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96th Congress

An Act

Aug. 4, 1980

[H.R. 6666]

Coast Guard
Reserve.

Law revisions.

14 USC 701 *et*
seq.

To revise the laws relating to the Coast Guard Reserve.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 14, United States Code, is amended to read as follows:

"CHAPTER 21—COAST GUARD RESERVE**"SUBCHAPTER A****"GENERAL****"Sec.****"701. Organization.****"702. Authorized strength.****"703. Coast Guard Reserve Boards.****"704. Grades and ratings; military authority.****"705. Benefits.****"706. Temporary members of the Reserve; eligibility and compensation.****"707. Temporary members of the Reserve; disability or death benefits.****"708. Temporary members of the Reserve; certificate of honorable service.****"709. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.****"710. Appointment or wartime promotion; retention of grade upon release from active duty.****"711. Exemption from military training and draft; exclusiveness of service.****"712. Active duty for emergency augmentation of regular forces.****"713. Enlistment of members engaged in schooling.****"SUBCHAPTER B****"COMMISSIONED OFFICERS****"720. Definitions.****"721. Applicability of this subchapter.****"722. Suspension of this subchapter in time of war or national emergency.****"723. Effect of this subchapter on retirement and retired pay.****"724. Authorized number of officers.****"725. Precedence.****"726. Running mates.****"727. Constructive credit upon initial appointment.****"728. Promotion of Reserve officers on active duty.****"729. Promotion; recommendations of selection boards.****"730. Selection boards; appointment.****"731. Placement in promotion zone; consideration for promotion.****"732. Eligibility for promotion.****"733. Recommendation for promotion of an officer.****"734. Qualifications for promotion.****"735. Promotion; acceptance; oath of office.****"736. Date of rank upon promotion; entitlement to pay.****"737. Type of promotion; temporary.****"738. Effect of removal by the President or failure of consent of the Senate.****"739. Failure of selection for promotion.****"740. Failure of selection and removal from active status.****"741. Retention boards; removal from an active status to provide a flow of promotion.****"742. Maximum ages for retention in an active status.****"743. Rear admiral; maximum service in grade.**

"744. Appointment of a former Navy or Coast Guard officer.

"745. Grade on entry upon active duty.

"746. Recall of a retired officer; grade upon release.

"SUBCHAPTER A

"GENERAL

"§701. Organization

14 USC 701.

"The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

"§702. Authorized strength

14 USC 702.

"(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

"(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the Reserve may not be reduced in grade because of the Secretary's determination.

"§703. Coast Guard Reserve Boards

14 USC 703.

"(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters. At least one-half of the members of the Board shall be Reserve officers.

Report.
Membership.

"(b) The Secretary may convene any other Reserve Board the Secretary considers necessary.

"§704. Grades and ratings; military authority

14 USC 704.

"The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation for the Coast Guard. A member of the Reserve on active duty or inactive-duty training has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

"§705. Benefits

14 USC 705.

"(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is entitled to the same benefits as a member of the Naval Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the Regular Coast Guard.

"(b) Chapter 13 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard.

14 USC 461.

"(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Naval Reserve who suffers sickness, disease, disability, or death under similar conditions.

"(d) A member of the Reserve on active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training)

10 USC 1071 *et seq.*

or when retired for disability is entitled to the benefits of chapter 55 of title 10.

“(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Naval Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

14 USC 706.

“§706. Temporary members of the Reserve; eligibility and compensation

“A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person’s civilian position) who by reason of special training and experience is considered by the Commandant to be qualified for duty, may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions the Commandant may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the Reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

14 USC 707.

“§707. Temporary members of the Reserve; disability or death benefits

“(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section. That law shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of \$600.

“(b) This section does not apply if the workmen’s compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

Investigation.

“(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation

into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

"(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Regular Coast Guard.

"(e) In administering section 8133 of title 5, for a person covered by this section—

"(1) the percentages applicable to payments under that section are—

"(A) 45 per centum under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection;

42 USC 401.

"(B) 20 per centum under subsection (a)(3) of that section, for one child, and 10 per centum additional for each additional child, not to exceed a total of 75 per centum, where the member died fully or currently insured under title II of the Social Security Act; and

"(C) 25 per centum under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 per centum to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

"(2) payments may not be made under subsection (a)(5) of that section; and

"(3) the Secretary of Labor shall inform the Secretary of Health and Human Services whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5. The Secretary of Health and Human Services shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

"§708. Temporary members of the Reserve; certificate of honorable service

14 USC 708.

"In recognition of the service of temporary members of the Reserve, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member. Issuance of a certificate of honorable service to any person under this section does not entitle that person to any rights, privileges, or benefits under any law of the United States.

"§709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade

14 USC 709.

"(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

“(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

“(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

“(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

“(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

“(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for two years may serve for an additional period of not more than two years.

“(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

“(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

14 USC 710.

“§710. Appointment or wartime promotion; retention of grade upon release from active duty

14 USC 214, 275.

“(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

“(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

14 USC 711.

“§711. Exemption from military training and draft; exclusiveness of service

“A member of the Reserve, other than a temporary member, is exempt from registration and liability for military training and service under any other law. No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military component shall, if ordered to active duty therein, be disenrolled as a temporary member of the Reserve.

14 USC 712.

“§712. Active duty for emergency augmentation of regular forces

“(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of the member affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.

“(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that

duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

“(c) Active duty served under this section—

“(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 270 of title 10;

“(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

“(3) entitles a member while engaged therein, or while engaged in authorized travel to or from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other active duty.

“§713. Enlistment of members engaged in schooling

14 USC 713.

“The initial period of active duty for training required by section 511(d) of title 10, may be divided into two successive annual periods of not less than six weeks each, to permit the enlistment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

“SUBCHAPTER B

“COMMISSIONED OFFICERS

“§720. Definitions

14 USC 720.

“As used in this subchapter—

“(1) ‘Reserve officer’ means a commissioned officer in the Reserve, except an officer excluded by section 721 of this title or a commissioned warrant officer; and

Infra.

“(2) ‘discharged’ means released from an appointment as a Reserve officer.

“§721. Applicability of this subchapter

14 USC 721.

“This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

“§722. Suspension of this subchapter in time of war or national emergency

14 USC 722.

“In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, the President shall by regulation, in so far as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

“§723. Effect of this subchapter on retirement and retired pay

14 USC 723.

“Except as provided in subsection 746(b) of this title, nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer; or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer.

Post, p. 1015.

“§724. Authorized number of officers

14 USC 724.

“(a) The authorized number of officers in the Reserve in an active status is 5,000. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the

Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

“(b) The authorized number of Reserve officers in an active status below the grade of rear admiral shall be distributed in grade in the following percentages, respectively: captain, 1.5; commander, 7.0; lieutenant commander, 22.0; lieutenant, 37.0; and in the combined grades of lieutenant (junior grade) and ensign, 32.5. When the actual number of Reserve officers in an active status in a grade is less than the number authorized, the difference may be applied to increase the authorized number in a lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law. The authorized number of Reserve officers in an active status not on active duty in the grade of rear admiral is two.

14 USC 725.

“§725. Precedence

“(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

“(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer's date of rank be changed due to the transfer.

“(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

14 USC 726.

“§726. Running mates

“(a) The Secretary shall assign a running mate to each Reserve officer in an active status not on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who has twice failed of selection or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

14 USC 289.

“(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

“(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment after being selected for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

"(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

"(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

"(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

"(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

"(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

"§727. Constructive credit upon initial appointment

14 USC 727.

"Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a law specialist in the Reserve shall be credited with a minimum of three years service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

"§728. Promotion of Reserve officers on active duty

14 USC 728.

"(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 11 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the

14 USC 211 *et seq.*

officer shall be included in the grade distribution authorized by this subchapter.

14 USC 211 *et seq.*

"(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 11 of this title.

"(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 11 of this title, shall be promoted to that grade as though selected under this subchapter.

"(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 11 of this title shall count for all purposes.

14 USC 729.

"§729. Promotion; recommendations of selection boards

"(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

"(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

"(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

"(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

"(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

"(d) Before convening a selection board to recommend Reserve officers for promotion to a grade above lieutenant (junior grade), the Secretary shall determine the total number of Reserve officers to be selected for promotion to that grade. The number to be selected shall normally be equal to the number of vacancies existing in that grade, plus the number of vacancies anticipated over the next twelve months, minus the number of officers on the list of selectees for that grade. The Secretary may, however, prescribe regulations that provide for the establishment of promotion opportunity percentages for each grade to ensure that equitable promotion opportunities exist among successive groups of Reserve officers being considered for promotion. The number so determined may not cause the number of Reserve officers in an active status in a grade to exceed that authorized for the grade concerned.

"(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grade of rear admiral apply to a Reserve officer, except that to be eligible for consideration an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

14 USC 260.

"(f) The provisions of section 260 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

Report to
President.
Review.

"(g) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

“(h) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotions of Reserve officers shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 738 of this title. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list.

List of selectees.

Post, p. 1013.

“(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer’s promotion is lawfully withheld, be tendered an appointment in the next higher grade at the same time, or as soon thereafter as practicable, as that officer’s running mate is tendered a similar appointment.

“§730. Selection boards; appointment

14 USC 730.

“(a) A selection board shall (1) be appointed and convened by the Secretary; (2) consist of at least 50 per centum Reserve officer membership, except in the case of a flag officer selection board where, to the extent practicable, it shall consist of at least 50 per centum Reserve officer membership; (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board; and (4) be composed of not less than five members, which number constitutes a quorum.

Membership.

“(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

“(c) Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness required of officers and the efficiency of the Coast Guard, perform the duties imposed upon him. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

“(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer’s record in the armed forces that, in the opinion of the officer concerned, is important to the board’s consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and may not criticize or reflect upon the character, conduct, or motive of any officer.

Written communication to board.

“§731. Placement in promotion zone; consideration for promotion

14 USC 731.

“Subject to the eligibility requirements of this subchapter, a Reserve officer shall be placed in a promotion zone when that officer’s running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer’s running mate or as soon thereafter as practicable.

“§732. Eligibility for promotion

14 USC 732.

“A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under

- Post*, p. 1014. subsection 741(a) of this title, is not eligible for consideration for promotion.
- 14 USC 733. **"§733. Recommendation for promotion of an officer previously removed from an active status**
- Recommended list of selectees. "A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.
- 14 USC 734. **"§734. Qualifications for promotion**
- "(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer's service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.
- "(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.
- 14 USC 735. **"§735. Promotion; acceptance; oath of office**
- "(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.
- "(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.
- 14 USC 736. **"§736. Date of rank upon promotion; entitlement to pay**
- "(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.
- "(b) Notwithstanding any other law and when a Reserve officer's running mate is so entitled, a Reserve officer in the grade of rear admiral is entitled to the pay and allowances of the upper half for duty performed.
- Appointment date. "(c) For the purposes of subsection (a) of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary.
- 14 USC 737. **"§737. Type of promotion; temporary**
- "Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

“§738. Effect of removal by the President or failure of consent of the Senate 14 USC 738.

“(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title. *Ante*, p. 1010.

“(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

“(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

“§739. Failure of selection for promotion 14 USC 739.

“(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

“(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board that originally would have considered the officer but for the error.

“§740. Failure of selection and removal from an active status 14 USC 740.

“(a) The Secretary—

“(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

“(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral.

“(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

“(c) Subject to section 1006 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

“(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or

"(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which the officer completes thirty years of total commissioned service as computed under this section.

"(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the actual total commissioned service performed in a grade above commissioned warrant officer or the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer, whichever is greater.

14 USC 741.

"§741. Retention boards; removal from an active status to provide a flow of promotion

"(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status not on active duty and not on an approved list of selectees for promotion to the next higher grade. The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status. This board shall—

Membership.

"(1) to the extent practicable, consist of at least 50 per centum Reserve officers;

"(2) consist only of officers who are senior in rank to any officers being considered by that board; and

"(3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

"(b) Subject to section 1006 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the report of the retention board is approved.

14 USC 260.

"(c) The provisions of section 260 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

14 USC 742.

"§742. Maximum ages for retention in an active status

Reserve officer.

"(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age.

Reserve rear admiral.

"(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

"(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes sixty-two years of age.

"§743. Rear admiral; maximum service in grade

14 USC 743.

"Unless retained in or removed from an active status under any other law, a Reserve rear admiral shall be removed from an active status on the day that officer completes four years of service in that grade.

"§744. Appointment of a former Navy or Coast Guard officer

14 USC 744.

"A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning the officer's Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date of rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

"§745. Grade on entry upon active duty

14 USC 745.

"A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

"§746. Recall of a retired officer; grade upon release

14 USC 746.

"(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

"(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer's performance has been satisfactory in the higher grade."

CONFORMING AMENDMENT

SEC. 2. Subsection 1006(e) of title 10, United States Code is amended by striking out "787" in the first sentence and substituting "740".

Approved August 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1011 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):

June 9, considered and passed House.

July 23, considered and passed Senate.