

hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay.

1984—Subsec. (c). Pub. L. 98-217 inserted provisions under which the Secretary of Defense or the officer of the Department of Defense designated by the Secretary may act by proxy for other members of the Board.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-705, §10, Nov. 19, 1988, 102 Stat. 4687, provided that: "This Act [enacting sections 3715 to 3715d of this title, amending this section and sections 3712 and 3731 of this title, and enacting provisions set out as a note under section 3601 of this title] takes effect on October 1, 1988."

##### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-223, §8, Dec. 28, 1985, 99 Stat. 1740, provided that: "Section 5 and section 6 of the Act [enacting section 3650 of this title and amending this section and sections 3647 and 3731 of this title] shall be effective as of October 1, 1985."

### § 3612a. General powers of Commission

#### (a) Corporate seal

The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed.

#### (b) Bylaws

The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

#### (c) Suits by and against Commission

The Commission may sue and be sued in its corporate name, except that—

(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 3761 of this title, and otherwise by law;

(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5 and sections 659, 661, and 662<sup>1</sup> of title 42, or as otherwise specifically authorized by the laws of the United States; and

(3) the Commission is exempt from the payment of interest on claims and judgments.

#### (d) Contracts, leases, agreements, or other transactions

The Commission may enter into contracts, leases, agreements, or other transactions.

#### (e) Obligations and expenditures

The Commission—

(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

#### (f) Priority in payment of debts out of bankrupt estates

The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

#### (g) Appointment of notaries public

(1) The Commission may appoint any United States citizen to have the general powers of a notary public to perform, on behalf of Commission employees and their dependents outside the United States, any notarial act that a notary public is required or authorized to perform within the United States. Unless an earlier expiration is provided by the terms of the appointment, any such appointment shall expire three months after the Canal Transfer Date.

(2) Every notarial act performed by a person acting as a notary under paragraph (1) shall be as valid, and of like force and effect within the United States, as if executed by or before a duly authorized and competent notary public in the United States.

(3) The signature of any person acting as a notary under paragraph (1), when it appears with the title of that person's office, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

#### (h) Limitations on authority

The authority of the Commission under this section and section 3612b of this title is subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31.

(Pub. L. 96-70, title I, §1102a, as added Pub. L. 104-106, div. C, title XXXV, §3524(a), Feb. 10, 1996, 110 Stat. 639; amended Pub. L. 105-85, div. C, title XXXV, §§3546, 3550(d)(3), Nov. 18, 1997, 111 Stat. 2073, 2074.)

#### Editorial Notes

##### REFERENCES IN TEXT

Sections 661 and 662 of title 42, referred to in subsec. (c)(2), were repealed by Pub. L. 104-193, title III, §362(b)(1), Aug. 22, 1994, 110 Stat. 2246.

##### AMENDMENTS

1997—Subsec. (g). Pub. L. 105-85, §3546(2), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105-85, §3550(d)(3), made technical amendment to reference in original act which appears in text as reference to section 3612b of this title.

Pub. L. 105-85, §3546(1), redesignated subsec. (g) as (h).

### § 3612b. Specific powers of Commission

#### (a) Panama Canal management, operation, and maintenance

The Commission may manage, operate, and maintain the Panama Canal.

#### (b) Establishment, maintenance, and operation of activities, facilities, and appurtenances

The Commission may construct or acquire, establish, maintain, and operate such activities, facilities, and appurtenances as necessary and appropriate for the accomplishment of the purposes of this chapter, including the following:

(1) Docks, wharves, piers, and other shoreline facilities.

(2) Shops and yards.

(3) Marine railways, salvage and towing facilities, fuel-handling facilities, and motor transportation facilities.

(4) Power systems, water systems, and a telephone system.

<sup>1</sup> See References in Text note below.

- (5) Construction facilities.
- (6) Living quarters and other buildings.
- (7) Warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith.
- (8) Recreational facilities.

**(c) Use of United States mails**

The Commission may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

**(d) Necessary or appropriate actions**

The Commission may take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.

**(e) Commercial activities**

The Commission may conduct and promote commercial activities related to the management, operation, or maintenance of the Panama Canal. Any such commercial activity shall be carried out consistent with the Panama Canal Treaty of 1977 and related agreements.

**(f) Donations**

(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.

(Pub. L. 96-70, title I, §1102b, as added Pub. L. 104-106, div. C, title XXXV, §3524(a), Feb. 10, 1996, 110 Stat. 639; amended Pub. L. 105-85, div. C, title XXXV, §3547, Nov. 18, 1997, 111 Stat. 2073; Pub. L. 105-261, div. C, title XXXV, §3505, Oct. 17, 1998, 112 Stat. 2268.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96-70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979 which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

- 1998—Subsec. (f). Pub. L. 105-261 added subsec. (f).
- 1997—Subsec. (e). Pub. L. 105-85 added subsec. (e).

**§ 3613. Administrator**

**(a) Appointment**

There shall be an Administrator of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

**(b) Compensation**

The Administrator shall be paid compensation in an amount, established by the Board, not to exceed level III of the Executive Schedule.

**(c) Authority for dual role**

The Congress consents, for purposes of the 8th clause of article I, section 9 of the Constitution of the United States, to the acceptance by the individual serving as Administrator of the Commission of appointment by the Republic of Panama to the position of Administrator of the Panama Canal Authority. Such consent is effective only if that individual, while serving in both such positions, serves as Administrator of the Panama Canal Authority without compensation, except for payments by the Republic of Panama of travel and entertainment expenses, including per diem payments.

**(d) Waiver of ethics and reporting requirements**

If before the Canal Transfer Date the Republic of Panama appoints as the Administrator of the Panama Canal Authority the individual serving as the Administrator of the Commission and if that individual accepts the appointment—

(1) during any period during which that individual serves as both Administrator of the Commission and the Administrator of the Panama Canal Authority—

(A) the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), shall not apply to that individual with respect to service as the Administrator of the Panama Canal Authority;

(B) that individual, with respect to participation in any particular matter as the Administrator of the Panama Canal Commission, is not subject to section 208(a) of title 18, insofar as that section would otherwise apply to that matter only because the matter will have a direct and predictable effect on the financial interest of the Panama Canal Authority;

(C) that individual is not subject to sections 203 and 205 of title 18, with respect to official acts performed as an agent or attorney for or otherwise representing the Panama Canal Authority; and

(D) that individual is not subject to sections 501(a) and 502(a)(4) of the Ethics in Government Act of 1978 (5 U.S.C. App.), with respect to compensation received for, and service in, the position of Administrator of the Panama Canal Authority; and

(2) effective upon termination of the individual's appointment as Administrator of the Panama Canal Commission at noon on the Canal Transfer Date, that individual is not subject to section 207 of title 18, with respect to acts done in carrying out official duties as Administrator of the Panama Canal Authority.

(Pub. L. 96-70, title I, §1103, Sept. 27, 1979, 93 Stat. 457; Pub. L. 104-201, div. C, title XXXV, §3523(a), Sept. 23, 1996, 110 Stat. 2860; Pub. L. 105-85, div. C, title XXXV, §3521, Nov. 18, 1997, 111 Stat. 2063.)