

§ 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-

tired member ordered to active duty under section 688 or 688a of this title who has previously served on active duty satisfactorily, as determined by the Secretary of the military department concerned, in a grade higher than that member's retired grade may be ordered to active duty in the highest grade in which the member had so served satisfactorily, except that such a member may not be so ordered to active duty in a grade above major general or rear admiral.

(2) A retired member ordered to active duty in a grade that is higher than the member's retired grade pursuant to subsection (a) shall be treated for purposes of section 690 of this title as if the member was promoted to that higher grade while on that tour of active duty.

(3) If, upon being released from that tour of active duty, such a retired member has served on active duty satisfactorily, as determined by the Secretary concerned, for not less than a total of 36 months in a grade that is a higher grade than the member's retired grade, the member is entitled to placement on the retired list in that grade.

(d) **GRADE UPON RELEASE FROM ACTIVE DUTY.**—A member ordered to active duty under section 688 or 688a of this title who, while on active duty, is promoted to a grade that is higher than that member's retired grade is entitled, upon that member's release from that tour of active duty, to placement on the retired list in the highest grade in which the member served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

(Added Pub. L. 104-201, div. A, title V, §521(a), Sept. 23, 1996, 110 Stat. 2516; amended Pub. L. 107-314, div. A, title V, §503(b)(1), Dec. 2, 2002, 116 Stat. 2531.)

Editorial Notes

PRIOR PROVISIONS

A prior section 689 was renumbered section 12320 of this title.

Provisions similar to those in this section were contained in section 688(b) and (d) of this title prior to repeal by Pub. L. 104-201, §521(a).

AMENDMENTS

2002—Subsecs. (a), (b), (c)(1), (d). Pub. L. 107-314 inserted “or 688a” after “section 688”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 30, 1997, see section 521(b) of Pub. L. 104-201, set out as a note under section 688 of this title.

APPLICABILITY

Pub. L. 107-314, div. A, title V, §503(b)(2), Dec. 2, 2002, 116 Stat. 2531, provided that: “The provisions of section 689(d) of title 10, United States Code, shall apply with respect to an 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) before the date of the enactment of this Act [Dec. 2, 2002] in the same manner as such provisions apply to an officer ordered to active duty under section 688 of such title.”

§ 690. Retired members ordered to active duty: limitation on number

(a) **GENERAL AND FLAG OFFICERS.**—Not more than 15 retired general officers of the Army, Air

Force, or Marine Corps, and not more than 15 retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.

(b) **LIMITATION BY SERVICE.**—(1) Not more than 25 officers of any one armed force may be serving on active duty concurrently pursuant to orders to active duty issued under section 688 of this title.

(2) In the administration of paragraph (1), the following officers shall not be counted:

(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of the active duty to which ordered.

(C) Any officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

(D) Any member of the Retiree Council of the Army, Navy, or Air Force for the period on active duty to attend the annual meeting of the Retiree Council.

(E) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.

(c) **WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.**—Subsection (a) does not apply in time of war or of national emergency declared by Congress or the President after November 30, 1980. Subsection (b) does not apply in time of war or of national emergency declared by Congress or the President.

(Added Pub. L. 104-201, div. A, title V, §521(a), Sept. 23, 1996, 110 Stat. 2516; amended Pub. L. 106-65, div. A, title V, §507, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107-107, div. A, title V, §509(b), Dec. 28, 2001, 115 Stat. 1091.)

Editorial Notes

PRIOR PROVISIONS

A prior section 690 was renumbered section 12321 of this title.

Provisions similar to those in subsecs. (a) and (c) of this section were contained in section 688(c) of this title prior to repeal by Pub. L. 104-201, §521(a).

AMENDMENTS

2001—Subsec. (b)(2)(E). Pub. L. 107-107 added subpar. (E).

1999—Subsec. (b)(2)(D). Pub. L. 106-65 added subpar. (D).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 applicable with respect to officers serving on active duty as a defense attaché or service attaché on or after Dec. 28, 2001, see section 509(c) of Pub. L. 107-107, set out as a note under section 688 of this title.

EFFECTIVE DATE

Section effective Sept. 30, 1997, see section 521(b) of Pub. L. 104-201, set out as a note under section 688 of this title.