

SUBCHAPTER VII—ADMINISTRATION

AMENDMENTS

1950—Act Aug. 28, 1950, ch. 809, title III, pt. 6, §361(f), 64 Stat. 558, substituted “ADMINISTRATION” for “SOCIAL SECURITY BOARD” as subchapter heading.

§ 901. Social Security Administration

(a) There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration (in this subchapter referred to as the “Administration”).

(b) It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under subchapter II of this chapter and the supplemental security income program under subchapter XVI of this chapter.

(Aug. 14, 1935, ch. 531, title VII, §701, 49 Stat. 635; Aug. 28, 1950, ch. 809, title IV, §401(a), 64 Stat. 558; Pub. L. 103-296, title I, §101, Aug. 15, 1994, 108 Stat. 1465.)

AMENDMENTS

1994—Pub. L. 103-296 amended section generally, substituting present provisions for former provisions relating to a Commissioner for Social Security in the Federal Security Agency.

1950—Act Aug. 28, 1950, amended section generally to provide for the appointment of a Commissioner of Social Security.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

TRANSFERS TO NEW SOCIAL SECURITY ADMINISTRATION

Pub. L. 103-296, title I, §105, Aug. 15, 1994, 108 Stat. 1472, provided that:

“(a) FUNCTIONS.—

“(1) IN GENERAL.—There are transferred to the Social Security Administration all functions of the Secretary of Health and Human Services with respect to or in support of the programs and activities the administration of which is vested in the Social Security Administration by reason of this title [see Tables for classification] and the amendments made thereby. The Commissioner of Social Security shall allocate such functions in accordance with sections 701, 702, 703, and 704 of the Social Security Act [42 U.S.C. 901, 902, 903, 904] (as amended by this title).

“(2) FUNCTIONS OF OTHER AGENCIES.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Social Security Administration shall also perform—

“(i) the functions of the Department of Health and Human Services, including functions relating to titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] (including adjudications, subject to final decisions by the Secretary of Health and Human Services), that the Social Security Administration in such Department performed as of immediately before the date of the enactment of this Act [Aug. 15, 1994], and

“(ii) the functions of any other agency for which administrative responsibility was vested in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of this Act.

“(B) RULES GOVERNING CONTINUATION OF FUNCTIONS IN THE ADMINISTRATION.—The Social Security Administration shall perform, on behalf of the Secretary of Health and Human Services (or the head

of any other agency, as applicable), the functions described in subparagraph (A) in accordance with the same financial and other terms in effect on the day before the date of the enactment of this Act, except to the extent that the Commissioner and the Secretary (or other agency head, as applicable) agree to alter such terms pertaining to any such function or to terminate the performance by the Social Security Administration of any such function.

“(b) PERSONNEL, ASSETS, ETC.—

“(1) IN GENERAL.—There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Commissioner of Social Security in the Social Security Administration—

“(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby; and

“(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

“(2) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally appropriated.

“(3) EMPLOYMENT PROTECTIONS.—

“(A) IN GENERAL.—During the 1-year period beginning March 31, 1995—

“(i) the transfer pursuant to this section of any full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such personnel to be separated or reduced in grade or compensation solely as a result of such transfer, and

“(ii) except as provided in subparagraph (B), any such personnel who were not employed in the Social Security Administration in the Department of Health and Human Services immediately before the date of the enactment of this Act [Aug. 15, 1994] shall not be subject to directed reassignment to a duty station outside their commuting area.

“(B) SPECIAL RULES.—

“(i) In the case of personnel whose duty station is in the Washington, District of Columbia, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Baltimore, Maryland, commuting area after September 30, 1995.

“(ii) In the case of personnel whose duty station is in the Baltimore, Maryland, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Washington, District of Columbia, commuting area after September 30, 1995.

“(4) OFFICE SPACE.—Notwithstanding section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) [now 40 U.S.C. 3305(b)(2)(B), 3307], and subject to available appropriations, the Administrator of General Services may, after consultation with the Commissioner of Social Security and under such terms and conditions as the Administrator finds to be in the interests of the United States—

“(A) acquire occupiable space in the metropolitan area of Washington, District of Columbia, for housing the Social Security Administration, and

“(B) renovate such space as necessary.

“(c) INTER-AGENCY TRANSFER ARRANGEMENT.—The Secretary of Health and Human Services and the Commissioner of Social Security shall enter into a written inter-agency transfer arrangement (in this subsection referred to as the ‘arrangement’), which shall be effec-

tive March 31, 1995. Transfers made pursuant to this section shall be in accordance with the arrangement, which shall specify the personnel and resources to be transferred as provided under this section. The terms of such arrangement shall be transmitted not later than January 1, 1995, to the Committee on Ways and Means of the House of Representatives, to the Committee on Finance of the Senate, and to the Comptroller General of the United States. Not later than February 15, 1995, the Comptroller General shall submit a report to each such Committee setting forth an evaluation of such arrangement."

[Section 105(a)–(b)(3) of Pub. L. 103–296, set out above, effective Mar. 31, 1995, and section 105(b)(4), (c) of Pub. L. 103–296, set out above, effective Aug. 15, 1994, see section 110(a), (c) of Pub. L. 103–296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

TRANSITION RULES

Pub. L. 103–296, title I, §106, Aug. 15, 1994, 108 Stat. 1474, provided that:

"(a) TRANSITION RULES RELATING TO OFFICERS OF THE SOCIAL SECURITY ADMINISTRATION.—

"(1) APPOINTMENT OF INITIAL COMMISSIONER OF SOCIAL SECURITY.—The President shall nominate for appointment the initial Commissioner of Social Security to serve as head of the Social Security Administration established under section 701 of the Social Security Act [42 U.S.C. 901] (as amended by this Act) not later than 60 days after the date of the enactment of this Act [Aug. 15, 1994].

"(2) ASSUMPTION OF OFFICE OF INITIAL COMMISSIONER BEFORE EFFECTIVE DATE OF NEW AGENCY.—If the appointment of the initial Commissioner of Social Security pursuant to section 702 of the Social Security Act [42 U.S.C. 902] (as amended by this Act) is confirmed by the Senate pursuant to such section 702 before March 31, 1995, the individual shall take office as Commissioner immediately upon confirmation, and, until March 31, 1995, such Commissioner shall perform the functions of the Commissioner of Social Security in the Department of Health and Human Services.

"(3) TREATMENT OF INSPECTOR GENERAL AND OTHER APPOINTMENTS.—At any time on or after the date of the enactment of this Act [Aug. 15, 1994], any of the officers provided for in section 702 of the Social Security Act (as amended by this title) and any of the members of the Social Security Advisory Board provided for in section 703 of such Act [42 U.S.C. 903] (as so amended) may be nominated and take office, under the terms and conditions set out in such sections.

"(4) COMPENSATION FOR INITIAL OFFICERS AND BOARD MEMBERS BEFORE EFFECTIVE DATE OF NEW AGENCY.—Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Commissioner of Social Security or the Social Security Administration by this title [see Tables for classification], may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer or employee of the new Social Security Administration and of any member or staff of the Social Security Advisory Board who takes office pursuant to this subsection before March 31, 1995, until such time as funds for that purpose are otherwise available.

"(5) INTERIM ROLE OF CURRENT COMMISSIONER AFTER EFFECTIVE DATE OF NEW AGENCY.—In the event that, as of March 31, 1995, an individual appointed to serve as the initial Commissioner of Social Security has not taken office, until such initial Commissioner has taken office, the officer serving on March 31, 1995, as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall, while continuing to serve as such Commissioner of Social Security (or Acting Commissioner of Social Security), serve as Commissioner of Social Security (or Acting

Commissioner of Social Security, respectively) in the Social Security Administration established under such section 701 and shall assume the powers and duties under such Act [42 U.S.C. 301 et seq.] (as amended by this Act) of the Commissioner of Social Security in the Social Security Administration as so established under such section 701. In the event that, as of March 31, 1995, the President has not nominated an individual for appointment to the office of Commissioner of Social Security in the Social Security Administration established under such section 701, then the individual serving as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall become the Acting Commissioner of Social Security in the Social Security Administration as so established under such section 701.

"(6) INTERIM INSPECTOR GENERAL.—The Commissioner of Social Security may appoint an individual to assume the powers and duties under the Inspector General Act of 1978 [Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees] of Inspector General of the Social Security Administration as established under section 701 of the Social Security Act for a period not to exceed 60 days. The Inspector General of the Department of Health and Human Services may, when so requested by the Commissioner, while continuing to serve as Inspector General in such Department, serve as Inspector General of the Social Security Administration established under such section 701 and shall assume the powers and duties under the Inspector General Act of 1978 of Inspector General of the Social Security Administration as established under such section 701. The Social Security Administration shall reimburse the Office of Inspector General of the Department of Health and Human Services for costs of any functions performed pursuant to this subsection, from funds available to the Administration at the time the functions are performed. The authority under this paragraph to exercise the powers and duties of the Inspector General shall terminate upon the entry upon office of an Inspector General for the Social Security Administration under the Inspector General Act of 1978.

"(7) ABOLISHMENT OF OFFICE OF COMMISSIONER OF SOCIAL SECURITY IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Effective when the initial Commissioner of Social Security of the Social Security Administration established under section 701 of the Social Security Act (as amended by this title) takes office pursuant to section 702 of such Act (as so amended)—

"(A) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

"(B) [Amended section 5315 of Title 5, Government Organization and Employees.]

"(b) CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges—

"(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary's delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Commissioner of Social Security; and

"(2) which are in effect immediately before March 31, 1995, shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain

in effect until the date of termination specified in such agreement.

“(c) CONTINUATION OF PROCEEDINGS.—The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before March 31, 1995, with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

“(d) CONTINUATION OF SUITS.—Except as provided in this subsection—

“(1) the provisions of this title shall not affect suits commenced before March 31, 1995; and

“(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer's official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. In any suit, action, or other proceeding pending immediately before March 31, 1995, the court or hearing officer may at any time, on the motion of the court or hearing officer or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

“(e) CONTINUATION OF PENALTIES.—This title shall not have the effect of releasing or extinguishing any civil or criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

“(f) JUDICIAL REVIEW.—Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title and the amendments made thereby (other than functions performed pursuant to 105(a)(2) [set out above]) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before March 31, 1995. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

“(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.”

RULES OF CONSTRUCTION

Pub. L. 103-296, title I, §109, Aug. 15, 1994, 108 Stat. 1489, provided that:

“(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title [see Tables for classification] or a provision of law amended by this title), regulation, rule, record, or document to the De-

partment of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act [42 U.S.C. 401 et seq.] or the supplemental security income program under title XVI of such Act [42 U.S.C. 1381 et seq.] or other functions performed by the Social Security Administration pursuant to section 105(a)(2) of this Act [set out above], such reference shall be considered a reference to the Social Security Administration.

“(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Commissioner of Social Security pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Commissioner of Social Security.

“(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the officer or employee of the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.”

§ 901a. Repealed. Aug. 28, 1950, ch. 809, title IV, § 401(b), 64 Stat. 558

Section, act Aug. 10, 1939, ch. 666, title IX, §908, 53 Stat. 1402, placed Social Security Board under direction and supervision of Federal Security Administrator.

§ 902. Commissioner; Deputy Commissioner; other officers

(a) Commissioner of Social Security

(1) There shall be in the Administration a Commissioner of Social Security (in this subchapter referred to as the “Commissioner”) who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

(3) The Commissioner shall be appointed for a term of 6 years, except that the initial term of office for Commissioner shall terminate January 19, 2001. In any case in which a successor does not take office at the end of a Commissioner's term of office, such Commissioner may continue in office until the entry upon office of such a successor. A Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. An individual serving in the office of Commissioner may be removed from office only pursuant to a finding by the President of neglect of duty or malfeasance in office.

(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have