

AMENDMENTS

2013—Subsec. (b). Pub. L. 113-66 inserted “, or threaten to take or fail to take,” after “take or fail to take”.

1996—Pub. L. 104-106, §1040(d)(1), inserted “: reprisals” after “instrumentalities” in section catchline.

Subsec. (a)(1). Pub. L. 104-106, §1040(c), substituted “Navy Exchange Service Command” for “Navy Resale and Services Support Office”.

Pub. L. 104-106, §1040(a), inserted at end “Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee’s duties.”

Subsec. (d). Pub. L. 104-106, §903(a), (f)(3), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting “official in the Department of Defense with principal responsibility for personnel and readiness” for “Assistant Secretary of Defense for Manpower and Logistics”, was repealed by Pub. L. 104-201.

Subsec. (e). Pub. L. 104-106, §1040(b), inserted before period at end of second sentence “and to permit the reporting of alleged violations of subsection (b) directly to the Inspector General of the Department of Defense”.

1987—Subsec. (a). Pub. L. 100-26 inserted “The term” after each par. designation and struck out uppercase letter of first word after first quotation marks in each par. and substituted lowercase letter.

EFFECTIVE DATE

Pub. L. 98-94, title XII, §1253(b), Sept. 24, 1983, 97 Stat. 700, provided that: “Section 1587 of such title [this section], as added by subsection (a), shall apply with respect to any conduct prohibited by subsection (b) of such section which occurs after the date of the enactment of this Act [Sept. 24, 1983].”

LIMITATION ON PROVISION OF OVERSEAS LIVING QUARTERS ALLOWANCES FOR NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES

Pub. L. 104-106, div. A, title X, §1042, Feb. 10, 1996, 110 Stat. 434, provided that:

“(a) CONFORMING ALLOWANCE TO ALLOWANCES FOR OTHER CIVILIAN EMPLOYEES.—Subject to subsection (b), an overseas living quarters allowance paid from nonappropriated funds and provided to a nonappropriated fund instrumentality employee after the date of the enactment of this Act [Feb. 10, 1996] may not exceed the amount of a quarters allowance provided under subchapter III of chapter 59 of title 5 to a similarly situated civilian employee of the Department of Defense paid from appropriated funds.

“(b) APPLICATION TO CERTAIN CURRENT EMPLOYEES.—In the case of a nonappropriated fund instrumentality employee who, as of the date of the enactment of this Act [Feb. 10, 1996], receives an overseas living quarters allowance under any other authority, subsection (a) shall apply to such employee only after the earlier of—

“(1) September 30, 1997; or

“(2) the date on which the employee otherwise ceases to be eligible for such an allowance under such other authority.

“(c) NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE DEFINED.—For purposes of this section, the term ‘nonappropriated fund instrumentality employee’ has the meaning given such term in section 1587(a)(1) of title 10, United States Code.”

UNIFORM HEALTH BENEFITS PROGRAM FOR EMPLOYEES OF DEPARTMENT OF DEFENSE ASSIGNED TO NONAPPROPRIATED FUND INSTRUMENTALITIES

Pub. L. 103-337, div. A, title III, §349, Oct. 5, 1994, 108 Stat. 2727, as amended by Pub. L. 108-375, div. A, title VI, §652, Oct. 28, 2004, 118 Stat. 1973, provided that:

“(a) IN GENERAL.—Not later than October 1, 1995, the Secretary of Defense shall take such steps as may be necessary to provide a uniform health benefits program

for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

“(b) PROGRESS REPORT.—Not later than March 15, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress made by the Secretary in implementing subsection (a).

“(c) TREATMENT OF PROGRAM AS FEDERAL HEALTH BENEFIT PROGRAM.—(1) No State tax, fee, other monetary payment, or State health plan requirement, may be imposed, directly or indirectly, on the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or on a carrier or an underwriting or plan administration contractor of the Program, to the same extent as such prohibition applies to the health insurance program authorized by chapter 89 of title 5, United States Code, under section 8909(f) of such title.

“(2) Paragraph (1) shall not be construed to exempt the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or any carrier or underwriting or plan administration contractor of the Program from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to, or realized by, the Program or by such carrier or contractor from business conducted under the Program, so long as the tax, fee, or payment is applicable to a broad range of business activity.

“(3) In this subsection, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any political subdivision or other non-Federal authority thereof.”

§ 1587a. Employees of nonappropriated fund instrumentalities: senior executive pay levels

(a) AUTHORITY.—To achieve the objective stated in subsection (b), the Secretary of Defense may regulate the amount of total compensation that is provided for senior executives of nonappropriated fund instrumentalities who, for the fixing of pay by administrative action, are under the jurisdiction of the Secretary of Defense or the Secretary of a military department.

(b) PAY PARITY.—The objective of an action taken with respect to the compensation of senior executives under subsection (a) is to provide for parity between the total compensation provided for such senior executives and total compensation that is provided for Department of Defense employees in Senior Executive Service positions or other senior executive positions.

(c) STANDARDS OF COMPARABILITY.—Subject to subsection (d), the Secretary of Defense shall prescribe the standards of comparison that are to apply in the making of the determinations necessary to achieve the objective stated in subsection (b).

(d) ESTABLISHMENT OF PAY RATES.—The Secretary of Defense shall apply subsections (a) and (b) of section 5382 of title 5 in the regulation of compensation under this section.

(e) RELATIONSHIP TO PAY LIMITATION.—The Secretary of Defense may exercise the authority provided in subsection (a) without regard to section 5373 of title 5.

(f) DEFINITIONS.—In this section:

(1) The term “compensation” includes rate of basic pay.

(2) The term “Senior Executive Service position” has the meaning given such term in section 3132 of title 5.

(Added Pub. L. 108-375, div. A, title XI, §1104(a), Oct. 28, 2004, 118 Stat. 2073.)

§ 1588. Authority to accept certain voluntary services

(a) **AUTHORITY TO ACCEPT SERVICES.**—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

(2) Voluntary services to be provided for a museum or a natural resources program.

(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

(A) Family support programs.

(B) Child development and youth services programs.

(C) Library and education programs.

(D) Religious programs.

(E) Housing referral programs.

(F) Programs providing employment assistance to spouses of such members.

(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

(4) Voluntary services as a member of a funeral honors detail under section 1491 of this title.

(5) Legal services voluntarily provided as legal assistance under section 1044 of this title.

(6) Voluntary services as a proctor for administration to secondary school students of the test known as the “Armed Services Vocational Aptitude Battery”.

(7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title, or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.

(8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense.

(9) Voluntary services to facilitate accounting for missing persons.

(b) **REQUIREMENTS AND LIMITATIONS.**—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned shall—

(A) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services.

(3) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned may not—

(A) place the person in a policy-making position; or

(B) except as provided in subsection (e), compensate the person for the provision of such services.

(c) **AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.**—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

(d) **STATUS OF PERSONS PROVIDING SERVICES.**—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss) and chapters 309 and 311 of title 46 (relating to claims for damages or loss on navigable waters).

(C) Section 552a of title 5 (relating to maintenance of records on individuals).

(D) Chapter 11 of title 18 (relating to conflicts of interest).

(E) Section 1054 of this title (relating to legal malpractice), for a person voluntarily providing legal services accepted under subsection (a)(5), as if the person were providing the services as an attorney of a legal staff within the Department of Defense.

(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

(A) Subchapter II of chapter 81 of title 5 (relating to compensation of nonappropriated fund employees for work-related injuries).

(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

(A) the average monthly number of hours that the person provided the services, by

(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(e) **REIMBURSEMENT OF INCIDENTAL EXPENSES.**—The Secretary concerned may provide for reim-