

Editorial Notes

CODIFICATION

R.S. § 5253 derived from Res. Mar. 29, 1867, No. 27, 15 Stat. 28.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

Executive Documents

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

§ 544. Repealed. Aug. 19, 1968, Pub. L. 88-448, § 402(a)(9), 78 Stat. 493

Section, act June 3, 1896, ch. 314, § 7, 29 Stat. 235, related to employment of retired officers of the Army or Navy on river and harbour improvements.

§ 544a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650

Section, act June 20, 1938, ch. 535, § 5, 52 Stat. 805, related to employment of retired civil service employees. See section 3323 of Title 5, Government Organization and Employees.

§ 544b. Employment of physicians to examine employees; fee or employment basis; validation of prior agreements

The Chief of Engineers may authorize the employment of physicians under agreement, to make such physical examinations of employees or prospective employees as he may consider essential, on a fee or regular employment basis, and all agreements entered into prior to March 2, 1945, for such purposes are validated, and the Comptroller General is authorized and directed to allow credit in the accounts of disbursing officers for reasonable payments made prior to March 2, 1945, for such services.

(Mar. 2, 1945, ch. 19, § 5, 59 Stat. 24.)

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§ 544c. Minority group participation in construction of the Tennessee-Tombigbee Waterway project; annual report to Congress

The Secretary of the Army, acting through the Chief of Engineers, is directed to make a

maximum effort to assure the full participation of members of minority groups, living in the States participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway project, including actions to encourage the use, wherever possible, of minority owned firms.

(Pub. L. 94-587, § 185, Oct. 22, 1976, 90 Stat. 2941; Pub. L. 104-106, div. A, title X, § 1064(e), Feb. 10, 1996, 110 Stat. 445.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-106 struck out at end "The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendation for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary."

§ 545. Preliminary examinations and reports; surveys; contents of report to Congress generally

In all cases where preliminary examinations and surveys are authorized a preliminary examination of the river, harbor, or other proposed improvement mentioned shall first be made and a report as to the advisability of its improvement shall be submitted unless a survey or estimate is expressly directed. If upon such preliminary examination the proposed improvement is not deemed advisable, no further action shall be taken thereon without the further direction of Congress; but in case the report shall be favorable to such proposed improvement, or that a survey and estimate should be made to determine the advisability of improvement, the Secretary of the Army is authorized, in his discretion, to cause surveys to be made, and the cost and advisability to be reported to Congress. And such reports containing plans and estimates shall also contain a statement as to the rate at which the work should be prosecuted: *Provided*, That every report submitted to Congress, in addition to full information regarding the present and prospective commercial importance of the project covered by the report and the benefit to commerce likely to result from any proposed plan of improvement, shall also contain such data as it may be practicable to secure in regard to the following subjects:

(a) The existence and establishment of both private and public terminal and transfer facilities contiguous to the navigable water proposed to be improved, and, if water terminals have been constructed, the general location, description, and use made of the same, with an opinion as to their adequacy and efficiency, whether private or public. If no public terminals have been constructed, or if they are inadequate in number, there shall be included in the report an opinion in general terms as to the necessity, number, and appropriate location of the same, and also the necessary relations of such proposed terminals to the development of commerce.

(b) The development and utilization of water power for industrial and commercial purposes.

(c) Such other subjects as may be properly connected with such project: *Provided*, That in the investigation and study of these questions consideration shall be given only to their bearing upon the improvement of navigation, to the possibility and desirability of their being coordinated in a logical and proper manner with improvements for navigation to lessen the cost of such improvements and to compensate the Government for expenditures made in the interest of navigation, and to their relation to the development and regulation of commerce: *Provided further*, That the investigation and study of these questions may, upon review by the Board of Engineers for Rivers and Harbors when called for as provided by law, be extended to any work of improvement under way and to any locality the examination and survey of which has heretofore been, or may hereafter be, authorized by Congress.

(Mar. 4, 1913, ch. 144, §3, 37 Stat. 825; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

This section and the second paragraph of section 556 of this title are from section 3 of act Mar. 4, 1913, popularly known as the "Rivers and Harbors Appropriation Act of 1913". That section superseded similar provisions of act June 25, 1910, ch. 382, §3, 36 Stat. 668, for reports, investigations on review by the board of Engineers and for the printing of reports.

PRIOR PROVISIONS

Provision for report of examinations of river and harbor improvements appeared in R.S. §231, repealed by act Mar. 3, 1933, ch. 202, §1, 47 Stat. 1428, and read as follows: "The Secretary of War shall cause to be prepared and submitted to Congress, in connection with the reports of examinations and surveys of rivers and harbors hereafter made by order of Congress, full statements of all existing facts tending to show to what extent the general commerce of the country will be promoted by the several works of improvements contemplated by such examinations and surveys, to the end that public moneys shall not be applied excepting where such improvements shall tend to subserve the general commercial and navigation interests of the United States."

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TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

TEMPORARY PROHIBITORY PROVISIONS

Provisions prohibiting supplemental reports or estimates, prohibiting the making of examination or sur-

vey for new works not designated, and providing that projects were not to be deemed entered upon until appropriations were made, appeared in various rivers and harbors appropriation acts. They are omitted from the Code as superseded or temporary.

REPORT ON IMPROVEMENTS FOR COASTAL DEFENSE PURPOSES

The Secretary of War and the Secretary of the Navy were authorized and directed to report to Congress at the earliest practicable date, such specific plans for improvement of harbors, canals and connecting channels as would best provide adequate facilities for operations of the fleet for defense of the harbors on the Atlantic, Gulf, and Pacific coasts; also the feasible extensions requisite to make existing approved projects for improvement of such harbors, canals, and channels available for such purposes, and the cost of each such several improvements, calculated upon the basis of completion under contract within five years, by act Aug. 29, 1916, ch. 417, 39 Stat. 556, omitted from the Code as special and temporary.

PRELIMINARY EXAMINATIONS AND SURVEYS OF GREAT LAKES

The Secretary of War was directed to cause preliminary examinations and surveys to be made of the harbors and connecting waters of the Great Lakes with a view to determining what additional improvements would be necessary to permit those waterways to accommodate vessels to pass through the Welland Canal when enlarged by the Dominion of Canada, including report as to the character and draft of vessels which might be expected to use the canal when so enlarged, by a provision of the Rivers and Harbors Appropriation Act of 1916, act July 27, 1916, ch. 260, §2, 39 Stat. 411, omitted from the Code as special and temporary.

§ 545a. Discontinuance

For preliminary examinations and surveys authorized in previous river and harbor and flood-control Acts, the Secretary of the Army is directed to cause investigations and reports for navigation and allied purposes to be prepared under the supervision of the Chief of Engineers in the form of survey reports, and that preliminary examination reports shall no longer be required to be prepared.

(Pub. L. 85-500, title I, §105, July 3, 1958, 72 Stat. 300.)

Editorial Notes

REFERENCES IN TEXT

Previous river and harbor and flood-control Acts, referred to in text, means those acts prior to the River and Harbor Act of 1958 and the Flood Control Act of 1958, titles I and II, respectively, of Pub. L. 85-500.

§ 546. Investigation of stream flow and watersheds; surveys in connection with dams

The surveys of navigable streams shall include such stream-flow measurements and other investigations of the watersheds as may be necessary for preparation of plans of improvement and a proper consideration of all uses of the stream affecting navigation, and whenever necessary similar investigations may be made in connection with all navigable streams under improvement. Whenever permission for the construction of dams in navigable streams is granted, or is under consideration by Congress, such surveys and investigations of the sections of the streams affected may be made as are necessary