

lished in the executive branch of the United States Government an agency to be known as the Panama Canal Commission (hereinafter in this chapter referred to as the ‘Commission’). The Commission shall, under the general supervision of the Board established by section 3612 of this title, be responsible for the maintenance and operation of the Panama Canal and the facilities and appurtenances related thereto. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.”

#### Statutory Notes and Related Subsidiaries

##### RECOMMENDATIONS BY PRESIDENT ON CHANGES TO PANAMA CANAL COMMISSION STRUCTURE

Pub. L. 102-484, div. C, title XXXV, § 3522, Oct. 23, 1992, 106 Stat. 2657, provided that:

“(a) REPORT.—The President shall conduct a study and, if warranted, develop a plan setting forth recommendations for such changes, if any, to the Panama Canal Commission for the operation of the Panama Canal during the period before the termination of the Panama Canal Treaty of 1977 as the President determines would facilitate and encourage the operation of the canal through an autonomous entity under the Government of Panama after the transfer of the canal on December 31, 1999, pursuant to the Panama Canal Treaty of 1977 and related agreements. The President shall submit the study and, if warranted, plan to Congress, together with a legislative proposal containing any changes to existing law required to implement the plan, not later than one year after the date of the enactment of this Act [Oct. 23, 1992].

“(b) PREPARATION OF PLAN.—Recommendations to the President for purposes of the study and plan required by subsection (a) shall be prepared with the participation of a representative of each of the following:

- “(1) The Secretary of State.
- “(2) The Secretary of Defense.
- “(3) The Secretary of the Treasury.
- “(4) The Secretary of Commerce.
- “(5) The Secretary of Transportation.
- “(6) The Panama Canal Commission.

“(c) PLAN TO BE CONSISTENT WITH PANAMA CANAL TREATY.—The study and, if warranted, plan submitted by the President pursuant to subsection (a) shall be consistent with the Panama Canal Treaty of 1977 and related agreements.”

##### REPORT BY COMPTROLLER GENERAL ON CHANGES TO PANAMA CANAL COMMISSION STRUCTURE

Pub. L. 102-484, div. C, title XXXV, § 3523, Oct. 23, 1992, 106 Stat. 2658, provided that:

“(a) REPORT.—The Comptroller General shall submit to Congress a report analyzing the effectiveness of the fiscal, operational, and management structure of the Panama Canal Commission and setting forth recommendations for such changes to that structure as the Comptroller General determines would, if implemented, enable the Commission to operate more efficiently and, thereby, serve as a model for the Government of Panama for the operation of the Panama Canal after the transfer of the Panama Canal on December 31, 1999, pursuant to the Panama Canal Treaty of 1977 and related agreements. The Comptroller General shall submit the report to Congress not later than one year after the date of the enactment of this Act [Oct. 23, 1992].

“(b) PREPARATION OF REPORT.—In developing the report required by subsection (a), the Comptroller General shall seek the views of each of the following:

- “(1) The Secretary of State.
- “(2) The Secretary of Defense.
- “(3) The Secretary of the Treasury.
- “(4) The Secretary of Commerce.
- “(5) The Secretary of Transportation.
- “(6) The Panama Canal Commission.

“(c) REPORT TO BE CONSISTENT WITH PANAMA CANAL TREATY.—The recommendations in the report submitted by the Comptroller General pursuant to sub-

section (a) shall be consistent with the Panama Canal Treaty of 1977 and related agreements.”

#### § 3612. Supervisory Board

##### (a) Composition of Board

The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense. Not less than five members of the Board shall be nationals of the United States and the remaining members of the Board shall be nationals of the Republic of Panama. Three members of the Board who are nationals of the United States shall hold no other office in, and shall not be employed by, the Government of the United States, and shall be chosen for the independent perspective they can bring to the Commission’s affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the the<sup>1</sup> officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board.

##### (b) Membership of Board; appointing authority; compensation and travel expenses; compensation for non-Government Board members

The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 3617 of this title, except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for level V of the Executive Schedule under section 5316 of title 5, for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business.

##### (c) Meetings; quorum; proxies

The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this

<sup>1</sup> So in original.

section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy. The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present.

(Pub. L. 96-70, title I, §1102, Sept. 27, 1979, 93 Stat. 456; Pub. L. 98-217, Feb. 14, 1984, 98 Stat. 9; Pub. L. 99-223, §6, Dec. 28, 1985, 99 Stat. 1740; Pub. L. 100-203, title V, §5416, Dec. 22, 1987, 101 Stat. 1330-270; Pub. L. 100-705, §7, Nov. 19, 1988, 102 Stat. 4686; Pub. L. 101-510, div. C, title XXXV, §3504, Nov. 5, 1990, 104 Stat. 1846; Pub. L. 104-106, div. C, title XXXV, §3523, Feb. 10, 1996, 110 Stat. 638; Pub. L. 105-261, div. C, title XXXV, §3511(a), Oct. 17, 1998, 112 Stat. 2270.)

### Editorial Notes

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-261 substituted “The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense.” for “The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary.” and “the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board” for “Secretary of Defense or a designee of the Secretary of Defense”.

1996—Subsec. (a). Pub. L. 104-106 added subsec. (a) and struck out former subsec. (a) which read as follows: “The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members shall be nationals of the Republic of Panama. At least one of the members of the Board who are nationals of the United States shall be experienced and knowledgeable in the management or operation of an American-flag steamship line which has or had ships regularly transiting the Panama Canal, at least one other such member shall be experienced and knowledgeable in United States port operations or in the business of exporting or importing one of the regular commodities dependent on the Panama Canal as a transportation route, and at least one other such member shall be experienced and knowledgeable in labor matters in the United States. Three members of the Board shall hold no other office in or be employed by the Government of the United States. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or his designee.”

1990—Subsec. (b). Pub. L. 101-510 substituted “level V of the Executive Schedule under section 5316” for “grade GS-18 of the General Schedule under section 5332”.

1988—Subsec. (c). Pub. L. 100-705 struck out after third sentence “Only one proxy may be valid at any one time.”

1987—Subsec. (b). Pub. L. 100-203 inserted before period at end “or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business”.

1985—Subsec. (b). Pub. L. 99-223 inserted provisions relating to compensation of members of the Board who

hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay.

1984—Subsec. (c). Pub. L. 98-217 inserted provisions under which the Secretary of Defense or the officer of the Department of Defense designated by the Secretary may act by proxy for other members of the Board.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-705, §10, Nov. 19, 1988, 102 Stat. 4687, provided that: “This Act [enacting sections 3715 to 3715d of this title, amending this section and sections 3712 and 3731 of this title, and enacting provisions set out as a note under section 3601 of this title] takes effect on October 1, 1988.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-223, §8, Dec. 28, 1985, 99 Stat. 1740, provided that: “Section 5 and section 6 of the Act [enacting section 3650 of this title and amending this section and sections 3647 and 3731 of this title] shall be effective as of October 1, 1985.”

### § 3612a. General powers of Commission

#### (a) Corporate seal

The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed.

#### (b) Bylaws

The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

#### (c) Suits by and against Commission

The Commission may sue and be sued in its corporate name, except that—

(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 3761 of this title, and otherwise by law;

(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5 and sections 659, 661, and 662<sup>1</sup> of title 42, or as otherwise specifically authorized by the laws of the United States; and

(3) the Commission is exempt from the payment of interest on claims and judgments.

#### (d) Contracts, leases, agreements, or other transactions

The Commission may enter into contracts, leases, agreements, or other transactions.

#### (e) Obligations and expenditures

The Commission—

(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

#### (f) Priority in payment of debts out of bankrupt estates

The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

<sup>1</sup> See References in Text note below.