

Section-by-Section Analysis Civilian Property Realignment Act

Section 1

Section 1 would provide a short title for the bill, i.e., "Civilian Property Realignment Act" and contains a table of contents.

Section 2

Section 2 would explain the purpose of Act as expediting the disposal of unneeded Federal civilian properties and realize savings.

Section 3

Section 3 would define Federal civilian real property, executive agencies, postal properties, military installations, field offices, and disposal for the purpose of this Act. Federal civilian real property excludes military properties, properties that involve national security or homeland security, national parks, wildlife refuges, designated wilderness areas, Indian land, and properties that would be considered national treasures or monuments. Constructed assets within public lands may be considered for a recommended action (e.g. demolition) by the Board; however, this bill is not intended to create inholdings.

Section 4

Section 4 would establish the Civilian Property Realignment Board (Board), which consists of seven members appointed by the President, one of whom will be designated as the Chairperson. Board members are intended to be real property experts from either or both the public and private sector. However, the position on the Board would be the member's only job; this is not a board made up of detailees that already have high-ranking positions at other agencies. Members of the Board are Federal employees.

Section 5

Section 5 would describe the Board meeting and hearing process. All hearings, other than those where classified information shall be discussed, shall be open to the public. Board meetings, as part of the Board's day-to-day operations, shall generally not be open to the public. All proceedings shall be open to the Chairman and ranking minority party member of the four relevant House and Senate sub-committees on government oversight and real property as requested.

Section 6

Section 6 would define the processes to formulate, review, and transmit recommendations of the Board. While formulating its recommendations, the board will take into

account, among other criteria, the community in which the property is located; the highest and best use of the property; the potential uses of the properties for homeless assistance, parks and recreation, or other public benefits; the historical nature of the facility; the environmental effects of a proposed action; whether the action would create an inholding; and whether significant environmental remediation must be done to the property. The Board will also be charged with reviewing whether past actions by agencies have adequately addressed real estate management. Postal properties may only be recommended for co-location. Note only properties that are included in Board recommendations that are not disapproved by Congress are subject to the authorities under this Act. The remaining properties are not subject to the authorities under this Act.

In transmitting its recommendations to the Director of OMB, the Board will include instructions for how to accomplish the recommended activities, such as instructions to dispose of a property by sale. In addition, the Board will enumerate a separate list of properties that should be reviewed for potential use by the homeless or for other public benefits outlined in section 10(e).

If the Director approves the first set of recommendations, the recommendations are transmitted to Congress. If the Director disapproves, the Director passes comments to the Board on his disapproval and the Board will follow-up with a subsequent report that may or may not address the Director's comments. If the Director approves the subsequent report, the recommendations are transmitted to Congress. If the Director disapproves, the process is terminated. Reasons for disapproval are transmitted to the Board and Congress. The Director may not line-item veto any recommendation; he may only approve or disapprove of the Board's report in whole.

Section 7

Section 7 would create a process for the Board to recommend co-locations into United States Postal Service owned properties. The Postal Service must comment formally on certain properties that the Board considers for co-location. The Postmaster General may veto inclusion of any transactions that involve postal properties.

Section 8

Section 8 would create a process for the Department of State's Bureau of Overseas Building Operations to comment on properties considered by the Board. The Department of State must comment formally on certain properties that the Board considers for disposal, consolidation, reconfiguration, or realignment. The Secretary of State may veto inclusion of any transactions that involve international consular and diplomatic properties.

Section 9

Section 9 would define the process by which Congress will review the Board's recommendations. If no joint resolution is passed by Congress within a 45 calendar day period that affirmatively disapproves of the Board's report as a whole, then agencies shall immediately

commence planning and implementing the Board's recommendations.

Section 10

Section 10 would define the process for implementing the Board's recommendations and related authorities of the Board and agencies.

- Defines the timeline by which recommendations from the Board should be initiated (within two years) and completed (within six years) by the applicable agencies. Grants the possibility of an extension only in extenuating circumstances.
- Grants authority to use funds from its revolving fund to reimburse agencies for expenses the agencies incur while implementing the Board's recommendations.
- Outlines that agencies' existing authorities to dispose or realign a property identified by the Board in a report (but only those properties – NOT the rest of the agency's inventory) will temporarily be frozen for 90 days until the Board's recommendation with respect to that property is disapproved by Congress, disapproved by the OMB Director, or is to be implemented consistent with the process outlined in section 9 regarding Congressional consideration. Aside from the exemptions for certain public benefit conveyance reviews and proceeds retention, agencies shall otherwise use their existing authorities when disposing of property.
- Any disposal of civilian real property will not be subject to public benefit conveyance programs as outlined below. The programs require agencies to subject its excess properties to interested non-Federal entities for potential public use; e.g., homeless assistance and parks and recreation. Rather than being subject to such reviews for all properties, the Board will choose which properties will be subject to these reviews. Applying these programs only to a selected subset of properties will significantly reduce the administrative requirements and associated period of time that agencies government-wide must maintain a property after it has been identified as excess. The Board will consider such potential public uses during its deliberation phase prior to transmitting recommendations to the Director of OMB. At the discretion of the Board, the Board may recommend a property to be further reviewed for public benefits, in which interested parties from non-Federal entities shall have an opportunity to submit a notice of interest, and related information required by the programs below, to the Board and Federal agencies.
 - section 545(b)(8) of title 40, United States Code [GSA authority to negotiate a sale];
 - sections 550, 554, and 553 of title 40, United States Code [Education, Public Health, Park and Recreation, Self Help Housing, Historic Monument, Correctional, Law Enforcement, Emergency Management Response, Port Facility];
 - section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);
 - section 667(b) – (d) of title 16, United States Code [Wildlife Conservation];
 - section 47151 of title 49, United State Code [Public Airport];
 - sections 107 and 317 of title 23, United States Code [Highway];
 - section 1304(b) of title 40, United States Code [Widening of Public Roads];

- section 1622(d) of title 50, United States Code Appended [Power Transmission Lines];
 - any other provision of law authorizing the conveyance of Federally-owned real property;
 - any congressional notification other than section 545 of title 40, United States Code.
- Provision to clarify how this Act does not affect or change current environmental law. For example, clarifies that this Act is subject to all requirements of CERCLA and that agencies implementing recommended disposals may utilize CERCLA Early Transfer Authority pursuant to CERCLA Section 120(h)(3). Note that the National Environmental Policy Act (NEPA) and other environmental requirements apply to this Act in full.
 - Waiver clause, to remove the possibility of any appropriations bill provision trying to limit the Board's actions.

Section 11

Section 11 would authorize an appropriation to support the Board. In addition, it would establish accounts (salary and expenses as well as revolving fund) on the books of the Treasury and defines the purposes for the funding, including appropriations, transfers of budget authority, and sale proceeds. Net proceeds (after paying disposal costs) will be distributed to the general fund (at least 60 percent), Federal agencies, and the Board's revolving fund.

Section 12

Section 12 would define the pay and travel schedules for the Board members.

Section 13

Section 13 would establish an Executive Director and define the pay schedule.

Section 14

Section 14 would authorize staff for the Board and define the pay schedule.

Section 15

Section 15 would authorize the Board to contract, lease space, and acquire personal property.

Section 16

Section 16 would establish a sunset clause for the Board at 12 years from enactment.

Section 17

Section 17 would prevent judicial review of actions by the Board under section 6 of this Act; actions taken by the OMB Director under section 6 of this Act; or actions taken by the Board, the Secretary of HUD, and Federal agencies under section 10(f) of this Act.

Section 18

Section 18 would mandate that the Board draft and transmit a report within two years to OMB that contains the Board's conclusions and recommendations on ways that the process created by this Act could be more efficient consistent with the purposes of this Act. At a minimum the Board's report should include comments on the effect of section 7, section 8, and section 10 as currently drafted.