

AMENDMENTS

2002—Subsec. (c)(2). Pub. L. 107-323, §2(b), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsec. (d)(3). Pub. L. 107-323, §2(a), substituted "The World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial" for "The Korean War Veterans Memorial and the Vietnam Veterans Memorial".

1998—Subsecs. (b) to (g). Pub. L. 105-354 added subsecs. (b) to (g) and struck out former subsecs. (b) and (c) which read as follows:

- “(b) DISPLAY.—The flag shall be displayed—
“(1) at each national cemetery and at the National Vietnam Veterans Memorial each year on Memorial Day and Veterans Day and on any day designated by law as National POW/MIA Recognition Day; and
“(2) on, or on the grounds of, the buildings containing the primary offices of the Secretaries of State, Defense, and Veterans Affairs, and the Director of the Selective Service System on any day designated by law as National POW/MIA Recognition Day.
“(c) TERMINATION OF FLAG DISPLAY REQUIREMENT.—Subsection (b) of this section ceases to apply when the President decides that the fullest possible accounting has been made of all members of the Armed Forces and civilian employees of the United States Government who have been identified as prisoners of war or missing in action in Southeast Asia.”

DISPLAY ON EXISTING FLAGPOLE

Pub. L. 107-323, §2(c), Dec. 4, 2002, 116 Stat. 2788, provided that: "No element of the United States Government may construe the amendments made by this section [amending this section] as requiring the acquisition of [sic] erection of a new or additional flagpole for purposes of the display of the POW/MIA flag."

§ 903. Designation of Medal of Honor Flag

(a) DESIGNATION.—The Secretary of Defense shall design and designate a flag as the Medal of Honor Flag. In selecting the design for the flag, the Secretary shall consider designs submitted by the general public.

(b) PRESENTATION.—The Medal of Honor Flag shall be presented as specified in sections 3755, 6257, and 8755 of title 10 and section 505 of title 14.

(Added Pub. L. 107-248, title VIII, §8143(b)(1), Oct. 23, 2002, 116 Stat. 1570.)

FINDINGS

Pub. L. 107-248, title VIII, §8143(a), Oct. 23, 2002, 116 Stat. 1570, provided that: "Congress finds that—

- “(1) the Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Forces of the United States;
“(2) the Medal of Honor was established by Congress during the Civil War to recognize soldiers who had distinguished themselves by gallantry in action;
“(3) the Medal of Honor was conceived by Senator James Grimes of the State of Iowa in 1861; and
“(4) the Medal of Honor is the Nation’s highest military honor, awarded for acts of personal bravery or self-sacrifice above and beyond the call of duty.”

PRESENTATION OF MEDAL OF HONOR FLAG

Pub. L. 107-248, title VIII, §8143(d), Oct. 23, 2002, 116 Stat. 1571, provided that: "The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36, United States Code, as added by subsection (b), to each person awarded the Medal of Honor before the date of enactment of this Act [Oct. 23, 2002] who is living as of that date.

Such presentation shall be made as expeditiously as possible after the date of the designation of the Medal of Honor Flag by the Secretary of Defense under such section."

PART B—UNITED STATES GOVERNMENT ORGANIZATIONS INVOLVED WITH OBSERVANCES AND CEREMONIES

CHAPTER 21—AMERICAN BATTLE MONUMENTS COMMISSION

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2115. Acquisition, operation, and maintenance of Lafayette Escadrille Memorial.

AMENDMENTS

2016—Pub. L. 114-227, §1(b), Sept. 29, 2016, 130 Stat. 934, added item 2115.

1999—Pub. L. 106-117, title VI, §§601(a)(2), 603(b), Nov. 30, 1999, 113 Stat. 1578, 1579, added items 2113 and 2114.

§ 2101. Membership

(a) COMPOSITION AND TERMS.—The American Battle Monuments Commission has not more than 11 members appointed by the President. The President also shall appoint one officer of the Regular Army to serve as secretary of the Commission. The members and secretary serve at the pleasure of the President. The President shall fill any vacancies that occur. Notwithstanding any other law, members of the Armed Forces may be appointed members of the Commission.

(b) PAY AND EXPENSES.—The members of the Commission serve without compensation. However, the members of the Commission may receive, from an amount appropriated to carry out this chapter or acquired by another authorized way—

- (1) their actual expenses related to the work of the Commission;
(2) when in a travel status outside the continental United States, a per diem at the rate authorized to be paid for members of the uniformed services under section 475 of title 37 instead of subsistence; and
(3) when in a travel status in the continental United States, a per diem at the rate authorized to be paid under sections 5702 and 5703 of title 5 instead of subsistence.

(c) EXPENSES OF OFFICERS OF ARMED FORCES SERVING ON COMMISSION.—An officer of the Armed Forces serving as a member or as secretary of the Commission may be reimbursed for

expenses when traveling on business of the Commission in the same way as civilian members of the Commission.

(Pub. L. 105-225, Aug. 12, 1998, 112 Stat. 1269; Pub. L. 106-117, title VI, § 604(1), Nov. 30, 1999, 113 Stat. 1580; Pub. L. 112-81, div. A, title VI, § 631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, § 1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2101(a)	36:121 (1st par.).	Mar. 4, 1923, ch. 283, § 1 (1st par.), 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317; Dec. 18, 1989, Pub. L. 101-237, title V, § 503, 103 Stat. 2094.
2101(b)	36:121 (2d par.).	Mar. 4, 1923, ch. 283, § 1 (2d par.), 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317; July 25, 1956, ch. 721, § 1, 70 Stat. 640; Oct. 21, 1970, Pub. L. 91-480, 84 Stat. 1081; Apr. 1, 1976, Pub. L. 94-256, 90 Stat. 301.
	36:121 (last par.).	Mar. 4, 1923, ch. 283, § 1 (last par.), 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317; July 25, 1956, ch. 721, § 1, 70 Stat. 640.
2101(c)	36:122.	Sept. 26, 1996, Pub. L. 104-204, title III, (2d proviso in par. under heading "American Battle Monuments Commission"), 110 Stat. 2907.

In subsection (a), the words "from time to time" are omitted as unnecessary.

In subsection (b), before clause (1), the text of 36:121 (last par.) is omitted as executed. In clauses (2) and (3), the word "same" is omitted as unnecessary. In clause (2), the words "authorized to be paid" are substituted for "prescribed" for consistency with clause (3) and 37:405.

Subsection (c) is based on 36:122 which is from the 2d proviso in the paragraph under the heading "American Battle Monuments Commission" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204, 110 Stat. 2907). The provision has been repeated each year in prior appropriations acts and therefore is restated as a permanent provision. For prior provisions, see citations under 36:122 (1994 ed.). In the restatement, the words "in the same way as" are substituted for "as provided for" for clarity and consistency in the revised title.

AMENDMENTS

2013—Subsec. (b)(2). Pub. L. 112-239, § 1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, § 631(f)(4)(B). See 2011 Amendment note below.

2011—Subsec. (b)(2). Pub. L. 112-81, § 631(f)(4)(B), as amended by Pub. L. 112-239, § 1076(a)(9), substituted "475" for "405".

1999—Subsec. (b)(2). Pub. L. 106-117, § 604(1)(A), struck out ", United States Code," after "title 37".

Subsec. (b)(3). Pub. L. 106-117, § 604(1)(B), struck out ", United States Code," after "title 5".

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, § 1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

§ 2102. Employment of personnel

(a) GENERAL.—Within the limits of an appropriation made to employ personnel, the American Battle Monuments Commission may em-

ploy personnel necessary to carry out this chapter. To ensure adequate care and maintenance of cemeteries, monuments, and memorials, the Commission, subject to the availability of appropriations, shall employ—

(1) at least 50 individuals in the competitive service (as defined in section 2102 of title 5), of whom at least 43 shall be assigned to duty in foreign countries where the cemeteries, monuments, and memorials are located; and

(2) at least 348 individuals who are citizens of the countries where the cemeteries, monuments, and memorials are located.

(b) DETAILED PERSONNEL.—On request of the Commission, the heads of departments, agencies, and instrumentalities of the United States Government may make available to the Commission their personnel and facilities to assist in carrying out this chapter, and may expend for that purpose amounts appropriated to the department, agency, and instrumentality. The Commission shall reimburse the department, agency, or instrumentality for the pay and allowances of personnel made available to the Commission.

(c) STATION ALLOWANCE FOR OFFICERS ASSIGNED TO THE COMMISSION.—For officers of the Armed Forces assigned to the Commission, the same station allowance shall be authorized for serving at foreign stations as the Secretary of the Army has authorized for officers of the Army.

(d) CITIZENSHIP REQUIREMENT.—An individual may be employed as the superintendent, or as an assistant superintendent, of a cemetery operated by the Commission only if the individual is a citizen of the United States.

(Pub. L. 105-225, Aug. 12, 1998, 112 Stat. 1269; Pub. L. 105-354, § 1(2), Nov. 3, 1998, 112 Stat. 3239; Pub. L. 106-117, title VI, § 604(2), Nov. 30, 1999, 113 Stat. 1580.)

HISTORICAL AND REVISION NOTES
PUB. L. 105-225

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2102(a)	36:121 (3d par. 2d, 3d sentences).	Mar. 4, 1923, ch. 283, § 1 (3d par.), 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317; July 25, 1956, ch. 721, § 1, 70 Stat. 640; Oct. 18, 1978, Pub. L. 95-479, title III, § 306, 92 Stat. 1566; Oct. 7, 1980, Pub. L. 96-385, title V, § 506, 94 Stat. 1537.
2102(b)	36:121 (3d par. 1st sentence). 36:122a.	Sept. 26, 1996, Pub. L. 104-204, title III, (1st, last provisos in par. under heading "American Battle Monuments Commission"), 110 Stat. 2907.
2102(c)	36:121b.	
2102(d)	36:121 (3d par. last sentence).	

In subsection (a) before clause (1), the words "or appropriations" are omitted because of 1:1. The words "further" and "under the jurisdiction of the Commission" are omitted as unnecessary. In clause (2), the words "who shall be hired for local employment relating to the care and maintenance of such cemeteries, monuments, and memorials" are omitted as unnecessary.

Subsections (b) and (c) are based in part on 36:121b and 122a, which are from the first and last provisos in