

of pay applicable immediately prior to the date of transfer, and annual and sick leave balances shall be credited to leave accounts of such personnel in the Senate Restaurants.

(Pub. L. 105-55, title I, Oct. 7, 1997, 111 Stat. 1189.)

REFERENCES IN TEXT

Appropriations under this heading, referred to in text, probably means appropriations under the headings “ARCHITECT OF THE CAPITOL”, “CAPITAL BUILDINGS AND GROUNDS”, and “SENATE OFFICE BUILDINGS” in the annual Legislative Branch Appropriations Act.

CODIFICATION

Section was classified to section 174j-10 of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, §1, Aug. 21, 2002, 116 Stat. 1062.

Section is from the Congressional Operations Appropriations Act, 1998, which is title I of the Legislative Branch Appropriations Act, 1998.

§ 2051. Continued benefits for certain Senate Restaurants employees

(a) Definitions

In this section:

(1) Contractor

The term “contractor” means the private business concern that enters into a food services contract with the Architect of the Capitol.

(2) Covered individual

The term “covered individual” means any individual who—

(A) is a Senate Restaurants employee who is an employee of the Architect of the Capitol on July 17, 2008, including—

(i) a permanent, full-time or part-time employee;

(ii) a temporary, full-time or part-time employee; and

(iii) an employee in a position described under section 2048¹ of this title;

(B) becomes an employee of the contractor under a food services contract on the transfer date; and

(C) with respect to benefits under subsection (c)(2) or (3), files an election before the transfer date with the Office of Human Resources of the Architect of the Capitol to have 1 or more benefits continued in accordance with this section.

(3) Food services contract

The term “food services contract” means a contract under which food services operations of the Senate Restaurants are transferred to, and performed by, a private business concern.

(4) Transfer date

The term “transfer date” means the date on which a contractor begins the performance of food services operations under a food services contract.

(b) Election of coverage

(1) In general

(A) Retirement coverage

Not later than the day before the transfer date, an individual described under subsection (a)(2)(A) and (B) may file an election with the Office of Human Resources of the Architect of the Capitol to continue coverage under the retirement system under which that individual is covered on that day.

(B) Life and health insurance coverage

If the individual files an election under subparagraph (A) to continue retirement coverage, the individual may also file an election with the Office of Human Resources of the Architect of the Capitol to continue coverage of any other benefit under subsection (c)(2) or (3) for which that individual is covered on that day. Any election under this subparagraph shall be filed not later than the day before the transfer date.

(2) Notification to the Office of Personnel Management

The Office of Human Resources of the Architect of the Capitol shall provide timely notification to the Office of Personnel Management of any election filed under paragraph (1).

(c) Continuity of benefits

(1) Pay

The rate of basic pay of a covered individual as an employee of a contractor, or successor contractor, during a period of continuous service may not be reduced to a rate less than the rate of basic pay paid to that individual as an employee of the Architect of the Capitol on the day before the transfer date, except for cause.

(2) Retirement and life insurance benefits

(A) In general

For purposes of chapters 83, 84, and 87 of title 5—

(i) any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) the rate of basic pay of the covered individual during the period described under clause (i) shall be deemed to be the rate of basic pay of that individual as an employee of the Architect of the Capitol on the date on which the Architect of the Capitol enters into the food services contract.

(B) Treatment as Civil Service Retirement Offset employees

In the case of a covered individual who on the day before the transfer date is subject to subchapter III of chapter 83 of title 5 but whose employment with the Architect of the Capitol is not employment for purposes of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of title 26—

(i) the employment described under subparagraph (A)(i) shall, for purposes of sub-

¹ See References in Text note below.

chapter III of chapter 83 of title 5, be deemed to be—

(I) employment of an individual described under section 8402(b)(2) of title 5; and

(II) Federal service as defined under section 8349(c) of title 5; and

(ii) the basic pay described under subparagraph (A)(ii) for employment described under subparagraph (A)(i) shall be deemed to be Federal wages as defined under section 8334(k)(2)(C)(i) of title 5.

(3) Health insurance benefits

For purposes of chapters 89, 89A, and 89B of title 5, any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, shall be deemed to be a period of service as an employee of the Architect of the Capitol.

(4) Leave

(A) Credit of leave

Subject to section 6304 of title 5, annual and sick leave balances of any covered individual shall be credited to the leave accounts of that individual as an employee of the contractor, or any successor contractor. A food services contract may include provisions similar to regulations prescribed under section 6308 of title 5 to implement this subparagraph.

(B) Accrual rate

During any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, that individual shall continue to accrue annual and sick leave at rates not less than the rates applicable to that individual on the day before the transfer date.

(C) Omitted

(5) Transit subsidy

For purposes of any benefit under section 7905 of title 5, any period of continuous service performed by a covered individual as an employee of a contractor, or successor contractor, shall be deemed to be a period of service as an employee of the Architect of the Capitol.

(6) Employee pay; Government contributions; transit subsidy payments; and other benefits

(A) Payment by contractor

A contractor, or any successor to the contractor, shall pay—

(i) the pay of a covered individual as an employee of a contractor, or successor contractor, during a period of continuous service;

(ii) Government contributions for the benefits of a covered individual under paragraph (2) or (3);

(iii) any transit subsidy for a covered individual under paragraph (5); and

(iv) any payment for any other benefit for a covered individual in accordance with a food services contract.

(B) Reimbursements and payments by Architect of the Capitol

From appropriations made available to the Architect of the Capitol under the heading

“SENATE OFFICE BUILDINGS” under the heading “ARCHITECT OF THE CAPITOL”, the Architect of the Capitol shall—

(i) reimburse a contractor, or any successor contractor, for that portion of any payment under subparagraph (A) which the Architect of the Capitol agreed to pay under a food services contract; and

(ii) pay a contractor, or any successor contractor, for any administrative fee (or portion of an administrative fee) which the Architect of the Capitol agreed to pay under a food services contract.

(7) Regulations

(A) Office of Personnel Management

(i) In general

After consultation with the Architect of the Capitol, the Director of the Office of Personnel Management shall prescribe regulations to provide for the continuity of benefits under paragraphs (2) and (3).

(ii) Contents

Regulations under this subparagraph shall—

(I) include regulations relating to employee deductions and employee and employer contributions and deposits in the Civil Service Retirement and Disability Fund, the Employees’ Life Insurance Fund, and the Employees Health Benefits Fund; and

(II) provide for the Architect of the Capitol to perform employer administrative functions necessary to ensure administration of continued coverage of benefits under paragraphs (2) and (3), including receipt and transmission of the deductions, contributions, and deposits described under subclause (I), the collection and transmission of such information as necessary, and the performance of other administrative functions as may be required.

(B) Thrift Savings Plan benefits

After consultation with the Architect of the Capitol, the Executive Director appointed by the Federal Retirement Thrift Investment Board under section 8474(a) of title 5 shall prescribe regulations to provide for the continuity of benefits under paragraph (2) of this subsection relating to subchapter III of chapter 84 of that title. Regulations under this subparagraph shall include regulations relating to employee deductions and employee and employer contributions and deposits in the Thrift Savings Fund.

(d) Covered individuals not entitled to severance pay

(1) In general

Except as provided under paragraph (2), a covered individual shall not be entitled to severance pay under section 5595 of title 5 by reason of—

(A) separation from service with the Architect of the Capitol and becoming an employee of a contractor under a food services contract; or

(B) termination of employment with a contractor, or successor to a contractor.

(2) Separation during 90-day period

(A) In general

(i) Covered individuals

Except as provided under clause (ii), a covered individual shall be entitled to severance pay under section 5595 of title 5 if during the 90-day period following the transfer date the employment of that individual with a contractor is terminated as provided under a food services contract.

(ii) Exception

Clause (i) shall not apply to a covered individual who is terminated for cause.

(B) Treatment

For purposes of section 5595 of title 5—

(i) any period of continuous service performed by a covered individual described under subparagraph (A) as an employee of a contractor shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) any termination of employment of a covered individual described under subparagraph (A) with a contractor shall be treated as a separation from service with the Architect of the Capitol.

(e) Voluntary separation incentive payments

(1) Submission of plan

Not later than 30 days after July 17, 2008, the Architect of the Capitol shall submit a plan under section 4505 of this title to the applicable committees as provided under that section.

(2) Plan

(A) In general

Notwithstanding section 4505(e) of this title, the plan submitted under this subsection shall—

(i) offer a voluntary separation incentive payment to any employee described under subsection (a)(2)(A) of this section in accordance with section 4505 of this title; and

(ii) offer such a payment to any such employee who becomes a covered individual, if that individual accepts the offer during the 90-day period following the transfer date.

(B) Treatment of covered individuals

For purposes of the plan under this subsection—

(i) any period of continuous service performed by a covered individual as an employee of a contractor shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) any termination of employment of a covered individual with a contractor shall be treated as a separation from service with the Architect of the Capitol.

(f) Early retirement treatment for certain separated employees

(1) In general

This subsection applies to—

(A) an employee of the Senate Restaurants of the Office of the Architect of the Capitol who—

(i) voluntarily separates from service on or after July 17, 2008, but prior to the day before the transfer date; and

(ii) on such date of separation—

(I) has completed 25 years of service as defined under section 8331(12) or 8401(26) of title 5; or

(II) has completed 20 years of such service and is at least 50 years of age; and

(B) except as provided under paragraph (2), a covered individual—

(i) whose employment with a contractor is terminated as provided under a food services contract during the 90-day period following the transfer date; and

(ii) on the date of such termination—

(I) has completed 25 years of service as defined under section 8331(12) or 8401(26) of title 5; or

(II) has completed 20 years of such service and is at least 50 years of age.

(2) Exception

Paragraph (1)(B) shall not apply to a covered individual who is terminated for cause.

(3) Treatment

(A) Annuity

Notwithstanding any provision of chapter 83 or 84 of title 5, an employee described under paragraph (1) is entitled to an annuity which shall be computed consistent with the provisions of law applicable to annuities under section 8336(d) or 8414(b) of title 5.

(B) Separation during 90-day period

For purposes of chapter 83 or 84 of title 5—

(i) any period of continuous service performed by a covered individual described under paragraphs (1)(B) and (2) as an employee of a contractor shall be deemed to be a period of service as an employee of the Architect of the Capitol; and

(ii) any termination of employment of a covered individual described under paragraphs (1)(B) and (2) with a contractor shall be treated as a separation from service with the Architect of the Capitol.

(g) Congressional Accountability Act of 1995

(1), (2) Omitted

(3) Continuing application to certain acts and omissions

For purposes of the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) a covered individual shall be treated as an employee of the Architect of the Capitol with respect to any act or omission which occurred before the transfer date.

(h) Deposit of commissions

(1) Senate Restaurants food services contract

Any commissions paid by a contractor under a food services contract shall be deposited in the miscellaneous items account within the contingent fund of the Senate.

(2) Use of funds

Any funds deposited under paragraph (1) shall be available for expenditure in the same

manner as funds appropriated into that account.

(i) Effective date

This section shall take effect on July 17, 2008, and apply to the remainder of the fiscal year in which enacted and each fiscal year thereafter.

(Pub. L. 110-279, §1, July 17, 2008, 122 Stat. 2604.)

REFERENCES IN TEXT

Section 2048 of this title, referred to in subsec. (a)(2)(A)(iii), was repealed by Pub. L. 110-279, §1(c)(4)(C), July 17, 2008, 122 Stat. 2606.

The Social Security Act, referred to in subsec. (c)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Appropriations made available to the Architect of the Capitol under the heading "SENATE OFFICE BUILDINGS" under the heading "ARCHITECT OF THE CAPITOL", referred to in subsec. (c)(6)(B), probably means appropriations under the heading "SENATE OFFICE BUILDINGS" under the heading "ARCHITECT OF THE CAPITOL" in the annual Legislative Branch Appropriations Act.

The Congressional Accountability Act of 1995, referred to in subsec. (g)(3), is Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to chapter 24 (§1301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

CODIFICATION

Section is comprised of section 1 of Pub. L. 110-279. Subsec. (c)(4)(C) of section 1 of Pub. L. 110-279 repealed section 2048 of this title. Subsec. (g)(1), (2) of section 1 of Pub. L. 110-279 amended sections 1301 and 1331 of this title.

§ 2052. Senate restaurant deficit fund; deposit of proceeds from surcharge on orders

The Committee on Rules and Administration of the United States Senate is authorized and directed hereafter to add a minimum of 10 per centum to each order in excess of 10 cents served in the Senate restaurants and 20 per centum to all orders served outside of said restaurants, and the proceeds accruing therefrom shall be placed in a fund to be used in the payment of any deficit incurred in the management of such kitchens and restaurants.

(May 18, 1937, ch. 223, §1, 50 Stat. 173; Aug. 2, 1946, ch. 753, title I, §102, 60 Stat. 814.)

CODIFICATION

Section was formerly classified to section 121 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1946—Act Aug. 2, 1946, substituted "Committee on Rules and Administration" for "Committee on Rules".

EFFECTIVE DATE OF 1946 AMENDMENT

Act Aug. 2, 1946, ch. 753, title I, §142, 60 Stat. 834, provided that the amendment made by that act is effective Jan. 2, 1947.

SUBCHAPTER IV—CHILD CARE

§ 2061. Designation of play areas on Capitol grounds for children attending day care center

(a) Authority of Capitol Police Board

Notwithstanding any other provision of law and subject to the provisions of paragraph (1) of subsection (b), the Capitol Police Board is authorized to designate certain portions of the Capitol grounds (other than a portion within the area bounded on the North by Constitution Avenue, on the South by Independence Avenue, on the East by First Street, and on the West by First Street) for use exclusively as play areas for the benefit of children attending a day care center which is established for the primary purpose of providing child care for the children of Members and employees of the Senate or the House of Representatives.

(b) Required approval; fences; termination of authority

(1) In the case of any such designation referred to in subsection (a) involving a day care center established for the benefit of children of Members and employees of the Senate, the designation shall be with the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the designation shall be with the approval of the House Committee on House Oversight, with the concurrence of the House Office Building Commission.

(2) The Architect of the Capitol shall enclose with a fence any area designated pursuant to subsection (a) as a play area.

(3) The authority to use an area designated pursuant to subsection (a) as a play area may be terminated at any time by the Committee which approved such designation.

(c) Playground equipment; required approval

Nothing in this or any other Act shall be construed as prohibiting any day care center referred to in subsection (a) from placing playground equipment within an area designated pursuant to subsection (a) for use solely in connection with the operation of such center, subject to, in the case of a day care center established for the benefit of children of Members and employees of the Senate, the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the approval of the House Committee on House Oversight, with the concurrence of the House Office Building Commission.

(d) Day care center

The day care center referred to in S. Res. 269, Ninety-eighth Congress, first session, is a day care center for which space may be designated under subsection (a) for use as a play area.

(Pub. L. 98-392, §3, Aug. 21, 1984, 98 Stat. 1362; Pub. L. 104-186, title II, §221(14), Aug. 20, 1996, 110 Stat. 1750.)

REFERENCES IN TEXT

S. Res. 269, Ninety-eighth Congress, first session, referred to in subsec. (d), is dated Nov. 14, 1983, and reads