



COMMITTEE ON HOMELAND SECURITY

H.R. 903, the “Rights for the Transportation Security Administration Workforce Act of 2022”

As Introduced by Representative Bennie G. Thompson (D-MS)

Supported by: The American Federation of Government Employees (AFGE), the Air Marshal Association (AMA), the Association of Flight Attendants-CWA (AFA), the Transport Workers Union of America (TWU), the Transportation Trades Department, AFL-CIO (TTD), and the National Urban League (NUL)

Original Cosponsors in the 117th Congress: Rep. Rosa DeLauro (D-CT), Rep. Carolyn Maloney (D-NY), Rep. Peter DeFazio (D-OR), Rep. Bonnie Watson Coleman (D-NJ), Rep. Lucille Roybal-Allard (D-CA)

Cosponsored by 230 Bipartisan Members of Congress

Following the terrorist attacks of September 11, 2001, Congress enacted the Aviation and Transportation Security Act (Public Law 107-71) which required federalized security screening at all airports of passengers and their property to be carried out by the newly created Transportation Security Administration (TSA). The law granted the TSA Administrator broad authorities to employ, appoint, discipline, terminate, and fix the compensation for Transportation Security Officers (TSOs) and the rest of the TSA workforce. At the time, some voiced a belief that TSA could use these authorities to create a nimble personnel management system that would be better than the civil service system under title 5 of the U.S. Code. Two decades later, however, TSA’s personnel system is severely lacking. One of the Federal government’s most diverse workforces is also one of the lowest paid and most dissatisfied and TSA struggles with low morale and high attrition.

Several factors contribute to TSA’s morale and attrition problems. Since 2001, TSO job responsibilities have steadily increased as TSA has rolled out more sophisticated technologies and new security policies to address the dynamic threat landscape and prevent terrorist attacks. And in just the past few years, TSOs

have faced a range of new challenges to include a government shutdown in which they worked without pay; record-breaking travel volumes which required them to work long overtime hours; a global pandemic that poses significant risks to their health; an unprecedented uptick in the number of firearms detected at security checkpoints; and a frightening surge in unruly passenger behavior and assaults on TSOs.

Under the current TSA personnel system, TSOs' pay and benefits do not reflect the challenges of the job and entry-level TSOs are among the lowest paid Federal employees. Unlike the title 5 General Schedule pay system, TSA's pay scale does not include regular annual increases and according to TSA, salaries for those who have worked for the agency for nearly 20 years often remain near the bottom of their pay grade. Further, TSA itself has acknowledged that TSOs are paid 30 percent less on average than other Federal workers performing similar roles under the title 5 personnel system. A competitive labor market has compounded these problems, making TSA's salaries increasingly inadequate to attract and retain the talent TSA needs to execute its mission. Year after year, TSA ranks at or near the bottom in Federal employee morale surveys. In the 2020 "Best Places to Work" survey, TSA ranked 407th out of 407 agency subcomponents—dead last—on pay satisfaction.

In addition to struggles with pay, TSA employees lack many of the basic workplace protections afforded to most other Federal workers under the title 5 personnel system. Today, TSOs' collective bargaining rights are not guaranteed in statute and exist at the Administrator's sole discretion. Prior to 2011, TSOs were not allowed to unionize and since that time TSA has only agreed to negotiate a very limited set of issues with the TSO's labor representative. Until recently, TSA employees could not appeal disciplinary actions to an outside third-party such as the Merit Systems Protection Board (MSPB).

The costs of maintaining the status quo are high. TSA faces chronic, major challenges in training, hiring, and retaining frontline workers. Low morale and high attrition have had an adverse impact on TSA and undermines its ability to develop a mature workforce. In March 2019, the Department of Homeland Security (DHS) Office of the Inspector General (OIG) published a report highlighting major problems TSA faces in recruiting, training, and retaining workers. The report found that, over a two-year span in Fiscal Years 2016 and 2017, approximately one in three TSOs left the agency. According to the OIG, TSA spends an average of more than \$8,500 on recruiting and training each new hire. Given TSA's turnover challenges, those costs add up fast: in 2017 alone, TSA spent \$75 million on hiring and training—including \$16 million on nearly 2,000 new hires who left within six months. Such drastic turnover has a destabilizing effect on security operations and complicates TSA's efforts to maintain an experienced workforce that can reliably detect threats to transportation systems.

The Biden Administration has recognized the challenges plaguing the TSA workforce and taken action to address them. First, in June 2021, Secretary of Homeland Security Alejandro Mayorkas directed TSA to develop options for increasing pay and expanding collective bargaining and third-party appeal rights. Then, in September 2021, TSA announced that it had entered into a Memorandum of Agreement with the MSPB to have the MSPB review TSOs' adverse action appeals. Most recently, in March 2022, President Biden included an initiative to fund pay increases for TSA employees to provide salaries similar to what would be provided under the General Schedule in the Administration's Fiscal Year 2023 budget. The President's budget request also included funding to support an expansion of TSOs' collective bargaining rights to allow them to enjoy rights similar to those afforded under title 5 and funding in support of MSPB appeals rights.

H.R. 903, The Rights for the Transportation Security Administration Workforce Act of 2022 seeks to codify and build on the Biden Administration's efforts by placing the TSA workforce under title 5. In January 2022, TSA Administrator David Pekoske sent a letter to the Committee on Homeland Security (CHS) regarding H.R. 903 in which he stated, "We will see many positive effects from this important legislation; the ability to achieve pay equity for our TSOs chief among them." More recently, in April, in testimony before CHS, DHS Secretary Alejandro Mayorkas confirmed his support for this legislation.

The **Rights for the Transportation Security Administration Workforce Act of 2022** would place the TSA workforce under the title 5 personnel system used by most other Federal agencies to drive major advancements in pay, collective bargaining, and disciplinary appeal rights. Such action would also improve lagging employee morale and enable TSA to better recruit, train, and retain the highly skilled, professional workforce it needs to execute its critical security mission.

Specifically, **H.R. 903** directs a measured process for transitioning TSA to the title 5 personnel system. Within 90 days of enactment, certain chapters of title 5 relating to labor rights and disciplinary appeal rights would be in effect with full implementation to follow on a date determined by the DHS Secretary but in no event later than December 31, 2022. The bill stipulates how various issues would be handled during a transition period, including ongoing grievances, and requires consultation with the labor organization serving as the exclusive representative of the TSO workforce. It also preserves TSA's authorities to respond to emerging threats or national emergencies.

Additionally, **H.R. 903** specifies that, following the transition to title 5 and subject to collective bargaining negotiations, TSA may continue to provide certain benefits that may exceed those generally provided under title 5. The bill specifies that nothing in the Act may be construed as providing employees a right to strike. **H.R. 903** takes additional steps to support Federal Air Marshals (FAMs), authorizing TSA to communicate with organizations representing FAMs to address concerns regarding mental health, suicide rates, morale and recruitment, and other personnel issues affecting FAMs.

H.R. 903 also requires the DHS Secretary to submit a proposal to Congress to apply certain statutory hiring standards and disqualifying offenses across various transportation security worker populations. The Comptroller General would be required to submit a review to Congress on TSA's recruitment efforts, including efforts related to veterans and their dependents, as well as a review on TSA's implementation of the Act.

Finally, **H.R. 903** seeks to protect the TSA workforce from COVID-19 by requiring coordination among TSA, the Centers for Disease Control and Prevention, and the National Institute of Allergy and Infectious Diseases to provide proper guidance and resources to employees. It also requires TSA to provide a one-time hazardous duty bonus payment to employees carrying out duties that require substantial contact with the public during the COVID-19 national emergency and authorizes appropriations necessary to carry out the provisions of the Act.