

§ 688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments

(a) **AUTHORITY.**—The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements. Any such order may be made only with the consent of the member ordered to active duty and in accordance with an agreement between the Secretary and the member.

(b) **DURATION.**—The period of active duty of a member under an order to active duty under subsection (a) shall be specified in the agreement entered into under that subsection.

(c) **LIMITATION.**—No more than a total of 1,000 members may be on active duty at any time under subsection (a).

(d) **RELATIONSHIP TO OTHER AUTHORITY.**—The authority to order a retired member to active duty under this section is in addition to the authority under section 688 of this title or any other provision of law authorizing the Secretary concerned to order a retired member to active duty.

(e) **INAPPLICABILITY OF CERTAIN PROVISIONS.**—Retired members ordered to active duty under subsection (a) shall not be counted for purposes of section 688 or 690 of this title.

(f) **EXPIRATION OF AUTHORITY.**—A retired member may not be ordered to active duty under this section outside a period as follows:

(1) The period beginning on December 2, 2002, and ending on December 31, 2011.

(2) The period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018 and ending on December 31, 2022.

(g) **EXCEPTIONS DURING PERIODS OF WAR OR NATIONAL EMERGENCY.**—The limitations in subsections (c) and (f) shall not apply during a time of war or of national emergency declared by Congress or the President.

(h) **HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY DEFINED.**—In this section, the term “high-demand, low-density military capability” means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.

(Added Pub. L. 107-314, div. A, title V, § 503(a)(1), Dec. 2, 2002, 116 Stat. 2530; amended Pub. L. 109-364, div. A, title VI, § 621(b), (d)(2)(A), Oct. 17, 2006, 120 Stat. 2254, 2255; Pub. L. 111-383, div. A, title V, § 531(a), Jan. 7, 2011, 124 Stat. 4215; Pub. L. 115-91, div. A, title V, § 527, Dec. 12, 2017, 131 Stat. 1383; Pub. L. 116-283, div. A, title V, § 511, Jan. 1, 2021, 134 Stat. 3587.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2018, referred to in

subsection (f)(2), is the date of enactment of Pub. L. 115-91, which was approved Dec. 12, 2017.

AMENDMENTS

2021—Subsecs. (g), (h). Pub. L. 116-283 added subsec. (g) and redesignated former subsec. (g) as (h).

2017—Subsec. (f). Pub. L. 115-91 substituted “outside a period as follows:” for “after December 31, 2011.” and added pars. (1) and (2).

2011—Subsec. (f). Pub. L. 111-383 substituted “December 31, 2011” for “December 31, 2010”.

2006—Pub. L. 109-364, § 621(d)(2)(A), substituted “Retired members: temporary authority to order to active duty in high-demand, low-density assignments” for “Retired aviators: temporary authority to order to active duty” in section catchline.

Subsec. (a). Pub. L. 109-364, § 621(b)(1), in first sentence, substituted “The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements” for “The Secretary of a military department may order to active duty a retired officer having expertise as an aviator to fill staff positions normally filled by aviators on active duty” and, in second sentence, substituted “member” for “officer” in two places.

Subsec. (b). Pub. L. 109-364, § 621(b)(2), substituted “a member” for “an officer”.

Subsec. (c). Pub. L. 109-364, § 621(b)(3), substituted “1,000 members” for “500 officers”.

Subsec. (d). Pub. L. 109-364, § 621(b)(4), substituted “member to active duty under” for “officer to active duty under”.

Subsec. (e). Pub. L. 109-364, § 621(b)(5), substituted “Retired members” for “Officers”.

Subsec. (f). Pub. L. 109-364, § 621(b)(6), substituted “A retired member” for “An officer” and “December 31, 2010” for “September 30, 2008”.

Subsec. (g). Pub. L. 109-364, § 621(b)(7), added subsec. (g).

Statutory Notes and Related Subsidiaries

TRANSITION PROVISION

Pub. L. 107-314, div. A, title V, § 503(c), Dec. 2, 2002, 116 Stat. 2531, provided that: “Any officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 589) who continues on active duty under such order to active duty after the date of the enactment of this Act [Dec. 2, 2002] shall be counted for purposes of the limitation under subsection (c) of section 688a of title 10, United States Code, as added by subsection (a).”

§ 689. Retired members: grade in which ordered to active duty and upon release from active duty

(a) **GENERAL RULE FOR GRADE IN WHICH ORDERED TO ACTIVE DUTY.**—Except as provided in subsections (b) and (c), a retired member ordered to active duty under section 688 or 688a of this title shall be ordered to active duty in the member’s retired grade.

(b) **MEMBERS RETIRED IN O-9 AND O-10 GRADES.**—A retired member ordered to active duty under section 688 or 688a of this title whose retired grade is above the grade of major general or rear admiral shall be ordered to active duty in the highest permanent grade held by such member while serving on active duty.

(c) **MEMBERS WHO PREVIOUSLY SERVED IN GRADE HIGHER THAN RETIRED GRADE.**—(1) A re-