

H.R. 3943, Servicemember Employment Protection Act of 2023

As ordered reported by the House Committee on Veterans' Affairs on July 26, 2023

| By Fiscal Year, Millions of Dollars | 2023 | 2023-2028 | 2023-2033 |
|--|-----------------|---|----------------------|
| Direct Spending (Outlays) | 0 | * | * |
| Revenues | 0 | 0 | 0 |
| Increase or Decrease (-) in the Deficit | 0 | * | * |
| Spending Subject to Appropriation (Outlays) | 0 | 1 | not estimated |
| Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034? | < \$2.5 billion | Statutory pay-as-you-go procedures apply? | Yes |
| Mandate Effects | | | |
| Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034? | < \$5 billion | Contains intergovernmental mandate? | Yes, Under Threshold |
| | | Contains private-sector mandate? | Yes, Under Threshold |
| * = between zero and \$500,000. | | | |

H.R. 3943 would increase the legal fees, damages, and other remedies that courts or, in the case of complaints against federal agencies, the Merit Systems Protection Board, could award to employees who are seeking to enforce their rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA generally prohibits employment discrimination based on service in the uniformed services, provides reemployment rights after qualifying service, and protects employees from retaliation for exercising their rights under the act. Employers are required to provide employees who are absent from work because of qualifying service the same status and compensation as if they were continuously employed. That requirement applies to private employers, state and local governments, and federal agencies. The Departments of Labor (DOL), Defense, and Justice and the Office of Special Counsel collaboratively support and enforce USERRA, and those agencies reviewed approximately 2,100 unique cases during 2021.

Using publicly available information, CBO expects that few cases would arise from violations of USERRA by federal agencies. Thus, CBO estimates that the additional costs from enacting H.R. 3943 for agencies that rely on discretionary appropriations would not be significant over the 2024-2028 period. Enacting the bill also would affect direct spending by

See also

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agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs; CBO estimates that any net changes in direct spending by those agencies would be negligible both because few cases would arise and because most of the agencies can adjust amounts collected to reflect changes in operating costs.

H.R. 3943 also would require the DOL to biennially review and revise its procedures to investigate USERRA complaints and submit a report concerning those procedures and revisions to the Congress. Additionally, the bill would require the Government Accountability Office to review and report to the Congress on DOL's methods to process relief actions under USERRA and provide a confidential briefing and report to the Congress on the procedures adopted by the intelligence community to provide its employees the protections under USERRA. Based on the costs of similar activities, CBO estimates that satisfying those reporting requirements would cost \$1 million over the 2023-2028 period; any spending would be subject to the availability of appropriated funds.

H.R. 3943 would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by adding "other retaliatory acts" to the list of prohibited actions by employers of service members protected under USERRA. Current law prevents employers from discriminating against or taking other adverse employment actions against those employees. CBO estimates that the cost of compliance would fall well below the thresholds established in UMRA for intergovernmental and private-sector mandates (\$99 million and \$198 million in 2023, respectively, adjusted annually for inflation).

The CBO staff contacts for this estimate are Paul B.A. Holland (veterans' benefits), Matthew Pickford (general government) and Brandon Lever (for public and private mandates). The estimate was reviewed by Christina Hawley Anthony, Deputy Director of Budget Analysis.

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