

38 USC 7281: Employees

Text contains those laws in effect on May 1, 2017

From Title 38-VETERANS' BENEFITS

PART V-BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 72-UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SUBCHAPTER III-MISCELLANEOUS PROVISIONS

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§7281. Employees

(a) The Court of Appeals for Veterans Claims may appoint a clerk without regard to the provisions of title 5 governing appointments in the competitive service. The clerk shall serve at the pleasure of the Court.

(b) The judges of the Court may appoint law clerks and secretaries, in such numbers as the Court may approve, without regard to the provisions of title 5 governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

(c) The clerk, with the approval of the Court, may appoint necessary deputies and employees without regard to the provisions of title 5 governing appointments in the competitive service.

(d) The Court may fix and adjust the rates of basic pay for the clerk and other employees of the Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5. To the maximum extent feasible, the Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

(e) In making appointments under subsections (a) through (c) of this section, preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

(f) The Court may procure the services of experts and consultants under section 3109 of title 5.

(g) The chief judge of the Court may exercise the authority of the Court under this section whenever there are not at least two other judges of the Court.

(h) The Court shall not be considered to be an agency within the meaning of section 3132(a)(1) of title 5.

(i) The Court may accept and utilize voluntary services and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5 and may accept, hold, administer, and utilize gifts and bequests of personal property for the purposes of aiding or facilitating the work of the Court. Gifts or bequests of money to the Court shall be covered into the Treasury.

(j) For purposes of chapter 87 of title 5, a judge who is in regular active service and a judge who is retired under section 7296 of this title or under chapter 83 or 84 of title 5 shall be treated as an employee described in section 8701(a)(5) of title 5.

(k) Notwithstanding any other provision of law, the Court may pay on behalf of its judges, who are age 65 or older, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge of the Court in a manner consistent with such payment authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4118, §4081; amended Pub. L. 101-94, title II, §204(a), Aug. 16, 1989, 103 Stat. 627; renumbered §7281, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-82, §7, Aug. 6, 1991, 105 Stat. 377; Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 106-117, title X, §1035(1), Nov. 30, 1999, 113 Stat. 1595; Pub. L. 114-315, title II, §202(a), Dec. 16, 2016, 130 Stat. 1549.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsecs. (a) to (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

2016-Subsecs. (j), (k). Pub. L. 114-315 added subsecs. (j) and (k).

1999-Subsec. (g). Pub. L. 106-117 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "The Chief Judge of the Court may exercise the authority of the Court under this section whenever there are not at least two associate judges of the Court."

1998-Subsec. (a). Pub. L. 105–368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals".

1991-Pub. L. 102–40 renumbered section 4081 of this title as this section.

Subsec. (i). Pub. L. 102–82 added subsec. (i).

1989-Pub. L. 101–94 amended section generally. Prior to amendment, section read as follows: "The Court of Veterans Appeals may appoint such employees as may be necessary to execute the functions vested in the Court. Such appointments shall be made in accordance with the provisions of title 5 governing appointment in the competitive service, except that the Court may classify such positions based upon the classification of comparable positions in the judicial branch. The basic pay of such employees shall be fixed in accordance with subchapter III of chapter 53 of title 5."

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–315, title II, §202(b), Dec. 16, 2016, 130 Stat. 1549, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of the enactment of this Act [Dec. 16, 2016]."

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–117 effective Nov. 30, 1999, with savings provision for incumbent chief judge, see section 1036 of Pub. L. 106–117, set out as a note under section 7253 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–94, [title II, §204\(c\), Aug. 16, 1989](#), 103 Stat. 627 , provided that: "Notwithstanding section 401 of the Veterans' Judicial Review Act [Pub. L. 100–687, set out as an Effective Date note under section 7251 of this title], the authority provided by section 4081 [now 7281] of title 38, United States Code, as amended by subsection (a), shall take effect on the date of the enactment of this Act [Aug. 16, 1989]."

LIMITATION ON CONVERSION OF EMPLOYEES TO COMPETITIVE SERVICE

Pub. L. 101–94, [title II, §204\(b\), Aug. 16, 1989](#), 103 Stat. 627 , as amended by Pub. L. 105–368, [title V, §512\(c\), Nov. 11, 1998](#), 112 Stat. 3342 , provided that: "Notwithstanding clause (1)(A) of the proviso under the heading 'Court of Veterans Appeals' in chapter XI of [title I of] Public Law 101–45 [formerly set out below], no employee of the United States Court of Appeals for Veterans Claims may be converted to the competitive service without the approval of the Court."

APPOINTMENT OF EMPLOYEES ELIGIBLE FOR NONCOMPETITIVE CONVERSION TO POSITION IN COMPETITIVE SERVICE; PROCUREMENT OF EXPERTS AND CONSULTANTS

Pub. L. 101–45, [title I, June 30, 1989](#), 103 Stat. 113 , authorized United States Court of Veterans Appeals, during fiscal year 1989, to appoint not to exceed 35 employees to positions in competitive service if certain requirements were met and to procure services of experts and consultants.