

and of his supplemental pay, if any, that would have been deducted from a like agency pay for the period of the assignment and payment by the Federal agency into the fund or system of the amount that would have been payable by the agency during the period of the assignment with respect to a like agency pay, to treat his service during that period as service of the type performed in the agency immediately before his assignment; and

(C) for the purpose of subchapter I of chapter 85 of this title, to credit the service performed during the period of his assignment under this subchapter as Federal service, and to consider his State or local government pay (and his supplemental pay, if any) as Federal wages. To the extent that the service could also be the basis for entitlement to unemployment compensation under a State law, the employee may elect to claim unemployment compensation on the basis of the service under either the State law or subchapter I of chapter 85 of this title.

However, an employee or his beneficiary may not receive benefits referred to in subparagraphs (A) and (B) of this paragraph (3), based on service during an assignment under this subchapter for which the employee or, if he dies without making such an election, his beneficiary elects to receive benefits, under any State or local government retirement or insurance law or program, which the Office of Personnel Management determines to be similar. The Federal agency shall deposit currently in the Employee's Life Insurance Fund, the Employee's Health Benefits Fund or other applicable health benefits system, respectively, the amount of the Government's contributions on account of service with respect to which employee contributions are collected as provided in subparagraphs (A) and (B) of this paragraph (3).

(d)(1) An employee so assigned and on leave without pay who dies or suffers disability as a result of personal injury sustained while in the performance of his duty during an assignment under this subchapter shall be treated, for the purpose of subchapter I of chapter 81 of this title, as though he were an employee as defined by section 8101 of this title who had sustained the injury in the performance of duty. When an employee (or his dependents in case of death) entitled by reason of injury or death to benefits under subchapter I of chapter 81 of this title is also entitled to benefits from a State or local government for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. The election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may allow for reasonable cause shown. When made, the election is irrevocable unless otherwise provided by law.

(2) An employee who elects to receive benefits from a State or local government may not receive an annuity under subchapter III of chapter 83 of this title and benefits from the State or local government for injury or disability to himself covering the same period of time. This provision does not—

(A) bar the right of a claimant to the greater benefit conferred by either the State or local government or subchapter III of chapter 83 of this title for any part of the same period of time;

(B) deny to an employee an annuity accruing to him under subchapter III of chapter 83 of this title on account of service performed by him; or

(C) deny any concurrent benefit to him from the State or local government on account of the death of another individual.

(Added Pub. L. 91-648, title IV, §402(a), Jan. 5, 1971, 84 Stat. 1921; amended Pub. L. 95-454, title VI, §603(b), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1190, 1224; Pub. L. 102-378, §2(14), Oct. 2, 1992, 106 Stat. 1347.)

### Editorial Notes

#### REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in subsec. (a), is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§921, 922, 931-934, 941-946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

#### AMENDMENTS

1992—Pub. L. 102-378 substituted “or local” for “and local” in section catchline.

1978—Subsecs. (a), (b). Pub. L. 95-454, §603(b), substituted “a Federal” for “an executive” and “Federal agency” for “executive agency”.

Subsec. (c). Pub. L. 95-454, §§603(b), 906(a)(2), substituted “Federal agency” for “executive agency” wherever appearing, and “Office of Personnel Management” for “Civil Service Commission”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE

Section effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91-648, set out as a note under section 3371 of this title.

### § 3374. Assignments of employees from State or local governments

(a) An employee of a State or local government who is assigned to a Federal agency under an arrangement under this subchapter may—

(1) be appointed in the Federal agency without regard to the provisions of this title governing appointment in the competitive service for the agreed period of the assignment; or

(2) be deemed on detail to the Federal agency.

(b) An employee given an appointment is entitled to pay in accordance with chapter 51 and

subchapter III of chapter 53 of this title or other applicable law, and is deemed an employee of the Federal agency for all purposes except—

- (1) subchapter III of chapter 83 of this title or other applicable retirement system;
- (2) chapter 87 of this title; and
- (3) chapter 89 of this title or other applicable health benefits system unless his appointment results in the loss of coverage in a group health benefits plan the premium of which has been paid in whole or in part by a State or local government contribution.

The above exceptions shall not apply to non-Federal employees who are covered by chapters 83, 87, and 89 of this title by virtue of their non-Federal employment immediately before assignment and appointment under this section.

(c) During the period of assignment, a State or local government employee on detail to a Federal agency—

- (1) is not entitled to pay from the agency, except to the extent that the pay received from the State or local government is less than the appropriate rate of pay which the duties would warrant under the applicable pay provisions of this title or other applicable authority;
- (2) is deemed an employee of the agency for the purpose of chapter 73 of this title, chapter 131 of this title, chapter 21 of title 41, sections 203, 205, 207, 208, 209, 602, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, sections 1343, 1344, and 1349(b) of title 31, and the Federal Tort Claims Act and any other Federal tort liability statute; and
- (3) is subject to such regulations as the President may prescribe.

The supervision of the duties of such an employee may be governed by agreement between the Federal agency and the State or local government concerned. A detail of a State or local government employee to a Federal agency may be made with or without reimbursement by the Federal agency for the pay, or a part thereof, of the employee during the period of assignment, or for the contribution of the State or local government, or a part thereof, to employee benefit systems.

(d) A State or local government employee who is given an appointment in a Federal agency for the period of the assignment or who is on detail to a Federal agency and who suffers disability or dies as a result of personal injury sustained while in the performance of his duty during the assignment shall be treated, for the purpose of subchapter I of chapter 81 of this title, as though he were an employee as defined by section 8101 of this title who had sustained the injury in the performance of duty. When an employee (or his dependents in case of death) entitled by reason of injury or death to benefits under subchapter I of chapter 81 of this title is also entitled to benefits from a State or local government for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. The election shall be made within 1 year after the injury or death, or such further time as the Secretary of Labor may allow for reasonable cause shown. When made, the election is irrevocable unless otherwise provided by law.

(e) If a State or local government fails to continue the employer's contribution to State or local government retirement, life insurance, and health benefit plans for a State or local government employee who is given an appointment in a Federal agency, the employer's contributions covering the State or local government employee's period of assignment, or any part thereof, may be made from the appropriations of the Federal agency concerned.

(Added Pub. L. 91-648, title IV, §402(a), Jan. 5, 1971, 84 Stat. 1923; amended Pub. L. 95-454, title VI, §603(b), (d), Oct. 13, 1978, 92 Stat. 1190; Pub. L. 97-258, §3(a)(6), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 107-107, div. A, title XI, §1117, Dec. 28, 2001, 115 Stat. 1241; Pub. L. 111-350, §5(a)(5), Jan. 4, 2011, 124 Stat. 3841; Pub. L. 117-286, §4(c)(6), Dec. 27, 2022, 136 Stat. 4354.)

### Editorial Notes

#### REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in subsec. (c)(2), is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§921, 922, 931-934, 941-946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

#### AMENDMENTS

2022—Subsec. (c)(2). Pub. L. 117-286 substituted “chapter 131 of this title,” for “the Ethics in Government Act of 1978.”

2011—Subsec. (c)(2). Pub. L. 111-350 substituted “chapter 21 of title 41” for “section 27 of the Office of Federal Procurement Policy Act”.

2001—Subsec. (c)(2). Pub. L. 107-107 inserted “the Ethics in Government Act of 1978, section 27 of the Office of Federal Procurement Policy Act,” after “chapter 73 of this title.”

1982—Subsec. (c)(2). Pub. L. 97-258 substituted “sections 1343, 1344, and 1349(b)” for “section 638a”.

1978—Subsec. (a). Pub. L. 95-454, §603(b), substituted “a Federal” for “an executive,” and “Federal agency” for “executive agency” in two places.

Subsec. (b). Pub. L. 95-454, §603(b), (d)(1), inserted provisions relating to nonapplicability of exceptions to non-Federal employees, and substituted “Federal” for “executive”.

Subsec. (c). Pub. L. 95-454, §603(b), (d)(2), (3), inserted provisions relating to pay received from the State or local government at less than the appropriate rate of pay, and provisions relating to contributions to employee benefit systems, and substituted “a Federal” for “an executive” and “Federal agency” for “executive agency” wherever appearing.

Subsec. (d). Pub. L. 95-454, §603(b), substituted “a Federal” for “an executive” in two places.

Subsec. (e). Pub. L. 95-454, §603(b), substituted “a Federal” for “an executive” and “Federal” for “executive”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

## EFFECTIVE DATE

Section effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91-648, set out as a note under section 3371 of this title.

**§ 3375. Travel expenses**

(a) Appropriations of a Federal agency are available to pay, or reimburse, a Federal or State or local government employee in accordance with—

(1) subchapter I of chapter 57 of this title, for the expenses of—

(A) travel, including a per diem allowance, to and from the assignment location;

(B) a per diem allowance at the assignment location during the period of the assignment; and

(C) travel, including a per diem allowance, while traveling on official business away from his designated post of duty during the assignment when the head of the Federal agency considers the travel in the interest of the United States;

(2) section 5724 of this title, for the expenses of transportation of his immediate family and of his household goods and personal effects to and from the assignment location;

(3) section 5724a(a) of this title, for the expenses of per diem allowances for the immediate family of the employee to and from the assignment location;

(4) section 5724a(c) of this title, for subsistence expenses of the employee and his immediate family while occupying temporary quarters at the assignment location and on return to his former post of duty;

(5) section 5724a(g) of this title, to be used by the employee for miscellaneous expenses related to change of station where movement or storage of household goods is involved; and

(6) section 5726(c) of this title, for the expenses of nontemporary storage of household goods and personal effects in connection with assignment at an isolated location.

(b) Expenses specified in subsection (a) of this section, other than those in paragraph (1)(C), may not be allowed in connection with the assignment of a Federal or State or local government employee under this subchapter, unless and until the employee agrees in writing to complete the entire period of his assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond his control that are acceptable to the Federal agency concerned. If the employee violates the agreement, the money spent by the United States for these expenses is recoverable from the employee as a debt due the United States. The head of the Federal agency concerned may waive in whole or in part a right of recovery under this subsection with respect to a State or local government employee on assignment with the agency.

(c) Appropriations of a Federal agency are available to pay expenses under section 5742 of this title with respect to a Federal or State or local government employee assigned under this subchapter.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1924; amended Pub. L. 95-454, title

VI, § 603(b), (e), Oct. 13, 1978, 92 Stat. 1190, 1191; Pub. L. 104-201, div. A, title XVII, § 1723(a)(1)(A), Sept. 23, 1996, 110 Stat. 2758.)

**Editorial Notes**

## AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104-201, § 1723(a)(1)(A)(i), substituted “section 5724a(a)” for “section 5724a(a)(1)”.

Subsec. (a)(4). Pub. L. 104-201, § 1723(a)(1)(A)(ii), substituted “section 5724a(c)” for “section 5724a(a)(3)”.

Subsec. (a)(5). Pub. L. 104-201, § 1723(a)(1)(A)(iii), substituted “section 5724a(g)” for “section 5724a(b)”.

1978—Subsec. (a). Pub. L. 95-454, § 603(b), (e), substituted “a Federal agency” for “an executive agency” in introductory text, substituted “Federal” for “executive” in cl. (1), added cl. (5), and redesignated former cl. (5) as (6).

Subsec. (b). Pub. L. 95-454, § 603(b), substituted “the Federal” for “the executive”.

Subsec. (c). Pub. L. 95-454, § 603(b), substituted “a Federal agency” for “an executive agency”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104-201, set out as a note under section 5722 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

## EFFECTIVE DATE

Section effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91-648, set out as a note under section 3371 of this title.

**§ 3376. Regulations**

The President may prescribe regulations for the administration of this subchapter.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1925.)

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Section effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91-648, set out as a note under section 3371 of this title.

**Executive Documents**

EX. ORD. NO. 11589. DELEGATION OF FUNCTIONS TO OFFICE OF PERSONNEL MANAGEMENT

Ex. Ord. No. 11589, Apr. 1, 1971, 36 F.R. 6343, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Office of Personnel Management is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(a) The authority of the President under section 3376 of title 5 of the United States Code [this section] to prescribe regulations for the administration of subchapter VI, “Assignments to and from States,” of chapter 33 of that title [this chapter].

(b) The authority of the President under section 205 (a)(4) of the Federal Civil Defense Act of 1950, as amended ([former] 50 U.S.C. App. 2286(a)(4)), and as af-