

§ 168. Validation of certificates and other Board actions

No petition entertained, no investigation made, no election held, and no certification issued by the National Labor Relations Board, under any of the provisions of section 159 of this title, shall be invalid by reason of the failure of the Congress of Industrial Organizations to have complied with the requirements of section 159(f), (g), or (h) of this title prior to December 22, 1949, or by reason of the failure of the American Federation of Labor to have complied with the provisions of section 159(f), (g), or (h) of this title prior to November 7, 1947: *Provided*, That no liability shall be imposed under any provision of this chapter upon any person for failure to honor any election or certificate referred to above, prior to October 22, 1951: *Provided, however*, That this proviso shall not have the effect of setting aside or in any way affecting judgments or decrees heretofore entered under section 160(e) or (f) of this title and which have become final.

(July 5, 1935, ch. 372, §18, as added Oct. 22, 1951, ch. 534, §1(a), 65 Stat. 601.)

REFERENCES IN TEXT

Section 159(f), (g), or (h) of this title, referred to in text, was repealed by Pub. L. 86-257, title II, §201(d), 73 Stat. 525. See section 431 of this title.

§ 169. Employees with religious convictions; payment of dues and fees

Any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required in a contract between such employees' employer and a labor organization in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a non-religious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) of title 26, chosen by such employee from a list of at least three such funds, designated in such contract or if the contract fails to designate such funds, then to any such fund chosen by the employee. If such employee who holds conscientious objections pursuant to this section requests the labor organization to use the grievance-arbitration procedure on the employee's behalf, the labor organization is authorized to charge the employee for the reasonable cost of using such procedure.

(July 5, 1935, ch. 372, §19, as added Pub. L. 93-360, §3, July 26, 1974, 88 Stat. 397; amended Pub. L. 96-593, Dec. 24, 1980, 94 Stat. 3452.)

AMENDMENTS

1980—Pub. L. 96-593 inserted reference to nonlabor organization and provisions respecting charges to employee for use of grievance-arbitration procedure, and struck out applicability of provisions to employees of health care institutions only.

EFFECTIVE DATE

Pub. L. 93-360, §4, July 26, 1974, 88 Stat. 397, provided that: "The amendments made by this Act [enacting

this section and section 183 of this title and amending sections 152 and 158 of this title] shall become effective on the thirtieth day after its date of enactment [July 26, 1974]."

SUBCHAPTER III—CONCILIATION OF LABOR DISPUTES; NATIONAL EMERGENCIES

§ 171. Declaration of purpose and policy

It is the policy of the United States that—

(a) sound and stable industrial peace and the advancement of the general welfare, health, and safety of the Nation and of the best interests of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the processes of conference and collective bargaining between employers and the representatives of their employees;

(b) the settlement of issues between employers and employees through collective bargaining may be advanced by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes; and

(c) certain controversies which arise between parties to collective-bargaining agreements may be avoided or minimized by making available full and adequate governmental facilities for furnishing assistance to employers and the representatives of their employees in formulating for inclusion within such agreements provision for adequate notice of any proposed changes in the terms of such agreements, for the final adjustment of grievances or questions regarding the application or interpretation of such agreements, and other provisions designed to prevent the subsequent arising of such controversies.

(June 23, 1947, ch. 120, title II, §201, 61 Stat. 152.)

EXECUTIVE ORDER NO. 11482

Ex. Ord. No. 11482, Sept. 22, 1969, 34 F.R. 14723, which related to the Construction Industry Collective Bargaining Commission, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 11849

Ex. Ord. No. 11849, Apr. 1, 1975, 40 F.R. 14887, which related to the Collective Bargaining Committee in Construction, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 172. Federal Mediation and Conciliation Service

(a) Creation; appointment of Director

There is created an independent agency to be known as the Federal Mediation and Concilia-

tion Service (herein referred to as the “Service”, except that for sixty days after June 23, 1947, such term shall refer to the Conciliation Service of the Department of Labor). The Service shall be under the direction of a Federal Mediation and Conciliation Director (hereinafter referred to as the “Director”), who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall not engage in any other business, vocation, or employment.

(b) Appointment of officers and employees; expenditures for supplies, facilities, and services

The Director is authorized, subject to the civil service laws, to appoint such clerical and other personnel as may be necessary for the execution of the functions of the Service, and shall fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of title 5, and may, without regard to the provisions of the civil service laws, appoint such conciliators and mediators as may be necessary to carry out the functions of the Service. The Director is authorized to make such expenditures for supplies, facilities, and services as he deems necessary. Such expenditures shall be allowed and paid upon presentation of itemized vouchers therefor approved by the Director or by any employee designated by him for that purpose.

(c) Principal and regional offices; delegation of authority by Director; annual report to Congress

The principal office of the Service shall be in the District of Columbia, but the Director may establish regional offices convenient to localities in which labor controversies are likely to arise. The Director may by order, subject to revocation at any time, delegate any authority and discretion conferred upon him by this chapter to any regional director, or other officer or employee of the Service. The Director may establish suitable procedures for cooperation with State and local mediation agencies. The Director shall make an annual report in writing to Congress at the end of the fiscal year.

(d) Transfer of all mediation and conciliation services to Service; effective date; pending proceedings unaffected

All mediation and conciliation functions of the Secretary of Labor or the United States Conciliation Service under section 51 of this title, and all functions of the United States Conciliation Service under any other law are transferred to the Federal Mediation and Conciliation Service, together with the personnel and records of the United States Conciliation Service. Such transfer shall take effect upon the sixtieth day after June 23, 1947. Such transfer shall not affect any proceedings pending before the United States Conciliation Service or any certification, order, rule, or regulation theretofore made by it or by the Secretary of Labor. The Director and the Service shall not be subject in any way to the jurisdiction or authority of the Secretary of Labor or any official or division of the Department of Labor.

(June 23, 1947, ch. 120, title II, §202, 61 Stat. 153; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

Section 51 of this title, referred to in subsec. (d), was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 642.

CODIFICATION

Provisions of subsec. (a) which prescribed the basic annual compensation of the Director were omitted to conform to the provisions of the Executive Schedule. See section 5314 of Title 5, Government Organization and Employees.

In subsec. (b), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949, 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.

Provisions of subsec. (b) that authorized the Director to fix the compensation of conciliators and mediators without regard to the Classification Act of 1923, as amended, have been omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this section because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, §8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1949—Subsec. (b). Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) requiring the Director to make an annual report in writing to Congress at the end of the fiscal year, see section 3003 of Pub. L. 104-66, set out as a note under section 1113 of Title 31, Money and Finance, and page 171 of House Document No. 103-7.

§ 173. Functions of Service

(a) Settlement of disputes through conciliation and mediation

It shall be the duty of the Service, in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.

(b) Intervention on motion of Service or request of parties; avoidance of mediation of minor disputes

The Service may proffer its services in any labor dispute in any industry affecting commerce, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of