),
21 (F), and (G) of section 552(a) of title 5, United States
22 Code.

23 **SEC. 11. RESOLUTION OF COMPLAINT.**

24 If, after a formal complaint is filed under section 8,
25 or under the regulations described in section 10(c)(3), the

1 employee and the head of the employing office resolve the
2 issues involved, the employee may withdraw the complaint
3 or the parties may enter into a written agreement, subject
4 to the approval of the Director.

5 **SEC. 12. PROHIBITION OF INTIMIDATION.**

6 (a) HOUSE OF REPRESENTATIVES.—Any intima-
7 tion of, or reprisal against, an employee of the House of
8 Representatives by any Member, officer, or employee of
9 the House of Representatives, or by the Architect of the
10 Capitol, or anyone employed by the Architect of the Cap-
11 itol, as the case may be, because of the exercise of a right
12 under this Act constitutes an unlawful employment prac-
13 tice, which may be remedied in the same manner under
14 this Act as is a violation.

15 (b) SENATE.—Any intimidation of, or reprisal
16 against, an employee of the Senate by any Member, offi-
17 cer, or employee of the Senate, or by the Architect of the
18 Capitol, or anyone employed by the Architect of the Cap-
19 itol, as the case may be, because of the exercise of a right
20 under this Act constitutes an unlawful employment prac-
21 tice, which may be remedied in the same manner under
22 this Act as is a violation.

23 **SEC. 13. CONFIDENTIALITY.**

24 (a) COUNSELING.—All counseling shall be strictly
25 confidential except that the Office and the employee may

1 agree to notify the head of the employing office of the alle-
2 gations.

3 (b) MEDIATION.—All mediation shall be strictly con-
4 fidential.

5 (c) HEARINGS.—Except as provided in subsection
6 (d), the hearings, deliberations, and decisions of the hear-
7 ing board shall be confidential.

8 (d) RELEASE OF RECORDS FOR JUDICIAL REVIEW.—
9 The records and decisions of hearing boards, and the deci-
10 sions of the Office, may be made public if required for
11 the purpose of judicial review under section 9 or section
12 10(d).

13 **SEC. 14. POLITICAL AFFILIATION AND PLACE OF RESI-**
14 **DENCE.**

15 (a) IN GENERAL.—It shall not be a violation to con-
16 sider the—

17 (1) party affiliation;

18 (2) domicile; or

19 (3) political compatibility with the employing
20 office,

21 of an employee with respect to employment decisions.

22 (b) DEFINITION.—For purposes of subsection (a),
23 the term “employee” means—

1 (1) a congressional employee on the staff of the
2 leadership of the House of Representatives or the
3 leadership of the Senate;

4 (2) a congressional employee on the staff of a
5 committee or subcommittee of—

6 (A) the House of Representatives; or

7 (B) the Senate;

8 (3) a congressional employee on the staff of a
9 Member of the House of Representatives or on the
10 staff of a Senator;

11 (4) an officer of the House of Representatives
12 or Senate, or a congressional employee, who is elect-
13 ed by the House of Representatives or Senate or is
14 appointed by a Member of the House of Representa-
15 tives or by a Senator, other than an employee de-
16 scribed in paragraph (1), (2), or (3); or

17 (5) an applicant for a position that is to be oc-
18 cupied by an individual described in paragraphs (1)
19 through (4).

20 **SEC. 15. OTHER REVIEW.**

21 No Congressional employee may commence a judicial
22 proceeding to redress practices prohibited under section
23 4, except as provided in this Act.

24 **SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.**

25 (a) CIVIL RIGHTS ACT OF 1991.—

1 (1) PRESIDENTIAL AND STATE EMPLOYEES.—
2 Sections 301 and 302 of the Government Employee
3 Rights Act of 1991 (2 U.S.C. 1201 and 1202) are
4 amended to read as follows:

5 **“SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.**

6 “(a) SHORT TITLE.—This title may be cited as the
7 ‘Government Employee Rights Act of 1991’.

8 “(b) PURPOSE.—The purpose of this title is to pro-
9 vide procedures to protect the right of certain government
10 employees, with respect to their public employment, to be
11 free of discrimination on the basis of race, color, religion,
12 sex, national origin, age, or disability.

13 “(c) DEFINITION.—For purposes of this title, the
14 term ‘violation’ means a practice that violates section 302
15 of this title.

16 **“SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.**

17 “All personnel actions affecting the appointees de-
18 scribed in section 303(a)(1) or the individuals described
19 in section 304(a) shall be made free from any discrimina-
20 tion based on—

21 “(1) race, color, religion, sex, or national origin,
22 within the meaning of section 717 of the Civil
23 Rights Act of 1964 (42 U.S.C. 2000e–16);

1 “(2) age, within the meaning of section 15 of
2 the Age Discrimination in Employment Act of 1967
3 (29 U.S.C. 633a); or

4 “(3) handicap or disability, within the meaning
5 of section 501 of the Rehabilitation Act of 1973 (29
6 U.S.C. 791) and sections 102–104 of the Americans
7 with Disabilities Act of 1990 (42 U.S.C. 12112–
8 14).”.

9 (2) REPEALS.—Section 117, sections 303
10 through 319, and sections 322, 324, and 325 of the
11 Civil Rights Act of 1991 (2 U.S.C. 60l, and 1203
12 et seq.) are repealed.

13 (3) REDESIGNATION.—Sections 320 and 321 of
14 the Civil Rights Act of 1991 (2 U.S.C. 1219 and
15 1220) are redesignated as sections 303 and 304, re-
16 spectively.

17 (b) RULE OF THE HOUSE OF REPRESENTATIVES.—
18 Rule LI of the House of Representatives is repealed.

19 (c) FAIR LABOR STANDARDS AMENDMENTS OF
20 1989.—Section 8 of the Fair Labor Standards Amend-
21 ments of 1989 (29 U.S.C. 60k) is repealed.

22 (d) FAMILY AND MEDICAL LEAVE ACT OF 1993.—
23 Title V of the Family and Medical Leave Act of 1993 (2
24 U.S.C. 60m et seq.) is repealed.

1 **SEC. 17. DEFINITIONS.**

2 As used in this Act:

3 (1) CONGRESSIONAL EMPLOYEE.—The term
4 “congressional employee” means—

5 (A) an employee of the House of Rep-
6 resentatives;

7 (B) an employee of the Senate; and

8 (C) an employee of an instrumentality.

9 (2) EMPLOYEE OF AN INSTRUMENTALITY.—
10 The term “employee of an instrumentality” means—

11 (A) an employee of the Architect of the
12 Capitol (except an employee described in para-
13 graph (3) or (4)(B)), the Congressional Budget
14 Office, the General Accounting Office, the Gov-
15 ernment Printing Office, the Library of Con-
16 gress, the Office of Technology Assessment, or
17 the United States Botanic Garden;

18 (B) any applicant for a position that will
19 last 90 days or more and that is to be occupied
20 by an individual described in subparagraph (A);
21 or

22 (C) any individual who was formerly an
23 employee described in subparagraph (A) and
24 whose claim of a violation arises out of the em-
25 ployment of the individual by an instrumentality
26 described in subparagraph (A).

1 (3) EMPLOYEE OF THE HOUSE OF REPRESENT-
2 ATIVES.—The term “employee of the House of Rep-
3 resentatives” means an individual who was eligible
4 to file a formal complaint with the Office of Fair
5 Employment Practice of the House of Representa-
6 tives under clause 6 of rule LI of the House of Rep-
7 resentatives, as in effect on the day before the date
8 of enactment of this Act.

9 (4) EMPLOYEE OF THE SENATE.—The term
10 “employee of the Senate” means—

11 (A) any employee whose pay is disbursed
12 by the Secretary of the Senate;

13 (B) any employee of the Architect of the
14 Capitol who is assigned to the Senate Res-
15 taurants or to the Superintendent of the Senate
16 Office Buildings;

17 (C) any applicant for a position that will
18 last 90 days or more and that is to be occupied
19 by an individual described in subparagraph (A)
20 or (B); or

21 (D) any individual who was formerly an
22 employee described in subparagraph (A) or (B)
23 and whose claim of a violation arises out of the
24 individual’s Senate employment.

1 (5) EMPLOYING OFFICE.—The term “employing
2 office” means the office headed by a head of an em-
3 ploying office.

4 (6) HEAD OF AN EMPLOYING OFFICE.—The
5 term “head of an employing office” means the indi-
6 vidual who has final authority to appoint, hire, dis-
7 charge, and set the terms, conditions or privileges of
8 the Senate employment of an employee.

9 (7) VIOLATION.—The term “violation” means a
10 violation of a regulation that takes effect under sec-
11 tion 4(c).

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