

the provisions of the Tennessee Valley Authority Act [16 U.S.C. 831 et seq.], or amendments thereto, including any improvement of the navigable channel to accommodate the growth of navigation or changes in navigation requirements within the reservoir created by any dam in the custody of the Tennessee Valley Authority, any bridge, trestle, or other highway or railroad structure located over, upon, or across the Tennessee River or any of its navigable tributaries, including approaches, fenders and appurtenances thereto, is endangered or otherwise adversely affected and damaged, including any interference with or impairment of its use, or, in the judgment of the Board of Directors of the Tennessee Valley Authority, needs to be raised, widened, or otherwise altered to provide the navigation clearances required for completion of the navigable channel to be provided by such improvement, to the extent that protection, alteration, reconstruction, relocation, or replacement is necessary or proper to preserve its safety or utility or to meet the requirements of navigation or flood control, or both, the owner or owners of such bridge, trestle, or structure shall be compensated by the Tennessee Valley Authority in the sum of the reasonable actual cost of such protection, alteration, reconstruction, relocation, or replacement: *Provided*, That in arriving at the amount of such compensation the bridge owner shall be charged with a sum which shall equal the net value to the owner of any direct and special benefits accruing to the owner from any improvement or addition or betterment of the altered, reconstructed, relocated, or replaced bridge, trestle, or structure. The Tennessee Valley Authority is empowered to contract with such owner with respect to any such protection, alteration, reconstruction, relocation, or replacement, the payment of the cost thereof and its proper division, which contract may provide either for money compensation or for the performance of all or any part of the work by the Tennessee Valley Authority.

**(b) Suit on contracts**

In the event of a failure to agree upon the terms and conditions of any such contract, or upon any default in the performance of any contract entered into pursuant to this section, the bridge owner or the Tennessee Valley Authority shall have the right to bring suit to enforce its rights or for a declaration of its rights under this section, or under any such contract, in the district court of the United States for the district in which the property in question is located. In any such proceeding the court shall apportion the total cost of the work between the Tennessee Valley Authority and the owner in accord with the provisions contained in this section. The Tennessee Valley Authority's share of the cost of any such protection, alteration, reconstruction, relocation, or replacement, under any contract made or judgment, award, or decree rendered under the provisions of this section may be paid out of any funds available for carrying out the provisions of the Tennessee Valley Authority Act, as amended, and appropriations for that purpose are hereby authorized: *Provided*, That, prior to such alteration, reconstruction, or relocation of said bridges, the loca-

tion and plans shall be submitted to and approved by the Secretary of Transportation in accordance with existing laws.

(Nov. 21, 1941, ch. 480, 55 Stat. 773; Pub. L. 90-524, Sept. 26, 1968, 82 Stat. 876.)

REFERENCES IN TEXT

The Tennessee Valley Authority Act, referred to in text, probably means the Tennessee Valley Authority Act of 1933, act May 18, 1933, ch. 32, 48 Stat. 58, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 831 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Tennessee Valley Authority Act which comprises this chapter.

AMENDMENTS

1968—Pub. L. 90-524 permitted the Authority to use appropriated funds to cover the Federal share of the cost of necessary bridge alterations where the alterations are obtained by agreement with the bridge owner, made this section applicable to alterations required by new reservoir projects and by realignment or other changes of the navigation channel to accommodate the growth of traffic or changes in navigation requirements within existing reservoirs, and substituted the Secretary of Transportation for the Chief of Engineers and the Secretary of the Army as the approving official.

**§ 831c-2. Civil actions for injury or loss of property or personal injury or death**

**(a) Exclusiveness of remedy**

(1) An action against the Tennessee Valley Authority for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Tennessee Valley Authority while acting within the scope of this office or employment is exclusive<sup>1</sup> of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim. Any other civil action or proceeding arising out of or relating to the same subject matter against the employee or his estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a cognizable action against an employee of the Tennessee Valley Authority for money damages for a violation of the Constitution of the United States.

**(b) Representation and removal**

(1) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding heretofore or hereafter commenced upon such claim in a United States district court shall be deemed an action against the Tennessee Valley Authority pursuant to 16 U.S.C. 831c(b) and the Tennessee Valley Authority shall be substituted as the party defendant.

(2) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment

<sup>1</sup> So in original. Probably should be "exclusive".

at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place wherein it is pending. Such action shall be deemed an action brought against the Tennessee Valley Authority under the provisions of this title<sup>2</sup> and all references thereto, and the Tennessee Valley Authority shall be substituted as the party defendant. This certification of the Tennessee Valley Authority shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Tennessee Valley Authority has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action shall be deemed an action brought against the Tennessee Valley Authority, and the Tennessee Valley Authority shall be substituted as the party defendant. A copy of the petition shall be served upon the Tennessee Valley Authority in accordance with the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any actions subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the Tennessee Valley Authority and shall be subject to the limitations and exceptions applicable to those actions.

(Pub. L. 100-694, §9(a), (b), Nov. 18, 1988, 102 Stat. 4566.)

#### REFERENCES IN TEXT

This title, referred to in subsec. (b)(2), probably should be this section, as Pub. L. 100-694, which enacted this section, did not contain titles.

The Federal Rules of Civil Procedure, referred to in subsec. (b)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

#### CODIFICATION

Section was enacted as part of the Federal Employees Liability Reform and Tort Compensation Act of 1988, and not as part of the Tennessee Valley Authority Act of 1933, which comprises this chapter.

#### EFFECTIVE DATE

Section effective Nov. 18, 1988, and applicable to all claims, civil actions, and proceedings pending on, or filed on or after Nov. 18, 1988, see section 8 of Pub. L. 100-694, set out as an Effective Date of 1988 Amendment note under section 2679 of Title 28, Judiciary and Judicial Procedure.

<sup>2</sup> See References in Text note below.

### § 831c-3. Law enforcement

#### (a) Designation of law enforcement agents

The Board may designate employees of the corporation to act as law enforcement agents in the area of jurisdiction described in subsection (c).

#### (b) Duties and powers

##### (1) Duties

A law enforcement agent designated under subsection (a) shall maintain law and order and protect persons and property in the area of jurisdiction described in subsection (c) and protect property and officials and employees of the corporation outside that area.

##### (2) Powers

In the performance of duties described in paragraph (1), a law enforcement agent designated under subsection (a) may—

(A) make arrests without warrant for any offense against the United States committed in the agent's presence, or for any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing such a felony;

(B) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of any Federal law or regulation issued pursuant to law in connection with the investigation of an offense described in subparagraph (A);

(C) conduct an investigation of an offense described in subparagraph (A) in the absence of investigation of the offense by any Federal law enforcement agency having investigative jurisdiction over the offense or with the concurrence of that agency; and

(D) carry firearms in carrying out any activity described in subparagraph (A), (B), or (C).

#### (c) Area of jurisdiction

A law enforcement agent designated under subsection (a) shall be authorized to exercise the law enforcement duties and powers described in subsection (b)—

(1) on any lands or facilities owned or leased by the corporation or within such adjoining areas in the vicinities of such lands or facilities as may be determined by the Board under subsection (e); and

(2) on other lands or facilities—

(A) when the person to be arrested is in the process of fleeing from such lands, facilities, or adjoining areas to avoid arrest;

(B) in conjunction with the protection of property or officials or employees of the corporation on or within lands or facilities other than those owned or leased by the corporation; or

(C) in cooperation with other Federal, State, or local law enforcement agencies.

#### (d) Federal investigative jurisdiction and State civil and criminal jurisdiction not preempted

Nothing in this section shall be construed to—

(1) limit or restrict the investigative jurisdiction of any Federal law enforcement agency; or