

Dec. 20, 2012, 126 Stat. 1558; renumbered §3751, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 787 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 740 of this title as this section.

2012—Subsec. (d). Pub. L. 112-213 substituted “that appointment to the Reserve” for “that appointment”.

1994—Subsec. (c). Pub. L. 103-337 substituted “section 12646 of title 10” for “section 1006 of title 10”.

1985—Subsec. (a)(2). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1983—Subsec. (a)(2). Pub. L. 97-417 substituted “commodore” for “rear admiral”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

§ 3752. 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 who have 18 years or more of service for retirement, except those officers who—

- (1) are on extended active duty;
- (2) are on a list of selectees for promotion;
- (3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or
- (4) have reached age 59 by the date on which the retention board is convened.

The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status.

(b) This board shall—

- (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.

(c) Subject to section 12646 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.

(d) The provisions of section 2117 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1014, §741; amended Pub. L. 101-225, title II, §203(5), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 103-206, title II, §203, Dec. 20, 1993, 107 Stat. 2420; Pub. L. 103-337, div. A, title XVI, §1677(b)(5), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 104-106, div. A, title XV, §1501(e)(1)(B), Feb. 10, 1996, 110 Stat. 501; renumbered §3752 and amended Pub. L. 115-282, title I, §§118(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4233, 4240.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 787a of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

AMENDMENTS

2018—Pub. L. 115-282, §118(b), renumbered section 741 of this title as this section.

Subsec. (d). Pub. L. 115-282, §123(b)(2), substituted “section 2117” for “section 260”.

1996—Subsec. (c). Pub. L. 104-106 substituted “section 12646 of title 10” for “section 1006 of title 10”.

1994—Subsec. (b). Pub. L. 103-337, which directed amendment of subsec. (b) by substituting “section 12646 of title 10” for “section 1006 of title 10”, could not be executed because the words “section 1006 of title 10” did not appear in subsec. (b).

1993—Pub. L. 103-206 in subsec. (a) in first sentence substituted “, except those officers who—” and pars. (1) to (4) for “and are not on active duty and not on an approved list of selectees for promotion to the next higher grade”, realigned margin of second sentence, inserted “(b)” before “This board shall—” in third sentence and realigned margin, and redesignated former subssecs. (b) and (c) as (c) and (d), respectively.

1989—Subsec. (a). Pub. L. 101-225 inserted “who have 18 years or more of service for retirement and are” before “not on active duty”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

§ 3753. Maximum ages for retention in an active status

(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

(c) Notwithstanding subsections (a) and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

(d) For purposes of this section, “active duty” does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1014, §742; amended Pub. L. 97-417, §2(16), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108-293, title II, §209, Aug. 9, 2004, 118 Stat. 1035; Pub. L. 114-120, title II, §209(13), Feb. 8, 2016, 130 Stat. 41; renumbered §3753, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 742 of this title as this section.

2016—Subsec. (c). Pub. L. 114-120 substituted “subsections” for “subsection”.

2004—Pub. L. 108-293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

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

“(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) 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.”

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1983—Subsec. (b). Pub. L. 97-417 inserted “or commodore” after “rear admiral”.

§ 3754. Rear admiral and rear admiral (lower half); maximum service in grade

(a) Unless retained in or removed from an active status under any other law, a reserve rear admiral or rear admiral (lower half) shall be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes 4 years of service after the appointment of the officer to rear admiral (lower half).

(b) Notwithstanding any other provision of law, if promotion of inactive duty promotion list officers to the grade of rear admiral is not determined in accordance with a running mate system, a Reserve officer serving in an active status in the grade of rear admiral (lower half) shall be promoted to the grade of rear admiral, if acceptable to the President and the Senate, on the date the officer has served 2 years in an active status in grade of rear admiral (lower half),

or in the case of a vacancy occurring prior to having served 2 years in an active status, on the date the vacancy occurs, if the officer served at least 1 year in an active status in the grade of rear admiral (lower half).

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015, §743; amended Pub. L. 97-417, §2(17)(A), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), (3)(A), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108-293, title II, §220(d), Aug. 9, 2004, 118 Stat. 1039; renumbered §3754, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 743 of this title as this section.

2004—Pub. L. 108-293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Unless retained in or removed from an active status under any other law, a Reserve rear admiral or rear admiral (lower half) shall be removed from an active status on the day that officer completes four years combined service in the grades of rear admiral and rear admiral (lower half).”

1985—Pub. L. 99-145 substituted references to “rear admiral (lower half)” for “commodore” in section catchline and two places in text.

1983—Pub. L. 97-417 inserted reference to “commodore” in section catchline and text.

§ 3755. Appointment of a former Navy or Coast Guard officer

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.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015, §744; renumbered §3755, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 792 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 744 of this title as this section.

§ 3756. Grade on entry upon active duty

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.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015, §745; renumbered §3756, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 776 of this title prior to the complete