

Subsec. (e)(2). Pub. L. 109-364, §505(b), designated existing provisions as subpar. (A) and added subpar. (B).

2002—Subsec. (e)(6). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1994—Subsec. (a)(4)(B). Pub. L. 103-337, §541(b)(5)(A), inserted “, or severance pay computed under section 286a of title 14, as appropriate,” after “section 1174 of this title”.

Subsec. (e)(6). Pub. L. 103-337, §541(b)(5)(B), inserted “and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy,” after “Secretary of Defense”.

1993—Subsec. (a)(4)(A). Pub. L. 103-160, §505(a)(1), inserted “(except as provided in subparagraph (C))” after “shall be separated”.

Subsec. (a)(4)(C). Pub. L. 103-160, §505(a)(2), added subpar. (C).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title V, §505(b), Nov. 30, 1993, 107 Stat. 1646, provided that: “The amendments made by subsection (a) [amending this section] shall apply to warrant officers who have not been separated pursuant to section 580(a)(4) of title 10, United States Code, before the date of enactment of this Act [Nov. 30, 1993].”

#### EFFECTIVE DATE

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

#### RETIRED AND RETAINER PAY OF MEMBERS ON RETIRED LISTS OR RECEIVING RETAINER PAY

Act Oct. 12, 1949, ch. 681, title V, §511, 63 Stat. 829, as amended May 19, 1952, ch. 310, §4, 66 Stat. 80; Apr. 23, 1956, ch. 208, §1, 70 Stat. 114, set forth methods of computing retired pay, retirement pay, retainer pay, or equivalent pay on and after Oct. 1, 1949, for members of the uniformed services who had retired for reasons other than for physical disability before Oct. 1, 1949, members who had transferred to the Fleet Reserve or the Fleet Marine Corps Reserve before such date, and certain members of the Army Nurse Corps or the Navy Nurse Corps who had retired before such date, and provided that the amount of such pay would not exceed 75 percentum of the monthly basic pay upon which the computation had been based.

#### § 580a. Enhanced authority for selective early discharges

(a) The Secretary of Defense may authorize the Secretary of a military department, during the period beginning on October 1, 2015, and ending on October 1, 2019, to take the action set forth in subsection (b) with respect to regular warrant officers of an armed force under the jurisdiction of that Secretary.

(b) The Secretary of a military department may, with respect to regular warrant officers of an armed force, when authorized to do so under subsection (a), convene selection boards under section 573(c) of this title to consider for discharge regular warrant officers on the warrant officer active-duty list—

(1) who have served at least one year of active duty in the grade currently held;

(2) whose names are not on a list of warrant officers recommended for promotion; and

(3) who are not eligible to be retired under any provision of law and are not within two years of becoming so eligible.

(c)(1) In the case of an action under subsection (b), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

(A) the names of all regular warrant officers described in that subsection in a particular grade and competitive category; or

(B) the names of all regular warrant officers described in that subsection in a particular grade and competitive category who also are in particular year groups or specialties, or both, within that competitive category.

(2) The Secretary concerned shall specify the total number of warrant officers to be recommended for discharge by a selection board convened pursuant to subsection (b). That number may not be more than 30 percent of the number of officers considered—

(A) in each grade in each competitive category; or

(B) in each grade, year group, or specialty (or combination thereof) in each competitive category.

(3) A warrant officer who is recommended for discharge by a selection board convened pursuant to subsection (b) and whose discharge is approved by the Secretary concerned shall be discharged on a date specified by the Secretary concerned.

(4) Selection of warrant officers for discharge under this subsection shall be based on the needs of the service.

(d) The discharge of any warrant officer pursuant to this section shall be considered involuntary for purposes of any other provision of law.

(e) This section applies to the Secretary of Homeland Security in the same manner and to the same extent as it applies to the Secretary of Defense. The Commandant of the Coast Guard shall take the action set forth in subsection (b) with respect to regular warrant officers of the Coast Guard.

(Added Pub. L. 103-160, div. A, title V, §504(a), Nov. 30, 1993, 107 Stat. 1644; amended Pub. L. 103-337, div. A, title V, §541(g), title X, §1070(a)(3), Oct. 5, 1994, 108 Stat. 2767, 2855; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 114-92, div. A, title V, §501, Nov. 25, 2015, 129 Stat. 806.)

#### AMENDMENTS

2015—Subsec. (a). Pub. L. 114-92, §501(1), substituted “October 1, 2015, and ending on October 1, 2019” for “November 30, 1993, and ending on October 1, 1999”.

Subsec. (c)(3) to (5). Pub. L. 114-92, §501(2), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: “The total number of regular warrant officers described in subsection (b) from any of the armed forces (or from any of the armed forces in a particular grade) who may be recommended during a fiscal year for discharge by a selection board convened pursuant to the authority of that subsection may not exceed 70 percent of the decrease, as compared to the preceding fiscal year, in the

number of warrant officers of that armed force (or the number of warrant officers of that armed force in that grade) authorized to be serving on active duty as of the end of that fiscal year.”

2002—Subsec. (e). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1994—Subsec. (a). Pub. L. 103-337, §1070(a)(3), substituted “November 30, 1993,” for “the date of the enactment of this section”.

Subsec. (e). Pub. L. 103-337, §541(g), added subsec. (e).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 541(g) of Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

### § 581. Selective retirement

(a) A regular warrant officer who holds a warrant officer grade above warrant officer, W-1, and whose name is not on a list of warrant officers recommended for promotion and who is eligible to retire under any provision of law may be considered for retirement by a selection board convened under section 573(c) of this title. The Secretary concerned shall specify the maximum number of warrant officers that such a board may recommend for retirement.

(b) A warrant officer who is recommended for retirement under this section and whose retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for retirement.

(c) The retirement of a warrant officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

(d)(1) The Secretary concerned shall prescribe regulations for the administration of this section.

(2) Such regulations shall require that when the Secretary concerned submits a list of regular warrant officers to a selection board convened under section 573(c) of this title to consider regular warrant officers for selection for retirement under this section, the list shall include—

(A) the name of each warrant officer on the active-duty list in the same grade or same grade and competitive category whose position on the active-duty list is between that of the most junior regular warrant officer in that grade whose name is submitted to the board and that of the most senior regular warrant officer in that grade whose name is submitted to the board; or

(B) with respect to a group of warrant officers designated under subparagraph (A) who are in a particular grade and competitive category, only those warrant officers in that grade and competitive category who are also

in a particular year group or specialty, or any combination thereof determined by the Secretary concerned.

(3) Such regulations shall establish procedures to exclude from consideration by the board any warrant officer who has been approved for voluntary retirement, or who is to be mandatorily retired under any other provision of law, during the fiscal year in which the board is convened or during the following fiscal year. An officer not considered by a selection board convened under section 573(c) of this title under such regulations because the officer has been approved for voluntary retirement shall be retired on the date approved for the retirement of such officer as of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

(e)(1) The Secretary concerned may defer for not more than three months the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

(2) An officer recommended for early retirement under this section, if approved for deferral under paragraph (1), shall be retired on the date requested by the officer, and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1500; amended Pub. L. 102-484, div. A, title X, §1052(5), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title V, §541(b)(6), Oct. 5, 1994, 108 Stat. 2765; Pub. L. 104-106, div. A, title V, §504(a), Feb. 10, 1996, 110 Stat. 295; Pub. L. 113-291, div. A, title V, §§501, 502(a), Dec. 19, 2014, 128 Stat. 3353.)

#### AMENDMENTS

2014—Subsec. (d). Pub. L. 113-291, §501, redesignated second sentence of par. (1) as (2) and former par. (2) as (3), and, in par. (2), substituted “the list shall include—” for “the list shall include each”, inserted “(A) the name of each” before “warrant officer on the active-duty list”, substituted “; or” for period at end, and added subpar. (B).

Subsec. (e). Pub. L. 113-291, §502(a), designated existing provisions as par. (1), substituted “three months” for “90 days”, and added par. (2).

1996—Subsec. (e). Pub. L. 104-106 added subsec. (e).

1994—Subsec. (a). Pub. L. 103-337 struck out “in the Army, Navy, Air Force, or Marine Corps” after “A regular warrant officer”.

1992—Subsec. (d)(2). Pub. L. 102-484 substituted “board” for “Board” in two places in first sentence.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.