

submit to the Chief of Engineers recommendations as to the desirability of commencing or continuing any and all improvements upon which reports are required. And in the consideration of such works and projects the board shall have in view the amount and character of commerce existing or reasonably prospective which will be benefited by the improvement, and the relation of the ultimate cost of such work, both as to cost of construction and maintenance, to the public commercial interests involved, and the public necessity for the work and propriety of its construction, continuance, or maintenance at the expense of the United States. And such consideration shall be given as time permits to such works as have, prior to June 13, 1902, been provided for by Congress, the same as in the case of new works proposed. The board shall, when it considers the same necessary, and with the sanction and under orders from the Chief of Engineers, make, as a board or through its members, personal examinations of localities. And all facts, information, and arguments which are presented to the board for its consideration in connection with any matter referred to it by the Chief of Engineers shall be reduced to and submitted in writing, and made a part of the records of the office of the Chief of Engineers. It shall further be the duty of said board, upon a request transmitted to the Chief of Engineers by the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Environment and Public Works of the Senate, in the same manner to examine and report through the Chief of Engineers upon any projects adopted, prior to June 13, 1902, by the Government or upon which appropriations have been made, and report upon the desirability of continuing the same or upon any modifications thereof which may be deemed desirable. As used in this section the term "commerce" shall include the use of waterways by seasonal passenger craft, yachts, house boats, fishing boats, motor boats, and other similar water craft, whether or not operated for hire.

The board shall have authority, with the approval of the Chief of Engineers, to rent quarters, if necessary, for the proper transaction of its business, and to employ such civil employees as may, in the opinion of the Chief of Engineers, be required for properly transacting the business assigned to it, and the necessary expenses of the board shall be paid from allotments made by the Chief of Engineers from any appropriations made by Congress for the work or works to which the duties of the board pertain.

(June 13, 1902, ch. 1079, §3, 32 Stat. 372; Mar. 4, 1913, ch. 144, §4, 37 Stat. 827; Feb. 10, 1932, ch. 26, 47 Stat. 42; Pub. L. 103-437, §12(a), Nov. 2, 1994, 108 Stat. 4590.)

#### CODIFICATION

The original text of section 3 of act June 13, 1902, provided for "a board of five engineer officers, whose duties shall be fixed by the Chief of Engineers." The last proviso of act Mar. 4, 1913, provided "that said board shall consist of seven members, a majority of whom shall be of rank not less than lieutenant colonel."

Other parts of section 4 of act Mar. 4, 1913, are set out in section 542 of this title.

#### AMENDMENTS

1994—Pub. L. 103-437 substituted "Committee on Public Works and Transportation of the House of Representatives, or the Committee on Environment and Public Works of the Senate" for "Committee on Rivers and Harbors of the House of Representatives, or the Committee on Commerce of the Senate".

1932—Act Feb. 10, 1932, inserted sentence defining "commerce".

#### CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

#### TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

Pub. L. 102-580, title II, §223, Oct. 31, 1992, 106 Stat. 4837, provided that: "The Board of Engineers for Rivers and Harbors, established by section 3 of the River and Harbor Act of June 13, 1902 (33 U.S.C. 541), shall cease to exist on the 180th day following the date of the enactment of this Act [Oct. 31, 1992]. The Secretary may reassign to other elements within the Department of the Army such duties and responsibilities of the Board as the Secretary determines to be necessary."

#### WATERWAYS COMMISSION

Act Aug. 8, 1917, ch. 49, §18, 40 Stat. 269, created a commission to be known as the Waterways Commission, to bring into coordination and cooperation the engineering, scientific, and constructive services, bureaus, boards, etc., relating to study development, or control of waterways, etc., prior to repeal by act June 10, 1920, ch. 285, §29, 41 Stat. 1077.

#### § 542. Review by Board of Engineers of reports on examinations and surveys and special reports

All reports on examinations and surveys authorized by law shall be reviewed by the Board of Engineers for Rivers and Harbors as provided for in section 541 of this title, and all special reports ordered by Congress shall, in the discretion of the Chief of Engineers, be reviewed in like manner by said board; and the said board shall also, on request by resolution of the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, submitted to the Chief of Engineers, examine and review the report of any examination or survey made pursuant to any Act or resolution of Congress, and report thereon through the Chief of Engineers, United States Army, who shall submit his conclusions thereon as in other cases: *Provided*, That in no case shall the board, in its report thus called for by committee resolution, extend the scope of the project contemplated in the original report upon which its examination and review has been requested, or in the provision of law authorizing the original examination or survey.

(Mar. 4, 1913, ch. 144, §4, 37 Stat. 826; Pub. L. 103-437, §12(b), Nov. 2, 1994, 108 Stat. 4590.)

#### CODIFICATION

Section is from part of section 4 of act Mar. 4, 1913, popularly known as the "Rivers and Harbors Act of 1913". The last proviso of said section 4 is set out in section 541 of this title.

## AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives” for “Committee on Commerce of the Senate or the Committee on Rivers and Harbors of the House of Representatives”.

## CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

## TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

## TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

**§ 543. Employment of civil engineers on western and northwestern rivers**

The Chief of Engineers may, with the approval of the Secretary of the Army, employ such civil engineers, not exceeding five in number, for the purpose of executing the surveys and improvements of western and northwestern rivers, ordered by Congress, as may be necessary to the proper and diligent prosecution of the same; and the persons so employed may be allowed a reasonable compensation for their services, not to exceed the sum of \$3,000 a year.

(R.S. § 5253; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

## CODIFICATION

R.S. § 5253 derived from Res. Mar. 29, 1867, No. 27, 15 Stat. 28.

## CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

## TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

**§ 544. Repealed. Aug. 19, 1968, Pub. L. 88-448, § 402(a)(9), 78 Stat. 493**

Section, act June 3, 1896, ch. 314, § 7, 29 Stat. 235, related to employment of retired officers of the Army or Navy on river and harbour improvements.

**§ 544a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650**

Section, act June 20, 1938, ch. 535, § 5, 52 Stat. 805, related to employment of retired civil service employees. See section 3323 of Title 5, Government Organization and Employees.

**§ 544b. Employment of physicians to examine employees; fee or employment basis; validation of prior agreements**

The Chief of Engineers may authorize the employment of physicians under agreement, to make such physical examinations of employees or prospective employees as he may consider essential, on a fee or regular employment basis, and all agreements entered into prior to March 2, 1945, for such purposes are validated, and the Comptroller General is authorized and directed to allow credit in the accounts of disbursing officers for reasonable payments made prior to March 2, 1945, for such services.

(Mar. 2, 1945, ch. 19, § 5, 59 Stat. 24.)

## TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

**§ 544c. Minority group participation in construction of the Tennessee-Tombigbee Waterway project; annual report to Congress**

The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the States participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway project, including actions to encourage the use, wherever possible, of minority owned firms.

(Pub. L. 94-587, § 185, Oct. 22, 1976, 90 Stat. 2941; Pub. L. 104-106, div. A, title X, § 1064(e), Feb. 10, 1996, 110 Stat. 445.)

## AMENDMENTS

1996—Pub. L. 104-106 struck out at end “The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendation for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.”

**§ 545. Preliminary examinations and reports; surveys; contents of report to Congress generally**

In all cases where preliminary examinations and surveys are authorized a preliminary examination of the river, harbor, or other proposed improvement mentioned shall first be made and a report as to the advisability of its improvement shall be submitted unless a survey or estimate is expressly directed. If upon such preliminary examination the proposed improvement is not deemed advisable, no further action shall be taken thereon without the further direction of