Public Law 115 CHAPTER 247

June 30, 1955
[S. 1718]

AN ACT

To provide certain clarifying and technical amendments to the Reserve Officer Personnel Act of 1954.

Reserve Officer Personnel Act of 1954, amendments.
68 Stat. 1150.
50 USC 1191.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 201 of the Reserve Officer Personnel Act of 1954 is amended by striking out the word "two" and substituting in lieu thereof the word "three".

50 USC 1195.

(b) Section 205 of such Act is amended by inserting at the end thereof the following new subsection:

Retention on active duty.

"(c) (1) A Reserve officer serving on active duty who, on the date he would otherwise be removed from active status under sections 325, 327, 411, 522, 524, or 611 of this Act, is within two years of qualifying for retirement under either title II of the Army-Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1084), or section 6 of Public Law 305, of the Seventy-ninth Congress (60 Stat. 27), may, in the discretion of the Secretary, be retained on active duty for a period not to exceed two years if he will then be entitled to the benefits of such provisions of law and will not earlier attain the maximum age at which transfer from an active status or discharge is required by this Act. He shall not be removed from an active status so long as he remains on active duty.

10 USC 1001-1007 passim.

34 USC 410b.

"Maximum age."

"(2) The term 'maximum age' as used in this section shall, in the case of any officer covered by sections 325 and 327 hereof, be the age authorized by the first paragraph of section 326 (a) of this Act."

50 USC 1262-1264.

50 USC 1279.

(c) Section 339 (c) of such Act is hereby repealed.

50 USC 1273.

SEC. 2. Section 333 of the Reserve Officer Personnel Act of 1954 is amended (1) by striking out "A Reserve" and inserting in lieu thereof "(a) Except as provided in subsection (b) hereof, a Reserve", and (2) by inserting at the end thereof the following new subsection:

Promotion.

"(b) A Reserve officer on active duty who has not completed his period of required active duty as a member of a reserve component under any provision of law or regulations, and who is recommended or found qualified for promotion, may not be promoted until he completes that period of required active duty, or until he is temporarily promoted to that higher grade. Upon completing that period of required active duty or upon being temporarily promoted to that higher grade, he shall, if he applies therefor, be promoted, be subject to subsection (a), and be credited with the amount of promotion service in the higher grade that he would have had if he had been promoted but for the provisions of this subsection."

50 USC 1302.

SEC. 3. (a) The first sentence of section 402 (c) is amended by changing the period at the end of the sentence to a colon and adding the following: "*Provided*, That until July 1, 1960, the per centum in the grade of major may be 22 per centum, in the grade of captain, 45 per centum, and in the combined grades of first and second lieutenant, 25 per centum, if, in the opinion of the Secretary, such increased percentages are required to permit promotions under this title.".

Increased percentages in grades.

50 USC 1303.

(b) Section 403 of such Act is amended by adding at the end thereof the following sentence: "Within the number to be selected which the Secretary may furnish to a selection board considering Naval Reserve line officers in any grade, the Secretary may further specify numbers of officers of stated qualifications and experience who are required to meet mobilization needs in the next higher grade.".

50 USC 1305.

(c) The second sentence of section 405 (b) of such Act is amended by striking out "ineligible" and inserting in lieu thereof "eligible".

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(d) Section 405 (d) of such Act is amended by adding at the end thereof the following new sentence: "An officer whose name is so withheld from consideration from two selection boards for promotion to the same next higher grade shall be deemed to have failed twice of selection. An officer who has met all requirements for eligibility for consideration but whose name is omitted by administrative error from the list of officers furnished a selection board, shall be considered not to have failed of selection by that board and if selected by the next selection board to consider for promotion officers of the same grade he shall be entitled to the same date of rank and to pay and allowances of the higher grade for duty performed from the same date as if he had been selected by the board from which his name was withheld by error."

50 USC 1305. Withholding name from consideration.

(e) Title IV of such Act is amended by adding at the end thereof the following new section:

50 USC 1301 *et seq.*

"SEC. 414. Officers who prior to July 1, 1955, were selected for promotion under appropriate Naval and Marine Corps regulations promulgated pursuant to subsection 216 (a) of the Armed Forces Reserve Act of 1952, as amended, may be promoted under the authority of this Act with precedence and entitlement to pay and allowances as prescribed by this Act."

66 Stat. 486. 50 USC 936.

SEC. 4. (a) Section 501 (b) (1) of the Reserve Officer Personnel Act of 1954 is amended to read as follows:

50 USC 1331.

"(1) 'Promotion service' means—

"(A) service in an active status in current grade; and

"(B) all service in an active status subsequent to June 25, 1950, and prior to the effective date of this Act (i) during which an officer was eligible for permanent promotion on the basis of service in a higher temporary grade, (ii) in an equivalent or higher permanent grade in the same or another service, including service in a federally recognized commissioned status in the Army and Air National Guard, except that any such service authorized under this subparagraph shall be counted but once for promotion purposes."

(b) Section 502 of such Act is amended by adding at the end thereof the following new subsection:

50 USC 1332.

"(d) To carry out the provisions of this title a promotion may be made effective before, on, or after the date accomplished, and the officer shall be entitled to pay, allowance, and benefits authorized by law for the higher grade from such effective date unless expressly provided otherwise in this Act."

(c) Section 504 (a) (2) (B) of such Act is amended by striking out "longest service as a commissioned officer (including service in the federally recognized National Guard or in a federally recognized status therein prior to 1933)" and inserting in lieu thereof "greatest number of total years of service".

50 USC 1334.

(d) Section 506 of such Act is amended (1) by striking out subsection (a) thereof, and (2) by striking out "(b)" and inserting in lieu thereof "(a)".

50 USC 1336.

(e) The last sentence of section 508 (c) of such Act is amended by inserting after the word "sections" the following: "502 (d), 511 (c),".

50 USC 1338.

(f) Section 509 of such Act is amended (1) by striking out in subsection (a) thereof "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)", and (2) by adding at the end thereof the following new subsection:

50 USC 1339.

"(c) Whenever the Secretary determines that there are vacancies in the permanent grade of first lieutenant, Reserve officers in the grade of second lieutenant under regulations prescribed by the Secretary,

Vacancies in grade of first lieutenant.

may be promoted to the permanent grade of first lieutenant before completion of three years of promotion service."

50 USC 1340.

(g) Section 510 (b) of such Act is amended by striking the period at the end of paragraph 2 thereof and inserting a semicolon and the following: "and

"(3) only those Reserve officers of the Air National Guard of the United States who must be considered at that time in accordance with the provisions of subsection (a) of this section."

50 USC 1341.

(h) Section 511 of such Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

Promotion status, etc.

"(b) Except as provided in subsection (c) hereof, a Reserve officer on active duty who is promoted to a grade higher than that in which he is serving shall continue to serve on active duty in the grade in which he was serving immediately before that promotion, and may be appointed in a temporary grade which is equal to that lower grade. An officer who is so appointed in a temporary grade is considered to have accepted the appointment upon the date of the orders announcing it unless he expressly declines it, and need not take a new oath of office upon being so appointed. However, he may decline the appointment within six months after the date of the order announcing it, and shall be released from active duty.

"(c) A Reserve officer on active duty who has not completed his period of required active duty as a member of a reserve component under any provision of law or regulations, and who is recommended or found qualified for promotion, may not be promoted until he completes that period of required active duty, or until he is temporarily promoted to that higher grade. Upon completing that period of required active duty or upon being temporarily promoted to that higher grade, he shall, if he applies therefor, be promoted, be subject to subsection (b), and be credited with the amount of promotion service in the higher grade that he would have had if he had been promoted but for the provisions of this subsection.

"(d) A Reserve officer who, while he is serving on active duty, is promoted to a grade higher than the grade in which he is serving, may not serve on active duty in the grade to which promoted, or be entitled while on that period of active duty to the rank, pay, and allowances of that higher grade unless he is ordered to serve on active duty in that higher grade or is temporarily promoted to that higher grade."

50 USC 1353.

(i) Section 523 of such Act is amended (1) by striking out in subsections (a), (b), and (c), the words "date upon" wherever they appear therein and inserting in lieu thereof the words "last day of the month in", and (2) by striking out in the first sentence of subsection (d) the word "Each" and inserting in lieu thereof "Effective five years after the effective date of this Act, each".

50 USC 1354.

(j) Section 524 of such Act is amended (1) by striking out in subsection (a) thereof "two years" and inserting in lieu thereof "five years", and (2) by striking out in the first sentence of subsections (b), (c), (d) (1), and (d) (2) thereof the word "Each" and inserting in lieu thereof "Effective five years after the effective date of this Act, each".

50 USC 1331 *et seq.*

(k) Title 5 of such Act is amended by adding at the end thereof the following new sections:

Employment in Air National Guard.

"SEC. 527. Notwithstanding any other provision of this Act, a Reserve officer who becomes a civilian employee of the Air National Guard prior to the effective date of this Act may not, before attaining age sixty, while so employed and without his consent, be removed from active status by reason of any mandatory promotion provisions contained herein, except for cause, physical disability, or by reason of

being twice passed over for promotion to the grade of captain, major, or lieutenant colonel.

"SEC. 528. Notwithstanding section 701 of this Act, the Secretary is authorized to take, prior to the effective date of this Act, such administrative actions, including the convening of appropriate selection boards, as may be necessary to insure that the Act may be implemented upon its effective date."

68 Stat. 1188. 50 USC 1181 note.

SEC. 5. (a) Section 606 (b) of the Reserve Officer Personnel Act is amended by adding at the end thereof the following new paragraph:

50 USC 1386.

"(4) If a running mate is retarded in rate of promotion or has attained the highest rank to which he may be promoted, the new running mate shall be the officer of the Regular Coast Guard who is next senior to the old running mate, exclusive of extra numbers, or if there be no such Regular officer then the Regular officer of the same grade who is next eligible for promotion. An officer shall be considered to have been retarded when another officer in his grade junior to him is eligible for promotion ahead of him. If subsequently the old running mate is promoted and is restored to the precedence he would have held but for the retardation, he shall be reassigned as the running mate of the Reserve officer concerned."

Running mates.

(b) Section 608 of such Act is amended by striking out "and shall be allowed the pay and allowances of the higher grade for duty performed from the date his running mate became entitled to such pay and allowances" and insert in lieu thereof "and a Reserve officer so promoted shall be allowed pay and allowances of the higher grade for duty performed from the date of his appointment thereto".

50 USC 1388.

(c) Title 6 of such Act is amended by adding at the end thereof the following new section:

50 USC 1381 *et seq.*

"SEC. 619. Officers who, prior to July 1, 1955, were selected for promotion under appropriate regulations may be promoted under the authority of this Act with precedence and entitlement to pay and allowances as prescribed by this Act.".

SEC. 6. Subsection 302 (f) (1) is amended to read as follows:

50 USC 1222.

"(f) 'Promotion service' means the aggregate of the following:

"(1) Any period an officer has held, or is credited by the Secretary with having held, a permanent appointment in his current grade in the Army or, in the discretion of the Secretary any other armed force of the United States while—

"(A) in an active status; or

"(B) on an active list of a regular component;

"(2) For an officer who was on active duty prior to September 3, 1945, any period served on active duty prior to January 1, 1949, in the Army or, in the discretion of the Secretary, any other armed force of the United States while in a temporary grade equal to or higher than his current grade; and

"(3) Any period credited under section 305 (b).

50 USC 1225.

No period may be counted twice as promotion service. For a person credited with service under section 201 or subsection 305 (c) or (d), no period prior to appointment or transfer may be counted under (1) or (2) as promotion service."

Ante, p. 218.

SEC. 7. Section 303 is amended by adding the following new subsections:

50 USC 1223.

"(f) The promotion of a Reserve officer under investigation or against whom proceedings of a court-martial or board of officers are pending may be delayed by the Secretary until such investigation or proceedings are completed.

Promotion while under investigation.

"(g) Based on the results of an investigation or the proceedings of a court-martial or board of officers, the Secretary may remove from the recommended list the name of any officer who in his opinion is not

qualified for promotion. A nonunit officer so removed from a recommended list shall, for the purposes of section 311 be deemed to have been considered and not recommended for promotion."

50 USC 1234.

50 USC 1237.

SEC. 8. Section 314 is amended by inserting the words "other than the Judge Advocate General's Corps" after the words "special branch" appearing in subsection (a) and by substituting "sections 303, 311, or 333" for "section 311" appearing in subsection (d).

50 USC 1262.

SEC. 9. Section 325 is amended by inserting a colon after the words "Retired Reserve", by deleting that portion of the section following such colon, and by adding the following new subsections:

"(a) If not on active duty, within ninety days after the second selection board submits its report to the convening authority; or

"(b) If on active duty, one hundred twenty days after being notified of his second nonselection."

50 USC 1273.

Promotion to higher grade while on active duty.

SEC. 10. Section 333 is amended to read as follows:

"SEC. 333. (a) A Reserve officer on active duty who is promoted to a grade higher than that in which he is serving shall continue to serve on active duty in the grade in which he was serving immediately before that promotion and shall, unless he expressly declines such promotion, be deemed to have accepted, effective on the date of such promotion, a temporary appointment in the grade in which serving. If he does not desire to continue on active duty in the grade in which serving, he may, except as provided in subsection (b) hereof, elect to be relieved from active duty and shall be promoted on the day subsequent to such relief or on the day he would have been promoted had he remained on active duty, whichever is the later. If his relief from active duty occurs subsequent to the date he would have been promoted had he remained on active duty, he shall be credited with the amount of promotion service that he would have had if he had remained on active duty and been promoted.

"(b) A Reserve officer on active duty who is recommended or found qualified for promotion and who has not completed his period of required active duty as a member of a reserve component under any provision of law or regulation shall not have the election of relief from active duty as provided in subsection (a) hereof but may decline a promotion if he does not desire to serve on active duty in a grade lower than his permanent grade. A person who so declines a promotion shall, if he applies therefor, be promoted upon being temporarily promoted to that higher grade or, subject to subsection (a), upon completing his period of required active duty."

50 USC 1277.

SEC. 11. Section 337 of such Act is hereby repealed.

Approved June 30, 1955.

Public Law 116 CHAPTER 248

June 30, 1955
[H. R. 2973]

AN ACT

To provide for the conveyance of all right, title, and interest of the United States in a certain tract of land in Macon County, Georgia, to the Georgia State Board of Education.

Macon County, Ga.
Conveyance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the written consent of the Georgia Livestock Development Authority, the United States of America, acting through the Administrator of the Farmers Home Administration, is authorized and directed to convey by quitclaim deed to the Georgia State Board of Education, its successors and assigns, all of the right, title, and interest retained by the United States of America in its quitclaim deed to the Georgia State