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From Title 39—POSTAL SERVICE

PART II—PERSONNEL

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§1001. Appointment and status

(a) Except as otherwise provided in this title, the Postal Service shall appoint all officers and employees of the Postal Service.

(b) Officers and employees of the Postal Service (other than those individuals appointed under sections 202, 204, and 1001(c) of this title) shall be in the postal career service, which shall be a part of the civil service. Such appointments and promotions shall be in accordance with the procedures established by the Postal Service. The Postal Service shall establish procedures, in accordance with this title, to assure its officers and employees meaningful opportunities for promotion and career development and to assure its officers and employees full protection of their employment rights by guaranteeing them an opportunity for a fair hearing on adverse actions, with representatives of their own choosing.

(c) The Postal Service may hire individuals as executives under employment contracts for periods not in excess of 5 years. Notwithstanding any such contract, the Postal Service may at its discretion and at any time remove any such individual without prejudice to his contract rights.

(d) Notwithstanding section 5533, 5535, or 5536 of title 5, or any other provision of law, any officer or employee of the Government of the United States is eligible to serve and receive pay concurrently as an officer or employee of the Postal Service (other than as a member of the Board or of the Postal Regulatory Commission) and as an officer or employee of any other department, agency, or establishment of the Government of the United States.

(e) The Postal Service shall have the right, consistent with section 1003 and chapter 12 of this title and applicable laws, regulations, and collective-bargaining agreements—

- (1) to direct officers and employees of the Postal Service in the performance of official duties;
- (2) to hire, promote, transfer, assign, and retain officers and employees in positions within the Postal Service, and to suspend, demote, discharge, or take other disciplinary action against such officers and employees;
- (3) to relieve officers and employees from duties because of lack of work or for other legitimate reasons;
- (4) to maintain the efficiency of the operations entrusted to it;
- (5) to determine the methods, means, and personnel by which such operations are to be conducted;
- (6) to prescribe a uniform dress to be worn by letter carriers and other designated employees; and
- (7) to take whatever actions may be necessary to carry out its mission in emergency situations.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 728; Pub. L. 109–435, title VI, §604(a), Dec. 20, 2006, 120 Stat. 3241.)

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–435 substituted "Postal Regulatory Commission" for "Postal Rate Commission".

EFFECTIVE DATE

Section effective Mar. 1, 1971, pursuant to Resolution No. 71–13 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

PERFORMANCE EVALUATIONS

Pub. L. 109–435, title VII, §706(b), Dec. 20, 2006, 120 Stat. 3246, provided that: "The United States Postal Service shall, as soon as is practicable, take such measures as may be necessary to incorporate the affirmative action and equal opportunity criteria contained in 4313(5) of title 5, United States Code, into the performance appraisals of senior supervisory or managerial employees."

TRANSFER TO UNITED STATES POSTAL SERVICE OF POST OFFICE DEPARTMENT PERSONNEL

Pub. L. 91–375, §8, Aug. 12, 1970, 84 Stat. 783, as amended by Pub. L. 109–435, title X, §1007(a), Dec. 20, 2006, 120 Stat. 3258, provided that:

"(a) Officers and employees of the Post Office Department shall become officers and employees of the United States Postal Service on the effective date of this section. The provisions of this section shall not apply to persons occupying the positions of Postmaster General, Deputy Postmaster General, Assistant Postmasters General, General Counsel, or Judicial Officer. This section shall not be construed, however, to prohibit the appointment of such persons to positions in the Postal Service.

"(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits."

[Pub. L. 109–435, title X, §1007(b), Dec. 20, 2006, 120 Stat. 3258, provided that: "This section [amending section 8 of Pub. L. 91–375, set out above] and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted."]

[Provisions of section 8 of Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of this title.]

APPOINTMENT OF POSTMASTERS AND OTHER EMPLOYEES ON MERIT BASIS

Pub. L. 91–375, §13, Aug. 12, 1970, 84 Stat. 786, provided that:

"(a) [*Methods of Appointment; Order of precedence; Status of Postmasters in Office*] Between the date of enactment of this Act [Aug. 12, 1970] and the date on which the Board of Governors of the United States Postal Service determines that section 1001 of title 39, United States Code (as enacted by section 2 of this Act), is effective, the Postmaster General shall appoint postmasters at offices of all classes in the competitive civil service by one of the three following methods which shall be applied in the following order of precedence:

"(1) by selection of a qualified employee serving at the post office where the vacancy occurs, including an acting postmaster who was serving on January 1, 1969, who shall

acquire a competitive status upon being appointed postmaster;

"(2) if no qualified employee serving at the post office where the vacancy occurs is available for, and willing to accept, appointment by the method described in subparagraph (1), by selection of a qualified employee serving in the postal field service; or

"(3) if no qualified employee is available for, and willing to accept, appointment by the methods described in subparagraph (1) or (2), by competitive examination in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service.

Enactment of this subsection shall not affect the status or tenure of postmasters in office on the date of enactment of this Act [Aug. 12, 1970].

"(b) [*Political Test Prohibition; Merit and Fitness Basis of Personnel Actions; Disciplinary Actions for Violations; Exceptions*] (1) In the selection, appointment, and promotion of employees of the Post Office Department between the date of enactment of this Act [Aug. 12, 1970] and the date on which the Board of Governors of the Postal Service determines that former section 3311 of title 39, United States Code, is no longer effective, no political test or qualification shall be permitted or given consideration, and all such personnel actions shall be taken on the basis of merit and fitness. Any officer or employee of the Post Office Department who violates this subsection shall be removed from office or otherwise disciplined in accordance with procedures for disciplinary action established pursuant to law.

"(2) This subsection does not apply to the selection and appointment of officers whose appointment is vested in the President, by and with the advice and consent of the Senate, or to the selection, appointment, or promotion to a position designated by the Civil Service Commission as a position of a confidential or policy-determining character or as a position to be filled by a noncareer executive assignment."

Provisions of section 13 of Pub. L. 91-375 effective Aug. 12, 1970, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of this title.

§1002. Political recommendations

(a) Except as provided in subsection (e) of this section, each appointment, promotion, assignment, transfer, or designation, interim or otherwise, of an officer or employee in the Postal Service (except a Governor or member of the Postal Regulatory Commission) shall be made without regard to any recommendation or statement, oral or written, with respect to any person who requests or is under consideration for such appointment, promotion, assignment, transfer, or designation, made by—

(1) any Member of the Senate or House of Representatives (including the Resident Commissioner from Puerto Rico);

(2) any elected official of the government of any State (including the Commonwealth of Puerto Rico) or of any county, city, or other political subdivision of such State or Commonwealth;

(3) any official of a national political party or of a political party of any State (including the Commonwealth of Puerto Rico), county, city, or other subdivision of such State or Commonwealth; or

(4) any other individual or organization.

(b) Except as provided in subsection (e) of this section, a person or organization referred to in clause (1), (2), (3), or (4) of subsection (a) of this section is prohibited from making or transmitting to the Postal Service, or to any other officer or employee of the Government of the United States, any recommendation or statement, oral or written, with respect to any person who requests or is under consideration for any such appointment, promotion, assignment, transfer, or designation. The Postal Service and any officer or employee of the Government of the United States, subject to subsection (e) of this section—

(1) shall not solicit, request, consider, or accept any such recommendation or statement; and

(2) shall return any such written recommendation or statement received by him, appropriately marked as in violation of this section, to the person or organization making or transmitting the same.

(c) A person who requests or is under consideration for any such appointment, promotion, assignment, transfer, or designation is prohibited from requesting or soliciting any such recommendation or statement from any person or organization except a statement of the type referred to in subsection (e)(2) of this section.

(d) Each employment form of the Postal Service used in connection with any such appointment, promotion, assignment, transfer, or designation shall contain appropriate language in boldface type informing all persons concerned of the provisions of this section. During the time any such appointment, promotion, assignment, transfer, or designation is under consideration, appropriate notice of the provisions

of this section printed in boldface type shall be posted in the post office concerned.

(e) The Postal Service or any authorized officer or employee of the Government of the United States may solicit, accept, and consider, and any other individual or organization may furnish or transmit to the Postal Service or such authorized officer or employee, any statement with respect to a person who requests or is under consideration for such appointment, promotion, assignment, transfer, or designation, if—

(1) the statement is furnished pursuant to a request or requirement of the Postal Service and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of such person;

(2) the statement relates solely to the character and residence of such person;

(3) the statement is furnished pursuant to a request made by an authorized representative of the Government of the United States solely in order to determine whether such person meets the loyalty, suitability, and character requirements for employment with the Government of the United States; or

(4) the statement is furnished by a former employer of such person pursuant to a request of the Postal Service, and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of such person during his employment with such former employer.

(f) The Postal Service shall take any action it determines necessary and proper, including but not limited to suspension, removal from office, or disqualification from the Postal Service, to enforce the provisions of this section.

(g) The provisions of this section shall not affect the right of an officer or employee of the Postal Service to petition Congress as authorized by section 7211 of title 5.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 729; Pub. L. 95–454, title VII, §703(c)(5), Oct. 13, 1978, 92 Stat. 1217; Pub. L. 109–435, title VI, §604(a), Dec. 20, 2006, 120 Stat. 3241.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–435 substituted "Postal Regulatory Commission" for "Postal Rate Commission".

1978—Subsec. (g). Pub. L. 95–454 substituted "section 7211" for "section 7102".

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 Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Mar. 1, 1971, pursuant to Resolution No. 71–13 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

§1003. Employment policy

(a) Except as provided under chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law, the Postal Service shall classify and fix the compensation and benefits of all officers and employees in the Postal Service. It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule under section 5312 of title 5.

(b) Compensation and benefits for all officers and employees serving in or under the Office of Inspector General of the United States Postal Service shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the respective Offices of Inspector General of the various establishments named in section 11(2) of the Inspector General Act of 1978.

(c) Compensation and benefits for all Postal Inspectors shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the executive branch of the Government outside of the Postal Service. As used in this subsection, the term "Postal Inspector" included ¹ any agent to whom any investigative powers are granted under section 3061 of title 18.

(d) The Postal Service shall follow an employment policy designed, without compromising the policy of section 101(a) of this title, to extend opportunity to the disadvantaged and the handicapped.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 730; Pub. L. 104–208, div. A, title I, §101(f) [title VI, §662(c)(2)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–380.)

REFERENCES IN TEXT

Sections 8G and 11(2) of the Inspector General Act of 1978, referred to in subsecs. (a) and (b), are sections 8G and 11(2) of Pub. L. 95-452, which are set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208, §101(f) [title VI, §662(c)(2)(B)], substituted "chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978," for "chapters 2 and 12 of this title".

Subsecs. (b) to (d). Pub. L. 104-208, §101(f) [title VI, §662(c)(2)(A)], added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE

Section effective Jan. 20, 1971, pursuant to Resolution No. 71-8 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

COMPENSATION OF EMPLOYEES

Pub. L. 91-375, §9, Aug. 12, 1970, 84 Stat. 784, provided that:

"(a) [*Increase in Basic Pay Rate; Effective Date*] The Postmaster General, under regulations made by him, shall increase the rates of basic pay or compensation of employees in the Post Office Department so that such rates will equal, as nearly as practicable, 108 percent of the rates of basic pay or compensation in effect immediately prior to the date of enactment of this Act [Aug. 12, 1970]. Such increases shall take effect on the first day of the first pay period which begins on or after April 16, 1970.

"(b) [*Retroactive Pay*] Retroactive pay, compensation, or salary shall be paid by reason of this Act [see Short Title note set out under section 101 of this title] only in the case of an individual in the service of the United States (including service in the Armed Forces of the United States) on the date of enactment of this Act [Aug. 12, 1970], except that such retroactive pay, compensation, or salary shall be paid—

"(1) to an officer or employee who retired, during the period beginning on the first day of the first pay period which began on or after April 16, 1970, and ending on the date of enactment of this Act [Aug. 12, 1970], for services rendered during such period; and

"(2) in accordance with subchapter VIII of chapter 55 of title 5, United States Code [section 5581 et seq. of Title 5, Government Organization and Employees], relating to settlement of accounts, for services rendered, during the period beginning on the first day of the first pay period which began on or after April 16, 1970, and ending on the date of enactment of this Act [Aug. 12, 1970], by an officer or employee who died during such period.

Such retroactive pay, compensation, or salary shall not be considered as basic pay for the purposes of subchapter III of chapter 83 of title 5, United States Code [section 8331 et seq. of Title 5], relating to civil service retirement, or any other retirement law or retirement system, in the case of any such retired or deceased officer or employee.

"(c) [*Period for Restoration to Government Position, as Service*] For the purposes of this section, service in the Armed Forces of the United States, in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the Government of the United States.

"(d) [*Group Life Insurance; Amount; Effective Date*] For purposes of determining the amount of insurance for which an individual is eligible under chapter 87 of title 5, United States Code [section 8701 et seq. of Title 5], relating to group life insurance for Government employees, all changes in rates of pay, compensation, and salary which result from the enactment of this section shall be held and considered to become effective as of the date of such enactment [Aug. 12, 1970].

"(e) [*Limitation of Basic Pay Rate*] No rate of basic pay or compensation, in excess of the rate of basic pay for GS-18 of the General Schedule in section 5332 of title 5, United States Code, shall be paid by reason of the enactment of this section."

Provisions of section 9 of Pub. L. 91-375 effective Aug. 12, 1970, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of this title.

¹ So in original. Probably should be "includes".

§1004. Supervisory and other managerial organizations

(a) It shall be the policy of the Postal Service to provide compensation, working conditions, and career opportunities that will assure the attraction and retention of qualified and capable supervisory and other managerial personnel; to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and other managerial personnel; to establish and maintain continuously a program for all such personnel that reflects the essential importance of a well-trained and well-motivated force to improve the effectiveness of postal operations; and to promote the leadership status of such personnel with respect to rank-and-file employees, recognizing that the role of such personnel in primary level management is particularly vital to the process of converting general postal policies into successful postal operations.

(b) The Postal Service shall provide a program for consultation with recognized organizations of supervisory and other managerial personnel who are not subject to collective-bargaining agreements under chapter 12 of this title. Upon presentation of evidence satisfactory to the Postal Service that a supervisory organization represents a majority of supervisors, that an organization (other than an organization representing supervisors) represents at least 20 percent of postmasters, or that a managerial organization (other than an organization representing supervisors or postmasters) represents a substantial percentage of managerial employees, such organization or organizations shall be entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees.

(c)(1) The Postal Service and the supervisors' organization shall, unless otherwise mutually agreed to, meet at least once each month to implement the consultation and direct participation procedures of subsection (b) of this section.

(2)(A) At least 7 days before each meeting, each party shall—

- (i) provide notice of agenda items, and
- (ii) describe in detail the proposals such party will make with respect to each such item.

(B) Grievances of individual employees shall not be matters which may be included as agenda items under this paragraph.

(d)(1) In order to facilitate consultation and direct participation by the supervisors' organization in the planning and development of programs under subsection (b) of this section which affect members of the supervisors' organization, the Postal Service shall—

- (A) provide in writing a description of any proposed program and the reasons for it;
- (B) give the organization at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the program; and
- (C) give any recommendation from the organization full and fair consideration in deciding whether or how to proceed with the program.

(2) If the Postal Service decides to implement a program described in paragraph (1) of this subsection, the Postal Service shall before such implementation—

- (A) give the supervisors' organization details of its decision to implement the program, together with the information upon which the decision is based;
- (B) give the organization an opportunity to make recommendations with respect to the program; and
- (C) give such recommendations full and fair consideration, including the providing of reasons to the organization if any of such recommendations are rejected.

(3) If a program described in paragraph (1) of this subsection is implemented, the Postal Service shall—

(A) develop a method for the supervisors' organization to participate in further planning and development of the program, and

(B) give the organization adequate access to information to make that participation productive.

(4) The Postal Service and the supervisors' organization may, by agreement, adopt procedures different from those provided by this subsection.

(e)(1) The Postal Service shall, within 45 days of each date on which an agreement is reached on a collective bargaining agreement between the Postal Service and the bargaining representative recognized under section 1203 of this title which represents the largest number of employees, make a proposal for any changes in pay policies and schedules and fringe benefit programs for members of the supervisors' organization which are to be in effect during the same period as covered by such agreement.

(2) The Postal Service and the supervisors' organization shall strive to resolve any differences concerning the proposal described in paragraph (1) of this subsection under the procedures provided for, or adopted under, subsection (d) of this section.

(3) The Postal Service shall provide its decision concerning changes proposed under paragraph (1) of this subsection to the supervisors' organization within 90 days following the submission of the proposal.

(f)(1) If, notwithstanding the mutual efforts required by subsection (e) of this section, the supervisors' organization believes that the decision of the Postal Service is not in accordance with the provisions of this title, the organization may, within 10 days following its receipt of such decision, request the Federal Mediation and Conciliation Service to convene a factfinding panel (hereinafter referred to as the "panel") concerning such matter.

(2) Within 15 days after receiving a request under paragraph (1) of this subsection, the Federal Mediation and Conciliation Service shall provide a list of 7 individuals recognized as experts in supervisory and managerial pay policies. Each party shall designate one individual from the list to serve on the panel. If, within 10 days after the list is provided, either of the parties has not designated an individual from the list, the Director of the Federal Mediation and Conciliation Service shall make the designation. The first two individuals designated from the list shall meet within 5 days and shall designate a third individual from the list. The third individual shall chair the panel. If the two individuals designated from the list are unable to designate a third individual within 5 days after their first meeting, the Director shall designate the third individual.

(3)(A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the supervisors' organization for the period covered by the collective bargaining agreement specified in subsection (e)(1) of this section. The standards shall be consistent with the policies of this title, including sections 1003(a) and 1004(a) of this title.

(B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such policies, schedules, and programs.

(4) The panel shall make its recommendation no more than 30 days after its appointment, unless the Postal Service and the supervisors' organization agree to a longer period. The panel shall hear from the Postal Service and the supervisors' organization in such a manner as it shall direct. The cost of the panel shall be borne equally by the Postal Service and the supervisors' organization.

(5) Not more than 15 days after the panel has made its recommendation, the Postal Service shall provide the supervisors' organization its final decision on the matters covered by factfinding under this subsection. The Postal Service shall give full and fair consideration to the panel's recommendation and shall explain in writing any differences between its final decision and the panel's recommendation.

(g) Not earlier than 3 years after the date of the enactment of this subsection, and from time to time thereafter, the Postal Service or the supervisors' organization may request, by written notice to the Federal Mediation and Conciliation Service and to the other party, the creation of a panel to review the effectiveness of the procedures and the other provisions of this section and the provisions of section 1003 of this title. The panel shall be designated in accordance with the procedure established in subsection (f)(2) of this section. The panel shall make recommendations to the Congress for changes in this title as it finds appropriate.

(h)(1) In order to ensure that postmasters and postmasters' organizations are afforded the same rights under this section as are afforded to supervisors and the supervisors' organization, subsections (c) through (g) shall be applied with respect to postmasters and postmasters' organizations—

(A) by substituting "postmasters' organization" for "supervisors' organization" each place it appears; and

(B) if 2 or more postmasters' organizations exist, by treating such organizations as if they constituted a single organization, in accordance with such arrangements as such organizations shall mutually agree to.

(2) If 2 or more postmasters' organizations exist, such organizations shall, in the case of any factfinding panel convened at the request of such organizations (in accordance with paragraph (1)(B)), be jointly and severally liable for the cost of such panel, apart from the portion to be borne by the Postal Service (as determined under subsection (f)(4)).

(i) For purposes of this section—

(1) "supervisors' organization" means the organization recognized by the Postal Service under subsection (b) of this section as representing a majority of supervisors;

(2) "members of the supervisors' organization" means employees of the Postal Service who are recognized under an agreement between the Postal Service and the supervisors' organization as represented by such organization;

(3) "postmaster" means an individual who is the manager in charge of the operations of a post office, with or without the assistance of subordinate managers or supervisors;

(4) "postmasters' organization" means an organization recognized by the Postal Service under subsection (b) as representing at least 20 percent of postmasters; and

(5) "members of the postmasters' organization" shall be considered to mean employees of the Postal Service who are recognized under an agreement—

(A) between the Postal Service and the postmasters' organization as represented by the organization; or

(B) in the circumstance described in subsection (h)(1)(B), between the Postal Service and the

postmasters' organizations (acting in concert) as represented by either or any of the postmasters' organizations involved.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 731; Pub. L. 96–326, Aug. 8, 1980, 94 Stat. 1023; Pub. L. 108–86, §2(a)–(c), Sept. 30, 2003, 117 Stat. 1052.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 96–326, which was approved Aug. 8, 1980.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–86, §2(a)(2), which directed substitution of "supervisors or postmasters)" for "supervisors)" in second sentence, was executed by making the substitution the second time "supervisors)" appears in the sentence to reflect the probable intent of Congress.

Pub. L. 108–86, §2(a)(1), inserted "that an organization (other than an organization representing supervisors) represents at least 20 percent of postmasters," after "majority of supervisors,".

Subsec. (h). Pub. L. 108–86, §2(b)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 108–86, §2(b)(1), (c), redesignated subsec. (h) as (i) and added pars. (3) to (5).

1980—Subsecs. (c) to (h). Pub. L. 96–326 added subsecs. (c) to (h).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–86, §3, Sept. 30, 2003, 117 Stat. 1053, provided that: "The amendments made by this section [probably should be "this Act", amending this section and enacting provisions set out as notes under this section and section 101 of this title] shall take effect 60 days after the date of the enactment of this Act [Sept. 30, 2003]."

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

THRIFT ADVISORY COUNCIL NOT TO BE AFFECTED

Pub. L. 108–86, §2(d), Sept. 30, 2003, 117 Stat. 1053, provided that: "For purposes of section 8473(b)(4) of title 5, United States Code—

"(1) each of the 2 or more organizations referred to in section 1004(h)(1)(B) of title 39, United States Code (as amended by subsection (b)) shall be treated as a separate organization; and

"(2) any determination of the number of individuals represented by each of those respective organizations shall be made in a manner consistent with the purposes of this subsection."

§1005. Applicability of laws relating to Federal employees

(a)(1) Except as otherwise provided in this subsection, the provisions of chapter 75 of title 5 shall apply to officers and employees of the Postal Service except to the extent of any inconsistency with—

(A) the provisions of any collective-bargaining agreement negotiated on behalf of and applicable to them; or

(B) procedures established by the Postal Service and approved by the Civil Service Commission.

(2) The provisions of title 5 relating to a preference eligible (as that term is defined under section 2108(3) of such title) shall apply to an applicant for appointment and any officer or employee of the Postal Service in the same manner and under the same conditions as if the applicant, officer, or employee were subject to the competitive service under such title. The provisions of this paragraph shall not be modified by any program developed under section 1004 of this title or any collective-bargaining agreement entered into under chapter 12 of this title.

(3) The provisions of this subsection shall not apply to those individuals appointed under sections 202, 204, and 1001(c) of this title.

(4)(A) Subchapter II of chapter 75 of title 5 shall apply—

(i) to any preference eligible in the Postal Service who is an employee within the meaning of section

7511(a)(1)(B) of such title; and

(ii) to any other individual who—

(I) is in the position of a supervisor or a management employee in the Postal Service, or is an employee of the Postal Service engaged in personnel work in other than a purely nonconfidential clerical capacity; and

(II) has completed 1 year of current continuous service in the same or similar positions.

(B)(i) The second sentence of paragraph (2) of this subsection applies with respect to the provisions of subparagraph (A) of this paragraph, to the extent that such provisions relate to preference eligibles.

(ii) The provisions of subparagraph (A) of this paragraph shall not, to the extent that such provisions relate to an individual under clause (ii) of such subparagraph, be modified by any program developed under section 1004 of this title.

(b)(1) Except as provided under paragraph (2), section 5941 of title 5 shall apply to the Postal Service. Except as provided under paragraph (2), for purposes of section 5941 of that title, the pay of officers and employees of the Postal Service shall be considered to be fixed by statute, and the basic pay of an employee shall be the pay (but not any allowance or benefit) of that officer or employee established in accordance with the provisions of this title.

(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003(b) and (c) whose duty station is in a nonforeign area; and

(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of ¹ section 1916(b)(2) of that Act shall apply.

(c) Officers and employees of the Postal Service shall be covered by subchapter I of chapter 81 of title 5, relating to compensation for work injuries.

(d)(1) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapters 83 and 84 of title 5. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such chapter 83 and subchapter II of such chapter 84, respectively. The Postal Service shall pay into the Federal Retirement Thrift Savings Fund the amounts specified in or determined under subchapters III and VII of such chapter 84.

(2) The provisions of subsections (i) and (m)(2) of section 8344 and subsections (f) and (j)(2) of section 8468 of title 5 shall apply with respect to the Postal Service. For purposes of so applying such provisions

(A) any reference in such provisions to the head of an Executive agency shall be considered a reference to the Postmaster General; and

(B) any reference in such provisions to an employee shall be considered a reference to an officer or employee of the Postal Service.

(e) Sick and annual leave, and compensatory time of officers and employees of the Postal Service, whether accrued prior to or after commencement of operations of the Postal Service, shall be obligations of the Postal Service under the provisions of this chapter.

(f) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title. Subject to the provisions of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85 and chapters 87, 89, 89A, and 89B of title 5 shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for, under this subsection. No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section, and as to officers and employees for whom there is a collective-bargaining representative, no such variation, addition, or substitution shall be made except by agreement between the collective-bargaining representative and the Postal Service.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 731; Pub. L. 93–349, §2, July 12, 1974, 88 Stat. 354; Pub. L. 99–335, title III, §306, June 6, 1986, 100 Stat. 607; Pub. L. 100–90, §1(a), Aug. 18, 1987, 101 Stat. 673; Pub. L. 103–336, §3, Oct. 3, 1994, 108 Stat. 2661; Pub. L. 108–496, §5, Dec. 23, 2004, 118 Stat. 4011; Pub. L. 109–435, title X, §1010(g)(1), Dec. 20, 2006, 120 Stat. 3262; Pub. L. 111–84, div. A, title XI, §1122(d), title XIX, §1916(b)(1), Oct. 28, 2009, 123 Stat. 2509, 2624; Pub. L. 111–383, div. A, title X, §1075(d)(22), Jan. 7, 2011, 124 Stat. 4374.)

REFERENCES IN TEXT

The Non-Foreign Area Retirement Equity Assurance Act of 2009, referred to in subsec. (b)

(2), is subtitle B (§§1911–1919) of title XIX of div. A of Pub. L. 111–84, [Oct. 28, 2009](#), 123 Stat. 2619, also known as the Non-Foreign AREA Act of 2009, which is set out as a note under section 5304 of Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Tables.

The effective date of this section, referred to in subsec. (f), is July 1, 1971. See Effective Date note below.

AMENDMENTS

2011—Subsec. (b)(1). Pub. L. 111–383 made technical amendment to directory language of Pub. L. 111–84, §1916(b)(1)(B). See 2009 Amendment note below.

2009—Subsec. (b). Pub. L. 111–84, §1916(b)(1)(A), inserted par. (1) designation before "Section 5941".

Subsec. (b)(1). Pub. L. 111–84, §1916(b)(1)(C), substituted "Except as provided under paragraph (2), for purposes of section 5941 of that title," for "For purposes of such section,".

Pub. L. 111–84, §1916(b)(1)(B), as amended by Pub. L. 111–383, substituted "Except as provided under paragraph (2), section 5941" for "Section 5941".

Subsec. (b)(2). Pub. L. 111–84, §1916(b)(1)(D), added par. (2).

Subsec. (d)(2). Pub. L. 111–84, §1122(d), in introductory provisions, substituted "(m)(2)" for "(l)(2)" and "(j)(2)" for "(i)(2)".

2006—Subsec. (d)(2). Pub. L. 109–435 struck out "subsection (g) of section 5532," after "The provisions of" and substituted "8344" for "8344,".

2004—Subsec. (f). Pub. L. 108–496 substituted "chapters 87, 89, 89A, and 89B" for "chapters 87 and 89" in second sentence.

1994—Subsec. (d). Pub. L. 103–336 designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a)(4). Pub. L. 100–90 added par. (4).

1986—Subsec. (d). Pub. L. 99–335 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 of title 5 relating to civil service retirement. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in such chapter. The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h) of title 5."

1974—Subsec. (d). Pub. L. 93–349 substituted requirement that the Postal Service pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h) of title 5, for requirement that the Postal Service pay to the Civil Service Commission upon request of the Civil Service Commission but not less frequently than annually the costs reasonably related to the administration of Fund activities for officers and employees of the Postal Service.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, [div. A, title X, §1075\(d\), Jan. 7, 2011](#), 124 Stat. 4372, provided that the amendment made by section 1075(d)(22) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111–84 as enacted.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 1916(b)(1) of Pub. L. 111–84 effective Oct. 28, 2009, with transition and savings provisions, see sections 1914, 1915, and 1919(a) of Pub. L. 111–84, set out in a Non-Foreign Area Retirement Equity Assurance note under section 5304 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–496 effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as an Effective Date note under section 8951 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–90, [§1\(b\)\(1\), Aug. 18, 1987](#), 101 Stat. 673, provided that: "The amendment made by

subsection (a) [amending this section] shall be effective after the expiration of the 30-day period beginning on the date of the enactment of this Act [Aug. 18, 1987]."

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-349, §3, July 12, 1974, 88 Stat. 354, provided that: "The effective date of this Act [amending this section and section 8348 of Title 5, Government Organization and Employees] shall be July 1, 1971, except that the Postal Service shall not be required to make (1) the payments due June 30, 1972, June 30, 1973, and June 30, 1974, attributable to pay increases granted by the Postal Service prior to July 1, 1973, until such time as funds are appropriated to the Postal Service for that purpose, and (2) the transfer to the Civil Service Retirement and Disability Fund required by title II of the Treasury, Postal Service, and General Government Appropriation Act, 1974, Public Law 93-143 [which is not classified to the Code]."

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

TRANSFER OF FUNCTIONS

Functions vested by statute in United States Civil Service Commission or Chairman thereof transferred to Director of Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

ABATEMENT OF ACTIONS

Pub. L. 100-90, §1(b)(2), Aug. 18, 1987, 101 Stat. 673, provided that: "An action which is commenced under section 1005(a)(1)(B) of title 39, United States Code, before the effective date of the amendment made by subsection (a) [see Effective Date of 1987 Amendment note above] shall not abate by reason of the enactment of this Act [amending this section and enacting provisions set out as a note above]. Determinations with respect to any such action shall be made as if this Act had not been enacted."

¹ So in original. The word "of" probably should not appear.

§1006. Right of transfer

Officers and employees in the postal career service of the Postal Service shall be eligible for promotion or transfer to any other position in the Postal Service or the executive branch of the Government of the United States for which they are qualified. The authority given by this section shall be used to provide a maximum degree of career promotion opportunities for officers and employees and to insure continued improvement of postal services.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 732.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§1007. Seniority for employees in rural service

Subject to agreements made under chapter 12 of this title, the seniority of an employee of the Postal Service occupying a position whose regular duty involves the collection and delivery of mail on a rural route shall be preserved. Seniority for such employee shall commence on the first day of his service in such a position, or, in the event such an employee transfers to another such position, on the day he enters duty in the other position. Upon initial assignment, such an employee shall be assigned to the least desirable route and shall attain assignment to more desirable routes by seniority. Promotions and assignments for such an employee in such position shall be based on seniority and ability. If ability be sufficient, seniority shall govern.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 732.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

§1008. Temporary employees or carriers

(a) A person temporarily employed to deliver mail is deemed an employee of the Postal Service and is subject to the provisions of chapter 83 of title 18 to the same extent as other employees of the Postal Service.

(b) Any person, when engaged in carrying mail under contract with the Postal Service, or employed by the Postal Service, is deemed a carrier or person entrusted with the mail and having custody thereof, within the meaning of sections 1701, 1708, and 2114 of title 18.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 732.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

§1009. Personnel not to receive fees

An officer or employee of the Postal Service may not receive any fee or perquisite from a patron of the Postal Service on account of the duties performed by virtue of his appointment, except as authorized by law.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 733.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

§1010. Administration of oaths related to postal inspection matters

Officers and employees of the Postal Service performing duties related to the inspection of postal matters may administer oaths required or authorized by law or regulation with respect to any matter coming before them in the performance of their official duties.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 733.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

§1011. Oath of office

Before entering upon their duties and before receiving any salary, all officers and employees of the Postal Service shall take and subscribe the following oath or affirmation:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter."

A person authorized to administer oaths by the laws of the United States, including section 2903 of title 5, or of a State or territory, or an officer, civil or military, holding a commission under the United States, or any officer or employee of the Postal Service designated by the Board may administer and certify the oath or affirmation.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 733.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors.

See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

CHAPTER 12—EMPLOYEE-MANAGEMENT AGREEMENTS

Sec.

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§1201. Definition

As used in this chapter, "guards" means—

(1) maintenance guards who, on the effective date of this chapter, are in key position KP–5 under the provisions of former section 3514 of title 39; and

(2) security guards, who may be employed in the Postal Service and whose primary duties shall include the exercise of authority to enforce rules to protect the safety of property, mail, or persons on the premises.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 733.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in par. (1), is July 1, 1971. See Effective Date note below.

Former section 3514 of title 39, referred to in par. (1), means section 3514 of former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719.

EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS

Pub. L. 109–435, title V, §505(b), Dec. 20, 2006, 120 Stat. 3236, provided that: "Except as otherwise provided by the amendment made by subsection (a) [amending section 1207 of this title], nothing in this Act [see Tables for classification] shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act [29 U.S.C. 151 et seq.], any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement."

LABOR AGREEMENTS

Pub. L. 91–375, §10, Aug. 12, 1970, 84 Stat. 784, provided that:

"(a) [*Wages, Hours, and Working Conditions; Parties to Agreement*] As soon as practicable after

the enactment of this Act [Aug. 12, 1970], the Postmaster General and the labor organizations which as of the effective date of this section [see note below] hold national exclusive recognition rights granted by the Post Office Department, shall negotiate an agreement or agreements covering wages, hours, and working conditions of the employees represented by such labor organizations. The parties shall commence bargaining for such agreement or agreements not later than 30 days following delivery of a written request therefor by a labor organization to the Postmaster General or by the Postmaster General to a labor organization. Any agreement made pursuant to this section shall continue in force after the commencement of operations of the United States Postal Service in the same manner and to the same extent as if entered into between the Postal Service and recognized collective-bargaining representatives under chapter 12 of title 39, United States Code.

"(b) [*Wage Schedule; Service Period for Maximum Pay; Pay Step Advancement*] Any agreement negotiated under this section shall establish a new wage schedule whereunder postal employees will reach the maximum pay step for their respective labor grades after not more than 8 years of satisfactory service in such grades. The agreements shall provide that where an employee had sufficient satisfactory service in the pay step he occupied on the effective date of this section [see note below] to have qualified for advancement to the next highest pay step under the new wage schedule, had such schedule been in effect throughout the period of such service, the employee shall be advanced to such next highest pay step in the new schedule on the effective date of the new schedule.

"(c) [*Effective Date; Establishment of Wages, Hours, and Working Conditions*] An agreement made under this section shall become effective at any time after the commencement of bargaining, in accordance with the terms thereof. The Postmaster General shall establish wages, hours, and working conditions in accordance with the terms of any agreement or agreements made under this section notwithstanding the provisions of any law other than title 39.

"(d) [*Fact-finding Panel, Other Procedure, or Arbitration Board for Resolution of Differences*] If the parties fail to reach agreement within 90 days of the commencement of collective bargaining, a fact-finding panel will be established in accordance with the terms of section 1207(b) of title 39, United States Code, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days of the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of section 1207(c) of such title.

"(e) [*Appropriation Provisions Inapplicable*] Agreements made pursuant to this section and expenditures made under such agreements shall not be subject to the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665) [sections 1341, 1342, and 1349–1351, subchapter II and chapter 15 of Title 31, Money and Finance].

"(f) [*References to Title 39*] For the purposes of this section, references to title 39 and sections of title 39 are references to title 39, United States Code, as enacted by section 2 of this Act."

[Provisions of section 10 of Pub. L. 91–375 effective Aug. 12, 1970, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of this title.]

§1202. Bargaining units

The National Labor Relations Board shall decide in each case the unit appropriate for collective bargaining in the Postal Service. The National Labor Relations Board shall not include in any bargaining unit—

- (1) any management official or supervisor;
- (2) any employee engaged in personnel work in other than a purely nonconfidential clerical capacity;
- (3) both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit; or
- (4) together with other employees, any individual employed as a security guard to enforce against employees and other persons, rules to protect property of the Postal Service or to protect the safety of property, mail, or persons on the premises of the Postal Service; but no labor organization shall be certified as the representative of employees in a bargaining unit of security guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 733.)

§1203. Recognition of labor organizations

(a) The Postal Service shall accord exclusive recognition to a labor organization when the organization has been selected by a majority of the employees in an appropriate unit as their representative.

(b) Agreements and supplements in effect on the date of enactment of this section covering employees in the former Post Office Department shall continue to be recognized by the Postal Service until altered or amended pursuant to law.

(c) When a petition has been filed, in accordance with such regulations as may be prescribed by the National Labor Relations Board—

(1) by an employee, a group of employees, or any labor organization acting in their behalf, alleging that (A) a substantial number of employees wish to be represented for collective bargaining by a labor organization and that the Postal Service declines to recognize such labor organization as the representative; or (B) the labor organization which has been certified or is being currently recognized by the Postal Service as the bargaining representative is no longer a representative; or

(2) by the Postal Service, alleging that one or more labor organizations has presented to it a claim to be recognized as the representative;

the National Labor Relations Board shall investigate such petition and, if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the National Labor Relations Board, who shall not make any recommendations with respect thereto. If the National Labor Relations Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

(d) A petition filed under subsection (c)(1) of this section shall be accompanied by a statement signed by at least 30 percent of the employees in the appropriate unit stating that they desire that an election be conducted for either of the purposes set forth in such subsection.

(e) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the National Labor Relations Board.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 734.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b), means the date of enactment of Pub. L. 91-375, which was approved Aug. 12, 1970.

§1204. Elections

(a) All elections authorized under this chapter shall be conducted under the supervision of the National Labor Relations Board, or persons designated by it, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union".

(b) In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for a selection between the 2 choices receiving the largest and second largest number of valid votes cast in the election. In the event of a tie vote, additional runoff elections shall be conducted until one of the choices has received a majority of the votes.

(c) No election shall be held in any bargaining unit within which, in the preceding 12-month period, a valid election has been held.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 735.)

§1205. Deductions of dues

(a) When a labor organization holds exclusive recognition, or when an organization of personnel not subject to collective-bargaining agreements has consultation rights under section 1004 of this title, the Postal Service shall deduct the regular and periodic dues of the organization from the pay of all members of the organization in the unit of recognition if the Post Office Department or the Postal Service has received from each employee, on whose account such deductions are made, a written assignment which shall be irrevocable for a period of not more than one year.

(b) Any agreement in effect immediately prior to the date of enactment of the Postal Reorganization Act between the Post Office Department and any organization of postal employees which provides for deduction by the Department of the regular and periodic dues of the organization from the pay of its members, shall continue in full force and effect and the obligation for such deductions shall be assumed

by the Postal Service. No such deduction shall be made from the pay of any employee except on his written assignment, which shall be irrevocable for a period of not more than one year.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 735.)

REFERENCES IN TEXT

The date of enactment of the Postal Reorganization Act, referred to in subsec. (b), means the date of enactment of Pub. L. 91-375, which was approved Aug. 12, 1970.

§1206. Collective-bargaining agreements

(a) Collective-bargaining agreements between the Postal Service and bargaining representatives recognized under section 1203 of this title shall be effective for not less than 2 years.

(b) Collective-bargaining agreements between the Postal Service and bargaining representatives recognized under section 1203 may include any procedures for resolution by the parties of grievances and adverse actions arising under the agreement, including procedures culminating in binding third-party arbitration, or the parties may adopt any such procedures by mutual agreement in the event of a dispute.

(c) The Postal Service and bargaining representatives recognized under section 1203 may by mutual agreement adopt procedures for the resolution of disputes or impasses arising in the negotiation of a collective-bargaining agreement.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 735.)

USE OF FUNDS FOR RESTRUCTURING OF EMPLOYEE COMPENSATION PRACTICES

Pub. L. 98-396, title III, §303, Aug. 22, 1984, 98 Stat. 1422, provided that: "None of the funds made available to the United States Postal Service under this Act [see Tables for classification] or any other Act may be used to restructure employee compensation practices as in effect under the most recently effective collective bargaining agreement under section 1206 of title 39, United States Code, except in accordance with the results of procedures set forth in section 1207 of such title."

§1207. Labor disputes

(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time.

(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

(3) Costs of the arbitration board and mediation shall be shared equally by the Postal Service and the bargaining representative.

(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach the agreement within 90 days after the commencement of collective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days after the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 735; Pub. L. 109–435, title V, §505(a), Dec. 20, 2006, 120 Stat. 3235.)

AMENDMENTS

2006—Pub. L. 109–435 amended section generally. Prior to amendment, section consisted of subssecs. (a) to (d) relating to labor disputes between the Postal Service and bargaining representatives.

§1208. Suits

(a) The courts of the United States shall have jurisdiction with respect to actions brought by the National Labor Relations Board under this chapter to the same extent that they have jurisdiction with respect to actions under title 29.

(b) Suits for violation of contracts between the Postal Service and a labor organization representing Postal Service employees, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy.

(c) A labor organization and the Postal Service shall be bound by the authorized acts of their agents. Any labor organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against a labor organization in a district court of the United States shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

(d) For the purposes of actions and proceedings by or against labor organizations in the district courts of the United States, district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal offices, or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(e) The service of summons, subpoena, or other legal process of any court of the United States upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 736.)

§1209. Applicability of Federal labor laws

(a) Employee-management relations shall, to the extent not inconsistent with provisions of this title, be subject to the provisions of subchapter II of chapter 7 of title 29.

(b) The provisions of chapter 11 of title 29 shall be applicable to labor organizations that have or are seeking to attain recognition under section 1203 of this title, and to such organizations, officers, agents, shop stewards, other representatives, and members to the extent to which such provisions would be applicable if the Postal Service were an employer under section 402 of title 29. In addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall have authority, by regulation issued with the written concurrence of the Postal Service, to prescribe simplified reports for any such labor organization. The Secretary of Labor may revoke such provision for simplified forms of any such labor organization if he determines, after such investigation as he deems proper and after due notice and opportunity for a hearing, that the purposes of this chapter and of chapter 11 of title 29 would be served thereby.

(c) Each employee of the Postal Service shall have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 737.)