

**(3) Considerations**

The compensation plan shall provide that education, experience, level of responsibility, geographic differences, and retention and recruitment needs will be taken into account in determining compensation of employees.

**(4) Positions at or below level IV**

The chief executive officer shall determine the salary and benefits of employees whose annual salary is not greater than the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5.

**(5) Positions above level IV**

On the recommendation of the chief executive officer, the Board shall approve the salaries of employees whose annual salaries would be in excess of the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5.

(May 18, 1933, ch. 32, §2, as added Pub. L. 108-447, div. C, title VI, §601, Dec. 8, 2004, 118 Stat. 2963; amended Pub. L. 110-161, div. C, title IV, §401, Dec. 26, 2007, 121 Stat. 1971.)

## PRIOR PROVISIONS

A prior section, act May 18, 1933, ch. 32, §2, 48 Stat. 59, related to the Directors of the Authority, prior to repeal by Pub. L. 108-447, div. C, title VI, §601, Dec. 8, 2004, 118 Stat. 2963.

## AMENDMENTS

2007—Subsec. (f)(2). Pub. L. 110-161 substituted “stipends under paragraph (1)(A)” for “stipend under paragraph (1)(A)(i)”.

## APPOINTMENTS; EFFECTIVE DATE; TRANSITION

Pub. L. 108-447, div. C, title VI, §604, Dec. 8, 2004, 118 Stat. 2967, provided that:

**“(a) APPOINTMENTS.—**

**“(1) IN GENERAL.—**As soon as practicable after the date of enactment of this Act [Dec. 8, 2004], the President shall submit to the Senate nominations of six persons to serve as members of the Board of Directors of the Tennessee Valley Authority in addition to the members serving on the date of enactment of this Act.

**“(2) INITIAL TERMS.—**Notwithstanding section 2(d) of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831a(d)] (as amended by this title), in making the appointments under paragraph (1), the President shall appoint—

**“(A) two members for a term to expire on May 18, 2007;**

**“(B) two members for a term to expire on May 18, 2009; and**

**“(C) two members for a term to expire on May 18, 2011.**

**“(b) EFFECTIVE DATE.—**The amendments made by this title [enacting this section, amending sections 831, 831b, 831c, 831c-3, 831d, 831e, 831g, 831h, 831k, 831l, 831n, 831o, 831q, and 831w of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, and repealing prior section 831a of this title] take effect on the later of—

**“(1) the date on which at least three persons nominated under subsection (a) take office; or**

**“(2) May 18, 2005.**

**“(c) SELECTION OF CHAIRMAN.—**The Board of Directors of the Tennessee Valley Authority shall select one of the members to act as chairman of the Board not later than 30 days after the effective date specified in subsection (b).

**“(d) CONFLICT-OF-INTEREST POLICY.—**The Board of Directors of the Tennessee Valley Authority shall adopt

and submit to Congress a conflict-of-interest policy, as required by section 2(g)(1)(E) of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831a(g)(1)(E)] (as amended by this title), as soon as practicable after the effective date specified in subsection (b).

**“(e) TRANSITION.—**A person who is serving as a member of the board of directors of the Tennessee Valley Authority on the date of enactment of this Act [Dec. 8, 2004]—

**“(1) shall continue to serve until the end of the current term of the member; but**

**“(2) after the effective date specified in subsection (b), shall serve under the terms of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831 et seq.] (as amended by this title).”**

## EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Board of Directors of Tennessee Valley Authority, see Parts 1, 2, and 24 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

**§ 831b. Officers and employees; wages of laborers and mechanics; application of employees' compensation provisions****(a) Appointment by the chief executive officer**

The chief executive officer shall appoint, with the advice and consent of the Board, and without regard to the provisions of the civil service laws applicable to officers and employees of the United States, such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of the business of the Corporation.

**(b) Wage rates**

All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings, dams, locks, or other projects shall contain a provision that not less than the prevailing rate of wages for work of a similar nature prevailing in the vicinity shall be paid to such laborers or mechanics.

In the event any dispute arises as to what are the prevailing rates of wages, the question shall be referred to the Secretary of Labor for determination, and his decision shall be final. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees.

Where such work as is described in the two preceding paragraphs is done directly by the Corporation the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

Insofar as applicable, the benefits of subchapter I of chapter 81 of title 5 shall extend to persons given employment under the provisions of this chapter.

(May 18, 1933, ch. 32, §3, 48 Stat. 59; Pub. L. 92-310, title II, §225(a), June 6, 1972, 86 Stat. 206; Pub. L. 108-447, div. C, title VI, §602, Dec. 8, 2004, 118 Stat. 2966.)

## CODIFICATION

In the last par. of subsec. (b), “subchapter I of chapter 81 of title 5” substituted for “the Act entitled ‘An Act to provide compensation for employees of the United States suffering injuries while in the perform-

ance of their duties, and for other purposes,' approved September 7, 1916, as amended" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### AMENDMENTS

2004—Pub. L. 108-447 added subsec. (a), designated existing provisions as subsec. (b) and inserted heading, and struck out former first undesignated par. which read as follows: "The board shall without regard to the provisions of Civil Service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed in the discretion of the board. No regular officer or employee of the Corporation shall receive a salary in excess of that received by the members of the board."

1972—Pub. L. 92-310 struck out provisions which permitted the board to require bonds from managers, assistant managers, officers, employees, attorneys, and agents.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108-447 take office or May 18, 2005, see section 604(b) of Pub. L. 108-447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

#### PAYMENT OF PHYSICIANS ALLOWANCES

Pub. L. 102-377, title IV, Oct. 2, 1992, 106 Stat. 1342, provided: "That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code".

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 102-104, title IV, Aug. 17, 1991, 105 Stat. 535.
- Pub. L. 101-514, title IV, Nov. 5, 1990, 104 Stat. 2097.
- Pub. L. 101-101, title IV, Sept. 29, 1989, 103 Stat. 665.
- Pub. L. 100-371, title IV, July 19, 1988, 102 Stat. 873.
- Pub. L. 100-202, §101(d) [title IV], Dec. 22, 1987, 101 Stat. 1329-104, 1329-129.
- Pub. L. 99-500, §101(e) [title IV], Oct. 18, 1986, 100 Stat. 1783-194, 1783-212, and Pub. L. 99-591, §101(e) [title IV], Oct. 30, 1986, 100 Stat. 3341-194, 3341-212.

#### LEGAL REPRESENTATION

Customs Courts Act of 1980 as not affecting authority of Tennessee Valley Authority under this chapter to represent itself by attorneys of its choosing, see Pub. L. 96-417, title VII, §705, Oct. 10, 1980, 94 Stat. 1748, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

#### § 831b-1. Acceptance of services of volunteers

The Tennessee Valley Authority may on and after September 29, 1989, accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

(Pub. L. 101-101, title IV, Sept. 29, 1989, 103 Stat. 665.)

#### CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1990, and not as part of the Tennessee Valley Authority Act of 1933 which comprises this chapter.

#### § 831c. Corporate powers generally; eminent domain; construction of dams, transmission lines, etc.

Except as otherwise specifically provided in this chapter, the Corporation—

(a) Shall have succession in its corporate name.

(b) May sue and be sued in its corporate name.

(c) May adopt and use a corporate seal, which shall be judicially noticed.

(d) May make contracts, as herein authorized.

(e) May adopt, amend, and repeal bylaws.

(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

The Board shall select a treasurer and as many assistant treasurers as it deems proper: *Provided*, That any member of said Board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

(g) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation.

(h) Shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this chapter.

(i) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, and other structures, and navigation projects at any point along the Tennessee River, or any of its tributaries, and in the event that the owner or owners of such property shall fail and refuse to sell to the Corporation at a price deemed fair and reasonable by the Board, then the Corporation may proceed to exercise the right of eminent domain, and to condemn all property that it deems necessary for carrying out the purposes of this chapter, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings: *Provided*, That nothing contained herein or elsewhere in this chapter shall be construed to deprive the Corporation of the rights conferred by sections 3114, 3115, and 3118 of title 40.

(j) Shall have power to construct such dams, and reservoirs, in the Tennessee River and its tributaries, as in conjunction with Wilson Dam, and Norris, Wheeler, and Pickwick Landing Dams, now under construction, will provide a