

**§ 4802. Council established**

There is established the Competitiveness Policy Council (hereafter in this chapter referred to as the "Council"), an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 100-418, title V, § 5203, Aug. 23, 1988, 102 Stat. 1456.)

## REFERENCES IN TEXT

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

## TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 4803. Duties of Council**

The Council shall—

(1) develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of United States industries;

(2) provide comments, when appropriate, and through any existing comment procedure, on—

(A) private sector requests for governmental assistance or relief, specifically as to whether the applicant is likely, by receiving the assistance or relief, to become internationally competitive; and

(B) what actions should be taken by the applicant as a condition of such assistance or relief to ensure that the applicant is likely to become internationally competitive;

(3) analyze information concerning current and future United States economic competitiveness useful to decision making in government and industry;

(4) create a forum where national leaders with experience and background in business, labor, academia, public interest activities, and government shall identify and develop recommendations to address problems affecting the economic competitiveness of the United States;

(5) evaluate Federal policies, regulations, and unclassified international agreement on trade, science, and technology to which the United States is a party with respect to the impact on United States competitiveness;

(6) provide policy recommendations to the Congress, the President, and the Federal departments and agencies regarding specific issues concerning competitiveness strategies;

(7) monitor the changing nature of research, science, and technology in the United States and the changing nature of the United States economy and its capacity—

(A) to provide marketable, high quality goods and services in domestic and international markets; and

(B) to respond to international competition;

(8) identify—

(A) Federal and private sector resources devoted to increased competitiveness; and

(B) State and local government programs devised to enhance competitiveness, including joint ventures between universities and corporations;

(9) establish, when appropriate, subcouncils of public and private leaders to develop recommendations on long-term strategies for sectors of the economy and for specific competitiveness issues;

(10) review policy recommendations developed by the subcouncils and transmit such recommendations to the Federal agencies responsible for the implementation of such recommendations;

(11) prepare, publish, and distribute reports containing the recommendations of the Council; and

(12) publish their analysis and recommendations in the form of an annual report to the President and the Congress which also comments on the overall competitiveness of the American economy.

(Pub. L. 100-418, title V, § 5204, Aug. 23, 1988, 102 Stat. 1456.)

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under par. (12) of this section is listed on page 158), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

**§ 4804. Membership****(a) Composition and representation**

(1) The Council shall consist of 12 members, of whom—

(A) four members shall be appointed by the President, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader who has been active in public interest activities; and

(iv) one shall be a head of a Federal department or agency;

(B) four members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly, of whom—

(i) one shall be a national leader with experience or background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government; and

(C) four members shall be appointed by the Speaker, the minority leader of the House of Representatives, acting jointly, of whom—

- (i) one shall be a national leader with experience and background in business;
- (ii) one shall be a national leader with experience and background in the labor community;
- (iii) one shall be a national leader with experience and background in the academic community; and
- (iv) one shall be a representative of State or local government.

(2) In addition to the head of a Federal department or agency appointed in accordance with subsection (a)(1)(A)(iv), other Federal officials may participate on an ex-officio basis as requested by the Council.

(3) All members of the Council shall be individuals who have a broad understanding of the United States economy and the United States competitive position internationally.

(4) Not more than 6 members of the Council shall be members of the same political party.

**(b) Initial appointments**

The initial members of the Council shall be appointed within 30 days after August 20, 1990.

**(c) Vacancies**

(1) A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy on the Council occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(3) A member of the Council may serve after the expiration of the term of such member until the successor of such member has taken office.

**(d) Removal**

Members of the Council may be removed only for malfeasance in office.

**(e) Conflict of interest**

A member of the Council shall not serve as an agent for a foreign principal or a lobbyist for a foreign entity (as the terms "lobbyist" and "foreign entity" are defined under section 1602 of title 2).

**(f) Expenses**

Each member of the Council, while engaged in duties as a member of the Council, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5.

**(g) Quorum**

**(1) In general**

Seven members of the Council constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Council.

**(2) Initial organization**

The Council shall not commence its duties until all the nongovernmental members have been appointed and have qualified.

**(h) Chairperson**

The Council shall elect, by a two-thirds vote of the entire Council, a chairperson from among the nongovernmental members.

**(i) Meetings**

The Council shall meet at the call of the chairperson or a majority of the members.

**(j) Policy actions**

Except as provided in subsection (g), no action establishing policy shall be taken by the Council unless approved by two-thirds of the entire membership of the Council.

**(k) Alternate members**

(1) Each member of the Council shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Council for all purposes, except for voting.

(Pub. L. 100-418, title V, § 5205, Aug. 23, 1988, 102 Stat. 1457; Pub. L. 101-382, title I, § 133(a), Aug. 20, 1990, 104 Stat. 648; Pub. L. 104-65, § 12(a), Dec. 19, 1995, 109 Stat. 701.)

AMENDMENTS

1995—Subsec. (e). Pub. L. 104-65, which directed amendment of section "5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e))" by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 1602 of title 2)" after "an agent for a foreign principal", was executed to section 5205(e) of such Act, which is subsec. (e) of this section, to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101-382, § 133(a)(1), substituted reference to Aug. 20, 1990, for reference to Jan. 21, 1989.

Subsec. (e). Pub. L. 101-382, § 133(a)(2), added subsec. (e) and struck out former subsec. (e) which read as follows:

"(1) A member of the Council may not serve as an agent for a foreign principal.

"(2) Members of the Council shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (Public Law 95-521), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

"(3) Members of the Council shall be deemed to be special Government employees, as defined in section 202 of title 18, for purposes of sections 201, 202, 203, 205, and 208 of such title."

Subsec. (f). Pub. L. 101-382, § 133(a)(2), added subsec. (f) and struck out former subsec. (f) "Compensation" which read as follows:

"(1) Each member of the Council who is not employed by the Federal Government or any State or local government—

"(A) shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule pursuant to section 5332 of title 5 for each day such member is engaged in duties as a member of the Council; and

"(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of such title.

"(2) Each member of the Council who is employed by the Federal Government or any State or local government shall serve on the Council without additional compensation, but while engaged in duties as a member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5."

Subsec. (l). Pub. L. 101-382, § 133(a)(3), struck out subsec. (l) which read as follows: "The Council may procure temporary and intermittent services under section

3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.”

Subsec. (m). Pub. L. 101-382, §133(a)(3), struck out subsec. (m) which read as follows: “Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this chapter.”

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104-65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

### § 4805. Executive Director and staff

#### (a) Executive Director

(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council and who shall be paid at a rate not to exceed GS-18 of the General Schedule.

(2) The Executive Director shall serve on a full-time basis.

#### (b) Staff

(1) Within the limitations of appropriations to the Council, the Executive Director may appoint a staff for the Council in accordance with the Federal civil service and classification laws.

(2) The staff of the Council shall be deemed to be special government employees as defined in section 202 of title 18 for purposes of title II of the Ethics in Government Act of 1978 and sections 201, 202, 203, 205, 207, and 208 of title 18.

#### (c) Experts and consultants

The Council may procure temporary and intermittent services under section 3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

#### (d) Details

Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this chapter.

(Pub. L. 100-418, title V, §5206, Aug. 23, 1988, 102 Stat. 1459; Pub. L. 101-382, title I, §133(b), Aug. 20, 1990, 104 Stat. 648.)

#### REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (b)(2), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824, as amended. Title II of the Ethics in Government Act of 1978 was set out in the Appendix to Title 5, prior to repeal by Pub. L. 101-194, title II, §201, Nov. 30, 1989, 103 Stat. 1724. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95-521 in the Appendix to Title 5 and Tables.

#### AMENDMENTS

1990—Subsecs. (c), (d). Pub. L. 101-382 added subsecs. (c) and (d).

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organi-

zation and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

### § 4806. Powers of Council

#### (a) Hearings

The Council may, for the purpose of carrying out the provisions of this chapter, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before the Council.

#### (b) Information

(1)(A) Except as provided in subparagraph (B), the Council may secure directly from any Federal agency information necessary to enable the Council to carry out the provisions of this chapter. Upon request of the chairman of the Council, the head of such agency shall promptly furnish such information to the Council.

(B) Subparagraph (A) does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(2) In any case in which the Council receives any information from a Federal agency, the Council shall not disclose such information to the public unless such agency is authorized to disclose such information pursuant to Federal law.

#### (c) Consultation with President and Congress

No later than 120 days after the initial members are appointed to the Council, the Council shall submit a report to the President, the Senate Governmental Affairs Committee, and the appropriate committees of the House of Representatives and of the Senate, that proposes the type and scope of activities the Council shall undertake, including the extent to which the Council will coordinate activities with other advisory committees relating to trade and competitiveness in order to maximize the effectiveness of the Council.

#### (d) Gifts

The Council may accept, use, and dispose of gifts or donations of services or property.

#### (e) Use of mails

The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

#### (f) Administrative and support services

The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative and support services as the Council may request.

#### (g) Subcouncils

(1) The Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitive issues.

(2) Any such subcouncil shall include representatives of business, labor, government, and other individuals or representatives of groups whose participation is considered by the Council