

Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783, directed Secretary of Health, Education, and Welfare to undertake as soon as possible after Dec. 20, 1977, a thorough study with respect to extent of coverage under old-age, survivors, and disability insurance programs and under programs established by subchapter XVIII of this chapter and submit a report on findings of such study not later than 2 years after Dec. 20, 1977.

PROPOSALS FOR ELIMINATION OF DEPENDENCY AND SEX DISCRIMINATION UNDER SOCIAL SECURITY PROGRAM; STUDY AND REPORT TO CONGRESS

Pub. L. 95-216, title III, §341, Dec. 20, 1977, 91 Stat. 1548, directed Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination, to make a detailed study of proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the program established under subchapter II of this chapter and of proposals to bring about equal treatment for men and women in any and all respects under such program and submit a report to Congress within 6 months of Dec. 20, 1977.

§ 903. Social Security Advisory Board

(a) Establishment of Board

There shall be established a Social Security Advisory Board (in this section referred to as the "Board").

(b) Functions of Board

On and after the date the Commissioner takes office, the Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under subchapter II of this chapter, the program of special benefits for certain World War II veterans under subchapter VIII of this chapter, and the supplemental security income program under subchapter XVI of this chapter. Specific functions of the Board shall include—

(1) analyzing the Nation's retirement and disability systems and making recommendations with respect to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security;

(2) studying and making recommendations relating to the coordination of programs that provide health security with programs described in paragraph (1);

(3) making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the old-age, survivors, and disability insurance program, both in the short-term and the long-term;

(4) making recommendations with respect to the quality of service that the Administration provides to the public;

(5) making recommendations with respect to policies and regulations regarding the old-age, survivors, and disability insurance program and the supplemental security income program;

(6) increasing public understanding of the social security system;

(7) making recommendations with respect to a long-range research and program evaluation plan for the Administration;

(8) reviewing and assessing any major studies of social security as may come to the attention of the Board; and

(9) making recommendations with respect to such other matters as the Board determines to be appropriate.

(c) Structure and membership of Board

(1) The Board shall be composed of 7 members who shall be appointed as follows:

(A) 3 members shall be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party.

(B) 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance.

(C) 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

(2) The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

(d) Terms of appointment

Each member of the Board shall serve for a term of 6 years, except that—

(1) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

(2) the terms of service of the members initially appointed under this section shall begin on October 1, 1994, and expire as follows:

(A) The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

- (i) 2 years;
- (ii) 4 years; and
- (iii) 6 years.

(B) The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

- (i) 3 years; and
- (ii) 6 years.

(C) The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

- (i) 4 years; and
- (ii) 5 years.

(e) Chairman

A member of the Board shall be designated by the President to serve as Chairman for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

(f) Compensation, expenses, and per diem

A member of the Board shall, for each day (including traveltime) during which the member is

attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government employed intermittently.

(g) Meetings

(1) The Board shall meet at the call of the Chairman (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as determined by the Chairman in consultation with the other members of the Board.

(2) Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

(h) Federal Advisory Committee Act

The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(i) Personnel

The Board shall, without regard to the provisions of title 5 relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5. The Board shall appoint such additional personnel as the Board determines to be necessary to provide adequate support for the Board, and may compensate such additional personnel without regard to the provisions of title 5 relating to the competitive service.

(j) Authorization of appropriations

There are authorized to be appropriated, out of the Federal Disability Insurance Trust Fund, the Federal Old-Age and Survivors Insurance Trust Fund, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.

(Aug. 14, 1935, ch. 531, title VII, § 703, 49 Stat. 636; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(c), (d), 64 Stat. 558; Pub. L. 98-369, div. B, title VI, § 2663(l)(1), July 18, 1984, 98 Stat. 1171; Pub. L. 103-296, title I, § 103, Aug. 15, 1994, 108 Stat. 1467; Pub. L. 104-121, title I, § 108, Mar. 29, 1996, 110 Stat. 857; Pub. L. 105-33, title V, § 5526, Aug. 5, 1997, 111 Stat. 625; Pub. L. 106-169, title II, § 251(b)(4), Dec. 14, 1999, 113 Stat. 1855; Pub. L. 108-203, title IV, § 417(a), Mar. 2, 2004, 118 Stat. 530.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (f), is set out under section 5315 of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The provisions of title 5 relating to the competitive service, referred to in subsec. (i), are classified generally to section 3301 et seq. of Title 5.

AMENDMENTS

2004—Subsec. (f). Pub. L. 108-203 amended heading and text of subsec. (f) generally. Prior to amendment, text

read as follows: “Members of the Board shall serve without compensation, except that, while serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government employed intermittently.”

1999—Subsec. (b). Pub. L. 106-169 substituted “subchapter II of this chapter, the program of special benefits for certain World War II veterans under subchapter VIII of this chapter,” for “subchapter II of this chapter” in introductory provisions.

1997—Subsec. (i). Pub. L. 105-33 struck out “, and three professional staff members one of whom shall be appointed from among individuals approved by the members of the Board who are not members of the political party represented by the majority of the Board,” after “Staff Director” and “clerical” after “provide adequate”.

1996—Subsec. (i). Pub. L. 104-121 inserted “, and three professional staff members one of whom shall be appointed from among individuals approved by the members of the Board who are not members of the political party represented by the majority of the Board,” after “Staff Director”.

1994—Pub. L. 103-296 amended section generally. Prior to amendment, section read as follows: “The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out his functions under this chapter. Appointments of attorneys and experts may be made without regard to the civil-service laws.”

1984—Pub. L. 98-369 substituted “Secretary” for “Administrator”.

1950—Act Aug. 28, 1950, substituted “Administrator” for “Board” and “his” for “its”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title IV, § 417(b), Mar. 2, 2004, 118 Stat. 531, provided that: “The amendment made by this section [amending this section] shall be effective as of January 1, 2003.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-33, title V, § 5528, Aug. 5, 1997, 111 Stat. 625, provided that:

“(a) IN GENERAL.—Except as provided in this section, the amendments made by this chapter [chapter 2 (§§ 5521-5528) of subtitle F of title V of Pub. L. 105-33, amending this section, sections 1310, 1382, 1382c, 1382d, and 1383 of this title, and provisions set out as a note under section 1382 of this title and repealing provisions set out as notes under sections 425 and 1382 of this title] shall take effect as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2185).

“(b) SECTION 5524 AMENDMENTS.—The amendments made by section 5524 of this Act [amending section 1310 of this title] shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296; 108 Stat. 1464).

“(c) SECTION 5525 AMENDMENTS.—

“(1) IN GENERAL.—The amendments made by subsections (a) and (b) of section 5525 of this Act [amending provisions set out as a note under section 1382 of this title] shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104-121; 110 Stat. 852 et seq.).

“(2) REPEALS.—The repeals made by section 5525(c) [repealing provisions set out as notes under sections 425 and 1382 of this title] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].

“(d) SECTION 5526 AMENDMENTS.—The amendments made by section 5526 of this Act [amending this section] shall take effect as if included in the enactment

of section 108 of the Contract with America Advancement Act of 1996 (Public Law 104-121; 110 Stat. 857).

“(e) SECTION 5227.—Section 5227 [probably means section 5527 of this Act which is set out as a note under section 909 of this title] shall take effect on the date of the enactment of this Act.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

§ 904. Administrative duties of Commissioner

(a) Personnel

(1) The Commissioner shall appoint such additional officers and employees as the Commissioner considers necessary to carry out the functions of the Administration under this chapter, and attorneys and experts may be appointed without regard to the civil service laws. Except as otherwise provided in the preceding sentence or in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5.

(2) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5.

(3) Notwithstanding any requirements of section 3133 of title 5, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before August 15, 1994, to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Commissioner under subsection (b)(2) of this section. The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

(b) Budgetary matters

(1)(A) The Commissioner shall prepare an annual budget for the Administration, which shall be submitted by the President to the Congress without revision, together with the President's annual budget for the Administration.

(B) The Commissioner shall include in the annual budget prepared pursuant to subparagraph (A) an itemization of the amount of funds required by the Social Security Administration for the fiscal year covered by the budget to support efforts to combat fraud committed by applicants and beneficiaries.

(2)(A) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Commissioner.

(B) Appropriations for administrative expenses of the Administration are authorized to be provided on a biennial basis.

(c) Employment restriction

The total number of positions in the Administration (other than positions established under section 902 of this title) which—

(1) are held by noncareer appointees (within the meaning of section 3132(a)(7) of title 5) in the Senior Executive Service, or

(2) have been determined by the President or the Office of Personnel Management to be of a confidential, policy-determining, policy-making, or policy-advocating character and have been excepted from the competitive service thereby,

may not exceed at any time the equivalent of 20 full-time positions.

(d) Seal of office

The Commissioner shall cause a seal of office to be made for the Administration of such design as the Commissioner shall approve. Judicial notice shall be taken of such seal.

(e) Data exchanges

(1) Notwithstanding any other provision of law (including subsections (b), (o), (p), (q), (r), and (u) of section 552a of title 5—

(A) the Secretary shall disclose to the Commissioner any record or information requested in writing by the Commissioner for the purpose of administering any program administered by the Commissioner, if records or information of such type were disclosed to the Commissioner of Social Security in the Department of Health and Human Services under applicable rules, regulations, and procedures in effect before August 15, 1994; and

(B) the Commissioner shall disclose to the Secretary or to any State any record or information requested in writing by the Secretary to be so disclosed for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations, and procedures in effect before August 15, 1994.

(2) The Commissioner and the Secretary shall enter into an agreement under which the Commissioner provides the Secretary data concerning the quality of the services and information provided to beneficiaries of the programs under subchapters XVIII and XIX of this chapter and the administrative services provided by the Social Security Administration in support of such programs. Such agreement shall stipulate the type of data to be provided and the terms and conditions under which the data are to be provided.

(3) The Commissioner and the Secretary shall periodically review the need for exchanges of information not referred to in paragraph (1) or (2) and shall enter into such agreements as may be necessary and appropriate to provide information to each other or to States in order to meet the programmatic needs of the requesting agencies.

(4)(A) Any disclosure from a system of records (as defined in section 552a(a)(5) of title 5) pursuant to this subsection shall be made as a routine use under subsection (b)(3) of section 552a of such title (unless otherwise authorized under such section 552a).