

A BILL

To allow for the reorganization of the executive branch to promote efficiency, the better execution of the laws, the better use of technology, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1: Short Title, Table of Contents

(a) Short Title—This Act may be cited as the “Government Reorganization and Realignment Act of 2012.”

(b) Table of Contents—The Table of Contents for this Act is as follows.

Section 1: Short Title, Table of Contents

Section 2: Authority

Section 3: Effective Date

Section 2: Authority

Strike 5 U.S.C. §§ 901-913 and replace it with the following:

Section 901. Purpose.

(a) The Congress declares that it is the policy of the United States—

(1) to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;

(2) to maximize the use of technology, to ease the burden of compliance and disclosure, and to promote more effective management and efficiency in the administration of the public business;

(3) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(4) to increase the efficiency and the accountability of the operations of the Government to the fullest extent practicable;

(5) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(6) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(7) to eliminate overlapping and duplication of effort.

(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

(c) It is the intent of Congress that the President should provide appropriate means for broad citizen advice and participation in restructuring and reorganizing the executive branch.

(d) The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section.

Section 902. Definitions.

For the purpose of this chapter—

(1) “agency” means—

(A) an Executive agency, including an independent regulatory agency, or part thereof;
and

(B) an office or officer in the executive branch; but does not include the Government Accountability Office or the Comptroller General of the United States;

(2) “data center” means a repository (room or building) for the storage, management, and dissemination of data and information. This repository houses computer systems and associated components, such as telecommunications and storage systems. It generally includes redundant or backup power supplies, redundant data communications connections, environmental controls environmental controls (air conditioning, fire suppression, etc.), and special security devices housed in leased, owned, collocated, or stand-alone facilities. In the context of modernization, an agency data center is defined as any automated information processing and data storage operation that performs one or more of the following functions: processes agency-approved automated applications systems, affords time-sharing services to agency personnel, provides office automation and records management services through a centralized processor, and/or provides network management support for agency wide area networks.

(3) “officer” is not limited by section 2104 of Title 5 of the United States Code.

(4) “reorganization” means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title; and

Section 903. Reorganization Plans.

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganization he finds necessary. Any plan may provide for—

- (1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;
- (2) the abolition of all or a part of the functions of an agency, except that no enforcement function or statutory program shall be abolished by the plan;
- (3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;
- (4) the consolidation or coordination of part of an agency or the functions thereof with another part of the same agency or the functions thereof;
- (5) the authorization of an officer to delegate any of his functions; or
- (6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the

statutory authority for the exercise of the function. The message shall also estimate any reduction or increase in expenditures (itemized so far as practicable), and describe any improvements in management, delivery of Federal services, execution of the laws, use of technology, and increases in efficiency of Government operations and impact on job creation, which it is expected will be realized as a result of the reorganizations included in the plan. In addition, the President's message shall include an implementation section which shall (1) describe in detail (A) the actions necessary or planned to complete the reorganization, (B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and (C) any preliminary actions which have been taken in the implementation process, and (2) contain a projected timetable for completion of the implementation process. The President shall also submit such further background or other information as the Congress may require for its consideration of the plan.

(c) Any time during the period of 30 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution disapproving the reorganization plan pursuant to section 908 has been ordered reported in either House, the President may make amendments or modifications to the plan, consistent with sections 903-905 of this title, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this chapter. The President may withdraw the plan any time prior to the conclusion of 60 calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

(d) Any reorganization plan must be certified by the Office of Management and Budget to result in a net budget savings over the ten-year period after the submission of the reorganization plan.

Section 904. Additional Contents of Reorganization Plan.

(a) A reorganization plan transmitted by the President under section 903 of this title—

(1) may, in such cases as the President considers necessary, change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and one or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of

such an agency, the term of office may not be fixed at more than four years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(b) The first reorganization plan transmitted by the President under section 903 of this title shall provide for the elimination of at least 1000 federal data centers.

Section 905. Limitation on Powers.

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

- (1) abolishing an independent regulatory agency;
- (2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;
- (3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;
- (4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;
- (5) creating a new agency which is not a component or part of an existing executive department or independent agency; or
- (6) increasing the term of an office beyond that provided by law for the office.

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress (in accordance with section 903(b)) on or before December 31, 2014.

Section 906. Effective Date and Publication of Reorganization Plans.

(a) A reorganization plan shall be effective 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress.

(b) For the purpose of this chapter—

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

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

Section 907. Effect on Other Laws, Pending Legal Proceedings, and Unexpended Appropriations.

(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under

the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed by the plan.

(b) For the purpose of subsection (a) of this section, “regulation or other action” means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within twelve months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) The appropriations or portions of appropriations unexpended by reason of the operation of the chapter may not be used for any purpose, but shall revert to the Treasury.

Section 908. Congressional Disapproval.

A reorganization plan shall not go into effect if a joint resolution is enacted disapproving such a reorganization plan within the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress.

Section 909. Terms of Resolution.

For the purpose of section 908 of this title, the term “joint resolution” means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: “That the Congress disapproves the reorganization plan numbered ___ transmitted to the Congress by the President on ____, 20__.” and includes such modifications and revisions as are submitted by the President under section 903(c) of this chapter. The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than one reorganization plan.

Section 910. Judicial Review.

(a) Special Rules for Actions Brought on Constitutional Grounds.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any reorganization or reorganization plan pursuant to this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) Intervention by Members of Congress.—In any action in which the constitutionality of any provision of this Act or any reorganization pursuant to this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require interveners taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

Section 3. Effective Date

This Act shall take effect on January 21, 2013.