

text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of this title.

**§ 633. Determination of number, locations, and salaries of magistrate judges**

(a) SURVEYS BY THE DIRECTOR.—

(1) The Director shall, within one year immediately following the date of the enactment of the Federal Magistrates Act, make a careful survey of conditions in judicial districts to determine (A) the number of appointments of full-time magistrates and part-time magistrates required to be made under this chapter to provide for the expeditious and effective administration of justice, (B) the locations at which such officers shall serve, and (C) their respective salaries under section 634 of this title. Thereafter, the Director shall, from time to time, make such surveys, general or local, as the conference shall deem expedient.

(2) In the course of any survey, the Director shall take into account local conditions in each judicial district, including the areas and the populations to be served, the transportation and communications facilities available, the amount and distribution of business of the type expected to arise before officers appointed under this chapter (including such matters as may be assigned under section 636(b) of this chapter), and any other material factors. The Director shall give consideration to suggestions from any interested parties, including district judges, United States magistrate judges or officers appointed under this chapter, United States attorneys, bar associations, and other parties having relevant experience or information.

(3) The surveys shall be made with a view toward creating and maintaining a system of full-time United States magistrate judges. However, should the Director find, as a result of any such surveys, areas in which the employment of a full-time magistrate judge would not be feasible or desirable, he shall recommend the appointment of part-time United States magistrate judges in such numbers and at such locations as may be required to permit prompt and efficient issuance of process and to permit individuals charged with criminal offenses against the United States to be brought before a judicial officer of the United States promptly after arrest.

(b) DETERMINATION BY THE CONFERENCE.—Upon the completion of the initial surveys required by subsection (a) of this section, the Director shall report to the district courts, the councils, and the conference his recommendations concerning the number of full-time magistrates and part-time magistrates, their respective locations, and the amount of their respective salaries under section 634 of this title. The district courts shall advise their respective councils, stating their recommendations and the reasons therefor; the councils shall advise the conference, stating

their recommendations and the reasons therefor, and shall also report to the conference the recommendations of the district courts. The conference shall determine, in the light of the recommendations of the Director, the district courts, and the councils, the number of full-time United States magistrates and part-time United States magistrates, the locations at which they shall serve, and their respective salaries. Such determinations shall take effect in each judicial district at such time as the district court for such judicial district shall determine, but in no event later than one year after they are promulgated.

(c) CHANGES IN NUMBER, LOCATIONS, AND SALARIES.—Except as otherwise provided in this chapter, the conference may, from time to time, in the light of the recommendations of the Director, the district courts, and the councils, change the number, locations, and salaries of full-time and part-time magistrate judges, as the expeditious administration of justice may require.

(June 25, 1948, ch. 646, 62 Stat. 916; Aug. 13, 1954, ch. 728, §1(a), (b), 68 Stat. 704; Pub. L. 85-276, §§1, 2, Sept. 2, 1957, 71 Stat. 600; Pub. L. 90-578, title I, §101, Oct. 17, 1968, 82 Stat. 1111; Pub. L. 96-82, §4, Oct. 10, 1979, 93 Stat. 645; Pub. L. 99-651, title II, §202(d), Nov. 14, 1986, 100 Stat. 3648; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

Date of the enactment of the Federal Magistrates Act, referred to in subsec. (a)(1), means Oct. 17, 1968, the date of enactment of Pub. L. 90-578.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-651 substituted “section 634” for “section 643”.

1979—Subsec. (c). Pub. L. 96-82 struck out provision that determinations of the conference changing the number, locations, and salaries of full-time and part-time magistrates take effect sixty days after they are promulgated.

1968—Pub. L. 90-578 substituted provisions for determination of number, locations, and salaries of magistrates, comprising subssecs. (a) to (c) of this section, relating to: surveys by the Director; determination by the conference; and changes in number, locations, and salaries”, respectively, for prior provisions for fees and expenses of United States commissioners, prescribing in undesignated introductory provisions a \$10,500 limitation for any one calendar year for certain enumerated services rendered, and in former subsec. (c) for actual and necessary office expenses, including compensation of a necessary clerical assistant, of United States commissioners performing full time duty in office and not engaged in practice of law, now covered in sections 634 and 635 of this title.

1957—Subsec. (a). Pub. L. 85-276, §1, placed in subsec. (a) provisions of former subsec. (b) relating to limitation of compensation of commissioners and, among other charges, increased fees and compensation of commissioners.

Subsec. (b). Pub. L. 85-276, §2, repealed subsec. (b) which limited compensation of commissioners.

1954—Act Aug. 13, 1954, inserted “and expenses” after “Fees” in section catchline.

Subsec. (c). Act Aug. 13, 1954, added subsec. (c).

CHANGE OF NAME

Words “magistrate judges” and “magistrate judge” substituted for “magistrates” and “magistrate”, respectively, in section catchline and, except for historical references, wherever appearing in subssecs. (a)(2), (3),

and (c) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title. Previously, "United States magistrates" substituted for "United States commissioners" in subsec. (a)(2) pursuant to Pub. L. 90-578.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-651 effective Jan. 1, 1987, see section 203 of Pub. L. 99-651, set out as a note under section 155 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of this title.

### § 634. Compensation

(a) Officers appointed under this chapter shall receive, as full compensation for their services, salaries to be fixed by the conference pursuant to section 633, at rates for full-time United States magistrate judges up to an annual rate equal to 92 percent of the salary of a judge of the district court of the United States, as determined pursuant to section 135, and at rates for part-time magistrate judges of not less than an annual salary of \$100, nor more than one-half the maximum salary payable to a full-time magistrate judge. In fixing the amount of salary to be paid to any officer appointed under this chapter, consideration shall be given to the average number and the nature of matters that have arisen during the immediately preceding period of five years, and that may be expected thereafter to arise, over which such officer would have jurisdiction and to such other factors as may be material. Disbursement of salaries shall be made by or pursuant to the order of the Director.

(b) Except as provided by section 8344, title 5, relating to reductions of the salaries of reemployed annuitants under subchapter III of chapter 83 of such title and unless the office has been terminated as provided in this chapter, the salary of a full-time United States magistrate judge shall not be reduced, during the term in which he is serving, below the salary fixed for him at the beginning of that term.

(c) All United States magistrate judges, effective upon their taking the oath or affirmation of office, and all necessary legal, clerical, and secretarial assistants employed in the offices of full-time United States magistrate judges shall be deemed to be officers and employees in the judicial branch of the United States Government within the meaning of subchapter III (relating to civil service retirement) of chapter 83, chapter 87 (relating to Federal employees' group life insurance), and chapter 89 (relating to Federal employees' health benefits program) of title 5. Part-time magistrate judges shall not be excluded from coverage under these chapters solely for lack of a prearranged regular tour of duty. A legal assistant appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90-578, title I, § 101, Oct. 17, 1968, 82 Stat. 1112; Pub. L. 92-428, Sept. 21, 1972, 86 Stat. 721; Pub. L. 94-520, § 1, Oct. 17, 1976, 90 Stat. 2458; Pub. L. 95-598, title II, § 232, Nov. 6, 1978, 92 Stat. 2665; Pub. L. 96-82, § 8(b), Oct. 10, 1979, 93 Stat. 647; Pub. L. 98-353, title I, § 108(a), title II, § 210, July 10, 1984, 98 Stat. 342, 351; Pub. L. 100-202, § 101(a) [title IV, § 408(b)], Dec. 22, 1987, 101 Stat. 1329, 1329-27; Pub. L. 100-702, title X, § 1003(a)(4), Nov. 19, 1988, 102 Stat. 4665; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

#### HISTORICAL AND REVISION NOTES

Based on sections 29, 72, 74, 80h, 103, 104, 117h, 117j, 132, 132a, 133, 175, 176, 198h, 198j, 204h, 204j, 256f, 256h, 379, 380, 395h, 395j, 403c-9, 403c-11, 403h-7, 403h-9, 404c-7, 404c-9, 408o, and 408q of title 16, U.S.C., 1940 ed., Conservation (May 7, 1894, ch. 72, § 7, 28 Stat. 75; Apr. 17, 1900, ch. 192, § 1, 31 Stat. 133; Apr. 20, 1904, ch. 1400, §§ 9, 11, 33 Stat. 189; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 22, 1914, ch. 264, §§ 9, 11, 38 Stat. 701; June 30, 1916, ch. 197, §§ 9, 11, 39 Stat. 246; Aug. 21, 1916, ch. 368, §§ 9, 11, 39 Stat. 523, 524; June 2, 1920, ch. 218, §§ 11, 13, 41 Stat. 734; Mar. 4, 1923, ch. 295, 42 Stat. 1560; Apr. 25, 1928, ch. 434, §§ 9, 11, 45 Stat. 461; Apr. 26, 1928, ch. 438, §§ 9, 11, 45 Stat. 465; Mar. 2, 1929, ch. 583, §§ 9, 11, 45 Stat. 1539; Apr. 19, 1930, ch. 200, §§ 9, 11, 46 Stat. 229; June 25, 1935, ch. 309, §§ 2, 3, 49 Stat. 422; Aug. 19, 1937, ch. 703, §§ 9, 11, 50 Stat. 702, 703; June 25, 1938, ch. 684, § 2, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; Mar. 6, 1942, ch. 150, §§ 7, 9, 56 Stat. 135; Mar. 6, 1942, ch. 151, §§ 7, 9, 56 Stat. 137; Apr. 29, 1942, ch. 264, §§ 7, 9, 56 Stat. 260, 261; June 5, 1942, ch. 341, §§ 7, 9, 56 Stat. 319; Apr. 23, 1946, ch. 202, § 4, 60 Stat. 120; June 24, 1946, ch. 463, § 5, 60 Stat. 303).

Section consolidates provisions of sections 29, 72, 74, 80h, 103, 104, 117h, 117j, 132, 132a, 133, 175, 176, 198h, 198j, 204h, 204j, 256f, 256h, 379, 380, 395h, 395j, 403c-9, 403c-11, 403h-7, 403h-9, 404c-7, 404c-9, 408o and 408q of title 16, Conservation, relating to salary and fees of park commissioners with changes in arrangement and phraseology necessary to effect consolidation.

The provisions of some of these sections that the park commissioner should be "paid an annual salary, as appropriated for by Congress, payable quarterly" were rewritten upon advice of the Judicial Conference Committee on the Revision of the Judicial Code appointed by the Chief Justice of the United States, in order to place administration supervision of commissioners upon the district court and the Judicial Conference of the United States.

The provisions of some of these sections for deposit of fees, costs, expenses, fines, and penalties with the clerk of district court were rewritten to provide merely that he shall account for the same as public moneys.

The provisions of some of these sections with reference to salaries of the United States attorney and his assistants and the United States marshal and his deputies were omitted as covered by sections 508 [now 548] and 552 [see Prior Provisions note for that section] of this title.

#### SENATE REVISION AMENDMENT

As finally enacted, section 158d of title 16, U.S.C., which was derived from act May 15, 1947, ch. 55, § 4, 61 Stat. 91, 92, was an additional source of this section and was accordingly included by Senate amendment in the schedule of repeals. See 80th Congress Senate Report No. 1559.

#### AMENDMENTS

1988—Subsec. (c). Pub. L. 100-702 inserted at end "A legal assistant appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court."