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-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 42 - EMPLOYMENT AND TRAINING OF VETERANS

-HEAD-

CHAPTER 42 - EMPLOYMENT AND TRAINING OF VETERANS

-MISC1-

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4211. Definitions.
4212. Veterans' employment emphasis under Federal contracts.
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4214. Employment within the Federal Government.
4215. Priority of service for veterans in Department of Labor job training programs.

AMENDMENTS

2002 - Pub. L. 107-288, Sec. 2(a)(2), Nov. 7, 2002, 116 Stat. 2034, added item 4215.
1991 - Pub. L. 102-83, Sec. 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 2011 to 2014 as 4211 to 4214, respectively.
Pub. L. 102-16, Sec. 9(c)(1), Mar. 22, 1991, 105 Stat. 55, struck out "DISABLED AND VIETNAM ERA" before "VETERANS" in chapter heading.
1980 - Pub. L. 96-466, title VIII, Sec. 801(k)(2)(B), Oct. 17, 1980, 94 Stat. 2217, substituted "Federal employment and" for "certain Federal manpower" in item 2013.
1974 - Pub. L. 93-508, title IV, Sec. 403(b), Dec. 3, 1974, 88 Stat. 1594, added item 2014.

-End-

-CITE-

38 USC Sec. 4211 01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 42 - EMPLOYMENT AND TRAINING OF VETERANS

-HEAD-

Sec. 4211. Definitions

-STATUTE-

As used in this chapter -
(1) The term "special disabled veteran" means -
(A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary for a disability (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined under section 3106 of this title to have a serious employment handicap; or
(B) a person who was discharged or released from active duty because of service-connected disability.

(2) The term "veteran of the Vietnam era" means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

(3) The term "disabled veteran" means (A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary, or (B) a person who was discharged or released from active duty because of a service-connected disability.

(4) The term "eligible veteran" means a person who -

(A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge;

(B) was discharged or released from active duty because of a service-connected disability;

(C) as a member of a reserve component under an order to active duty pursuant to section 12301(a), (d), or (g), 12302, or 12304 of title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge; or

(D) was discharged or released from active duty by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

(5) The term "department or agency" means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5 and the United States Postal Service and the Postal Regulatory Commission, and the term "department, agency, or instrumentality in the executive branch" includes the United States Postal Service and the Postal Regulatory Commission.

(6) The term "recently separated veteran" means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty.

-SOURCE-

(Added Pub. L. 92-540, title V, Sec. 503(a), Oct. 24, 1972, 86 Stat. 1097, Sec. 2011; amended Pub. L. 94-502, title VI, Sec. 607(1), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 96-466, title V, Sec. 508, Oct. 17, 1980, 94 Stat. 2206; Pub. L. 97-306, title III, Sec. 309, Oct. 14, 1982, 96 Stat. 1441; Pub. L. 98-223, title II, Sec. 206, Mar. 2, 1984, 98 Stat. 43; Pub. L. 101-237, title IV, Sec. 407(a)(2), Dec. 18, 1989, 103 Stat. 2082; Pub. L. 102-16, Sec. 1, Mar. 22, 1991, 105 Stat. 48; Pub. L. 102-54, Sec. 14(c)(9), June 13, 1991, 105 Stat. 285; renumbered Sec. 4211 and amended Pub. L. 102-83, Secs. 4(a)(1), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 102-127, Sec. 5, Oct. 10, 1991, 105 Stat. 622; Pub. L. 102-568, title V, Sec. 502, Oct. 29, 1992, 106 Stat. 4340; Pub. L. 104-106, div. A, title XV, Sec. 1501(e)(2)(D), Feb. 10, 1996, 110 Stat. 501; Pub. L. 106-419, title III, Sec. 322(c), Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107-288, Sec. 2(b)(2)(D), Nov. 7, 2002, 116 Stat. 2036; Pub. L. 109-435, title VI, Sec. 604(f), Dec. 20, 2006, 120 Stat. 3242; Pub. L. 110-317, Sec. 6(b), Aug. 29, 2008, 122 Stat. 3528.)

-MISC1-

AMENDMENTS

2008 - Par. (4)(D). Pub. L. 110-317 added subpar. (D).

2006 - Par. (5). Pub. L. 109-435 substituted "Postal Regulatory Commission" for "Postal Rate Commission" in two places.

2002 - Par. (6). Pub. L. 107-288 substituted "three-year period" for "one-year period".

2000 - Par. (6). Pub. L. 106-419 added par. (6).

1996 - Par. (4)(C). Pub. L. 104-106 substituted "section 12301(a), (d), or (g), 12302, or 12304 of title 10" for "section 672(a), (d), or (g), 673, or 673b of title 10".

1992 - Par. (2). Pub. L. 102-568 substituted "The term" for "(A) Subject to subparagraph (B) of this paragraph, the term" and struck out subpar. (B) which read as follows: "No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1994, except for purposes of section 4214 of this title."

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 2011 of this title as this section.

Par. (1)(A). Pub. L. 102-83, Sec. 5(c)(1), substituted "3106" for "1506" in cl. (ii).

Pub. L. 102-83, Sec. 4(a)(1), substituted "laws administered by the Secretary" for "laws administered by the Veterans' Administration" in introductory provisions.

Par. (2)(B). Pub. L. 102-83, Sec. 5(c)(1), substituted "4214" for "2014".

Pub. L. 102-54 inserted comma before "except for purposes".

Pub. L. 102-16 substituted "1994" for "1991".

Par. (3). Pub. L. 102-83, Sec. 4(a)(1), substituted "laws administered by the Secretary" for "laws administered by the Veterans' Administration".

Par. (4). Pub. L. 102-127 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The term 'eligible veteran' means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability."

1989 - Par. (2)(B). Pub. L. 101-237 inserted before period at end "except for purposes of section 2014 of this title".

1984 - Par. (1). Pub. L. 98-223 expanded term "special disabled veteran" to include a veteran with a disability rated at 10 to 20 percent in the case of a veteran who has been determined under section 1506 of this title to have a serious employment handicap.

1982 - Pars. (1), (3). Pub. L. 97-306, Sec. 309(1), inserted "(or who but for the receipt of military retired pay would be entitled to compensation)" after "compensation".

Par. (5). Pub. L. 97-306, Sec. 309(2), inserted provision that the United States Postal Service and the Postal Rate Commission are within the definition of "department or agency" and that the term "department, agency, or instrumentality in the executive branch" includes the United States Postal Service and the Postal Rate Commission.

1980 - Pub. L. 96-466 added definitions for terms "special disabled veteran" and "eligible veteran", in provisions defining term "veteran of the Vietnam era" substituted reference to an eligible veteran any part of whose active service was during the Vietnam era with cut-off date of Dec. 31, 1991, for reference to a person who served on active duty for more than 180 days, any part of which occurred during the Vietnam era, and was discharged or released with other than a dishonorable discharge, or was discharged or released for a service-connected disability if any part of the active duty was performed during the Vietnam era, and who was discharged or released within the 48 months preceding the person's application for employment covered under this chapter, in

the provisions defining term "disabled veteran" substituted reference to compensation under laws administered by the Veterans' Administration for reference to disability compensation under such laws for a disability rated at 30 per centum or more and reference to a service-connected disability for reference to a disability incurred or aggravated in the line of duty, and in provisions defining term "department or agency" substituted reference to any agency of the Federal Government or the District of Columbia, including any Executive agency defined in section 105 of title 5, for reference to any department or agency of the Federal Government or any federally owned corporation.

1976 - Par. (2). Pub. L. 94-502 substituted "the person's" for "his".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 10 of Pub. L. 110-317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-288, Sec. 2(b)(3), Nov. 7, 2002, 116 Stat. 2036, provided that: "The amendments made by this subsection [amending this section and section 4212 of this title] shall apply with respect to contracts entered into on or after the first day of the first month that begins 12 months after the date of the enactment of this Act [Nov. 7, 2002]."

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1989 AMENDMENT

Section 407(c) of Pub. L. 101-237 provided that: "The amendments made by this section [amending this section and section 2014 [now 4214] of this title] shall take effect on January 1, 1990."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96-466, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

-End-

-CITE-

38 USC Sec. 4212

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 42 - EMPLOYMENT AND TRAINING OF VETERANS

-HEAD-

Sec. 4212. Veterans' employment emphasis under Federal contracts

-STATUTE-

(a)(1) Any contract in the amount of \$100,000 or more entered into by any department or agency of the United States for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States take affirmative action to employ and advance in employment qualified covered veterans. This section applies to any subcontract in the amount of \$100,000 or more entered into by a prime contractor in carrying out any such contract.

(2) In addition to requiring affirmative action to employ such qualified covered veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the Secretary of Labor shall prescribe regulations requiring that -

(A) each such contractor for each such contract shall immediately list all of its employment openings with the appropriate employment service delivery system (as defined in section 4101(7) of this title), and may also list such openings with one-stop career centers under the Workforce Investment Act of 1998, other appropriate service delivery points, or America's Job Bank (or any additional or subsequent national electronic job bank established by the Department of Labor), except that the contractor may exclude openings for executive and senior management positions and positions which are to be filled from within the contractor's organization and positions lasting three days or less;

(B) each such employment service delivery system shall give such qualified covered veterans priority in referral to such employment openings; and

(C) each such employment service delivery system shall provide a list of such employment openings to States, political subdivisions of States, or any private entities or organizations under contract to carry out employment, training, and placement services under chapter 41 of this title.

(3) In this section:

(A) The term "covered veteran" means any of the following veterans:

(i) Disabled veterans.

(ii) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized.

(iii) Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12985 (61 Fed. Reg. 1209).

(iv) Recently separated veterans.

(B) The term "qualified", with respect to an employment position, means having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.

(b) If any veteran covered by the first sentence of subsection (a) believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.

(c) The Secretary of Labor shall include as part of the annual report required by section 4107(c) of this title the number of complaints filed pursuant to subsection (b) of this section, the actions taken thereon and the resolutions thereof. Such report shall also include the number of contractors listing employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2)(B).

(d)(1) Each contractor to whom subsection (a) applies shall, in accordance with regulations which the Secretary of Labor shall prescribe, report at least annually to the Secretary of Labor on -

(A) the number of employees in the workforce of such contractor, by job category and hiring location, and the number of such employees, by job category and hiring location, who are qualified covered veterans;

(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are qualified covered veterans; and

(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.

(2) The Secretary of Labor shall ensure that the administration of the reporting requirement under paragraph (1) is coordinated with respect to any requirement for the contractor to make any other report to the Secretary of Labor.

-SOURCE-

(Added Pub. L. 92-540, title V, Sec. 503(a), Oct. 24, 1972, 86 Stat. 1097, Sec. 2012; amended Pub. L. 93-508, title IV, Sec. 402, Dec. 3, 1974, 88 Stat. 1593; Pub. L. 94-502, title VI, Secs. 605, 607(2), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 95-520, Sec. 6(a), Oct. 26, 1978, 92 Stat. 1821; Pub. L. 96-466, title V, Sec. 509, title VIII, Sec. 801(j), Oct. 17, 1980, 94 Stat. 2206, 2217; Pub. L. 97-306, title III, Sec. 310(a), Oct. 14, 1982, 96 Stat. 1442; renumbered Sec. 4212 and amended Pub. L. 102-83, Secs. 4(b)(8), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 405, 406; Pub. L. 103-446, title VII, Sec. 702(a), Nov. 2, 1994, 108 Stat. 4674; Pub. L. 105-339, Secs. 7(a), 8, Oct. 31, 1998, 112 Stat. 3188, 3189; Pub. L. 106-419, title III, Sec. 322(a), (b), Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107-288, Sec. 2(b)(1), (2)(A)-(C), Nov. 7, 2002, 116 Stat. 2034, 2035.)

-REFTEXT-

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(2)(A), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

Executive Order No. 12985, referred to in subsec. (a)(3)(A)(iii), is set out as a note preceding section 1121 of Title 10, Armed Forces.

-MISC1-

AMENDMENTS

2002 - Subsec. (a). Pub. L. 107-288, Sec. 2(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Any contract in the amount of \$25,000 or more entered into by any department or agency for the procurement of personal property and non-personal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States. In addition to requiring affirmative action to employ such veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the President shall implement the provisions of this section by promulgating regulations which shall require that (1) each such contractor undertake in such contract to list immediately with the appropriate local employment service office all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less, and (2) each such local office shall give such veterans priority in referral to such employment openings."

Subsec. (c). Pub. L. 107-288, Sec. 2(b)(2)(A), struck out "suitable" before "employment openings" and substituted "subsection (a)(2)(B)" for "subsection (a)(2) of this section".

Subsec. (d)(1). Pub. L. 107-288, Sec. 2(b)(2)(B)(i), struck out "of this section" after "subsection (a)" in introductory provisions.

Subsec. (d)(1)(A), (B). Pub. L. 107-288, Sec. 2(b)(2)(B)(ii), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

"(A) the number of employees in the work force of such contractor, by job category and hiring location, who are special disabled veterans, veterans of the Vietnam era, recently separated veterans, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized;

"(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are special disabled veterans, veterans of the Vietnam era, recently separated veterans, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; and".

Subsec. (d)(2). Pub. L. 107-288, Sec. 2(b)(2)(C), struck out "of this subsection" after "paragraph (1)".

2000 - Subsec. (a). Pub. L. 106-419, Sec. 322(a), inserted "recently separated veterans," after "veterans of the Vietnam era," in first sentence.

Subsec. (d)(1)(A), (B). Pub. L. 106-419, Sec. 322(b), inserted "recently separated veterans," after "veterans of the Vietnam era,".

1998 - Subsec. (a). Pub. L. 105-339, Sec. 7(a)(1), in first

sentence, substituted "\$25,000" for "\$10,000" and "special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized" for "special disabled veterans and veterans of the Vietnam era".

Subsec. (b). Pub. L. 105-339, Sec. 7(a)(2), substituted "veteran covered by the first sentence of subsection (a)" for "special disabled veteran or veteran of the Vietnam era".

Subsec. (d)(1)(A), (B). Pub. L. 105-339, Sec. 7(a)(3), substituted "special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized" for "veterans of the Vietnam era or special disabled veterans".

Subsec. (d)(1)(C). Pub. L. 105-339, Sec. 8, added subpar. (C).

1994 - Subsec. (a)(1). Pub. L. 103-446 substituted "all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less," for "all of its suitable employment openings,".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 2012 of this title as this section.

Subsec. (c). Pub. L. 102-83, Sec. 5(c)(1), substituted "4107(c)" for "2007(c)".

Pub. L. 102-83, Sec. 4(b)(8), substituted "Secretary of Labor" for "Secretary".

Subsec. (d). Pub. L. 102-83, Sec. 4(b)(8), substituted "Secretary of Labor" for "Secretary" wherever appearing.

1982 - Subsec. (d). Pub. L. 97-306 added subsec. (d).

1980 - Subsec. (a). Pub. L. 96-466, Sec. 801(j), inserted "special" after "qualified" and substituted "regulations which shall require" for "regulations within 60 days after the date of enactment of this section, which regulations shall require".

Subsec. (b). Pub. L. 96-466, Sec. 509, among other changes, substituted reference to a special disabled veteran for reference to a disabled veteran, struck out provisions relating to the filing of a complaint by any veteran entitled to disability compensation who believed that a contractor had discriminated against such veteran because such veteran was a handicapped individual within the meaning of section 706(6) of title 29, and substituted provisions relating to the filing of a complaint with the Secretary of Labor for provisions relating to the filing of a complaint with the Veterans' Employment Service of the Department of Labor and prompt referral of the complaint to the Secretary.

1978 - Subsec. (b). Pub. L. 95-520 authorized filing of a complaint by a veteran entitled to disability compensation under laws administered by the Veterans' Administration based on a contractor's discrimination against the veteran because the veteran is handicapped.

1976 - Subsec. (b). Pub. L. 94-502, Sec. 607(2), substituted "the contractor's" for "his".

Subsec. (c). Pub. L. 94-502, Sec. 605, added subsec. (c).

1974 - Subsec. (a). Pub. L. 93-508, Sec. 402(1), (2), substituted "Any contract in the amount of \$10,000 or more entered into" for "Any contract entered into", "the party contracting with the United States shall take affirmative action to employ and advance in employment" for "in employing persons to carry out such contract, the party contracting with the United States shall give special emphasis to the employment of", and "In addition to requiring affirmative action to employ such veterans under such contracts and

subcontracts and in order to promote the implementation of such requirement, the President shall" for "The President shall".

Subsec. (b). Pub. L. 93-508, Sec. 402(3), substituted "relating to the employment of veterans" for "relating to giving special emphasis in employment to veterans".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-288 applicable with respect to contracts entered into on or after the first day of the first month that begins 12 months after Nov. 7, 2002, see section 2(b)(3) of Pub. L. 107-288, set out as a note under section 4211 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 509 of Pub. L. 96-466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96-466, set out as a note under section 4101 of this title.

Amendment by section 801(j) of Pub. L. 96-466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96-466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

PRESCRIPTION OF REGULATIONS

Section 310(b) of Pub. L. 97-306 provided that: "Within 90 days after the date of the enactment of this Act [Oct. 14, 1982], the Secretary of Labor shall prescribe regulations under subsection (d) of section 2012 [now 4212] of title 38, United States Code, as added by the amendment made by subsection (a)."

-EXEC-

EX. ORD. NO. 11701. EMPLOYMENT OF VETERANS BY FEDERAL AGENCIES AND GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, provided:

On June 16, 1971, I issued Executive Order No. 11598 to facilitate the employment of returning veterans by requiring Federal agencies and Federal contractors and their subcontractors to list employment openings with the employment service systems. Section 503 of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92-540; 86 Stat. 1097) added a new section 2012 [now 4212] to Title 38 of the United States Code which, in effect, provides statutory authority to extend the program developed under that order with respect to Government contractors and their subcontractors.

NOW, THEREFORE, 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 hereby ordered as follows:

Section 1. The Secretary of Labor shall issue rules and

regulations requiring each department and agency of the executive branch of the Federal Government to list suitable employment openings with the appropriate office of the State Employment Service or the United States Employment Service. This section shall not be construed as requiring the employment of individuals referred by such office or as superseding any requirements of the Civil Service Laws. Rules, regulations, and orders to implement this section shall be developed in consultation with the Civil Service Commission.

Sec. 2. The Secretary of Labor is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 2012 [now 4212] of Title 38 of the United States Code.

Sec. 3. The Secretary of Labor shall gather information on the effectiveness of the program established under this order and Section 2012 [now 4212] of Title 38 of the United States Code and of the extent to which the employment service system is fulfilling the employment needs of veterans. The Secretary of Labor shall, from time to time, report to the President concerning his evaluation of the effectiveness of this order along with his recommendations for further action which the Secretary believes to be appropriate.

Sec. 4. Appropriate departments and agencies shall, in consultation with the Secretary of Labor, issue such amendments or additions to procurement rules and regulations as may be necessary to carry out the purposes of this order and Section 2012 [now 4212] of Title 38 of the United States Code. Except as otherwise provided by law, all executive departments and agencies are directed to cooperate with the Secretary of Labor, to furnish the Secretary of Labor with such information and assistance as he may require in the performance of his functions under this order, and to comply with rules, regulations, and orders of the Secretary.

Sec. 5. Executive Order No. 11598 of June 16, 1971, is hereby superseded.

Richard Nixon.

-End-

-CITE-

38 USC Sec. 4213

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 42 - EMPLOYMENT AND TRAINING OF VETERANS

-HEAD-

Sec. 4213. Eligibility requirements for veterans under Federal employment and training programs

-STATUTE-

(a) Amounts and periods of time specified in subsection (b) shall be disregarded in determining eligibility under any of the following:

- (1) Any public service employment program.
- (2) Any emergency employment program.
- (3) Any job training program assisted under the Economic Opportunity Act of 1964.
- (4) Any employment or training program carried out under title

I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(5) Any other employment or training (or related) program financed in whole or in part with Federal funds.

(b) Subsection (a) applies with respect to the following amounts and periods of time:

(1) Any amount received as pay or allowances by any person while serving on active duty.

(2) Any period of time during which such person served on active duty.

(3) Any amount received under chapters 11, 13, 30, 31, 32, and 36 of this title by an eligible veteran.

(4) Any amount received by an eligible person under chapters 13 and 35 of this title.

(5) Any amount received by an eligible member under chapter 106 of title 10.

-SOURCE-

(Added Pub. L. 92-540, title V, Sec. 503(a), Oct. 24, 1972, 86 Stat. 1098, Sec. 2013; amended Pub. L. 96-466, title VIII, Sec. 801(k)(1), (2)(A), Oct. 17, 1980, 94 Stat. 2217; Pub. L. 102-54, Sec. 14(c)(10), June 13, 1991, 105 Stat. 285; renumbered Sec. 4213, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title VII, Sec. 702(b), Nov. 2, 1994, 108 Stat. 4675; Pub. L. 105-277, div. A, Sec. 101(f) [title VIII, Sec. 405(d)(29)(C), (f)(21)(C)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-424, 2681-432; Pub. L. 106-419, title IV, Sec. 404(a)(9), Nov. 1, 2000, 114 Stat. 1865.)

-REFTEXT-

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(3), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (Sec. 2701 et seq.) of Title 42, The Public Health and Welfare, prior to repeal, except for titles VIII and X, by Pub. L. 97-35, title VI, Sec. 683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (Sec. 2991 et seq.) and X (Sec. 2996 et seq.) of chapter 34 of Title 42. For complete classification of this Act to the Code, see Tables.

The Workforce Investment Act of 1998, referred to in subsec. (a)(4), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (Sec. 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

-MISC1-

AMENDMENTS

2000 - Pub. L. 106-419 amended text generally. Prior to amendment, text read as follows: "Any (1) amounts received as pay or allowances by any person while serving on active duty, (2) period of time during which such person served on such active duty, and (3) amounts received under chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran, any amounts received by an eligible person under chapters 13 and 35 of such title, and any amounts received by an eligible person under chapter 106 of title 10, shall be disregarded in determining eligibility under any public service employment program, any emergency employment

program, any job training program assisted under the Economic Opportunity Act of 1964, any employment or training program carried out under title I of the Workforce Investment Act of 1998, or any other employment or training (or related) program financed in whole or in part with Federal funds."

1998 - Pub. L. 105-277, Sec. 101(f) [title VIII, Sec. 405(f)(21)(C)], struck out "the Job Training Partnership Act or" after "program carried out under".

Pub. L. 105-277, Sec. 101(f) [title VIII, Sec. 405(d)(29)(C)], substituted "program carried out under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998," for "program assisted under the Job Training Partnership Act (29 U.S.C. 1501 et seq.),".

1994 - Pub. L. 103-446, Sec. 702(b)(3), substituted "eligibility under" for "the needs or qualifications of participants in".

Pub. L. 103-446, Sec. 702(b)(2), which directed insertion of "and any amounts received by an eligible person under chapter 106 of title 10," after "chapters 13 and 35 of such title, and", was executed by making the insertion after "chapters 13 and 35 of such title," to reflect the probable intent of Congress.

Pub. L. 103-446, Sec. 702(b)(1), which directed substitution of "chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran," for "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran and", was executed by making the substitution for "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran, and" to reflect the probable intent of Congress.

1991 - Pub. L. 102-83 renumbered section 2013 of this title as this section.

Pub. L. 102-54 substituted "the Job Training Partnership Act (29 U.S.C. 1501 et seq.)" for "the Comprehensive Employment and Training Act".

1980 - Pub. L. 96-466 substituted "Federal employment and" for "certain Federal manpower" in section catchline, and substituted "an eligible veteran" for "a veteran (as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability" and "any employment or training program assisted under the Comprehensive Employment and Training Act, or any other employment or" for "any manpower training program assisted under the Manpower Development and Training Act of 1962, or any other manpower" in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, Sec. 405(d)(29)(C)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, Sec. 405(f)(21)(C)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, Sec. 405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96-466, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

-CITE-

38 USC Sec. 4214

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 42 - EMPLOYMENT AND TRAINING OF VETERANS

-HEAD-

Sec. 4214. Employment within the Federal Government

-STATUTE-

(a)(1) The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a uniquely qualified recruiting source. It is, therefore, the policy of the United States and the purpose of this section to promote the maximum of employment and job advancement opportunities within the Federal Government for qualified covered veterans (as defined in paragraph (2)(B)) who are qualified for such employment and advancement.

(2) In this section:

(A) The term "agency" has the meaning given the term "department or agency" in section 4211(5) of this title.

(B) The term "qualified covered veteran" means a veteran described in section 4212(a)(3) of this title.

(b)(1) To further the policy stated in subsection (a) of this section, veterans referred to in paragraph (2) of this subsection shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe, for veterans recruitment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that -

(A) such an appointment may be made up to and including the level GS-11 or its equivalent;

(B) a veteran shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;

(C) a veteran who is entitled to disability compensation under the laws administered by the Department of Veterans Affairs or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be given a preference for such an appointment over other veterans;

(D) a veteran receiving such an appointment shall -

(i) in the case of a veteran with less than 15 years of education, receive training or education; and

(ii) upon successful completion of the prescribed probationary period, acquire a competitive status; and

(E) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment.

(2) This subsection applies to qualified covered veterans.

(3) A qualified covered veteran may receive such an appointment at any time.

(c) Each agency shall include in its affirmative action plan for the hiring, placement, and advancement of handicapped individuals in such agency as required by section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)), a separate specification of plans (in accordance with regulations which the Office of Personnel Management shall prescribe in consultation with the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services, consistent with the purposes, provisions, and priorities of such Act) to promote and carry out such affirmative action with respect to disabled veterans in order to achieve the purpose of this section.

(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each agency to carry out the purpose and provisions of this section. The Office shall periodically obtain (on at least an annual basis) information on the implementation of this section by each agency and on the activities of each agency to carry out the purpose and provisions of this section. The information obtained shall include specification of the use and extent of appointments made by each agency under subsection (b) of this section and the results of the plans required under subsection (c) of this section.

(e)(1) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section. Each such report shall include the following information with respect to each agency:

(A) The number of appointments made under subsection (b) of this section since the last such report and the grade levels in which such appointments were made.

(B) The number of individuals receiving appointments under such subsection whose appointments were converted to career or career-conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

(C) The number of such terminations since the last such report that were initiated by the agency involved and the number of such terminations since the last such report that were initiated by the individual involved.

(D) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.

(2) Information shown for an agency under clauses (A) through (D) of paragraph (1) of this subsection -

(A) shall be shown for all veterans; and

(B) shall be shown separately (i) for veterans who are entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, and (ii) for other veterans.

(f) Notwithstanding section 4211 of this title, the terms "veteran" and "disabled veteran" as used in subsection (a) of this section shall have the meaning provided for under generally applicable civil service law and regulations.

(g) To further the policy stated in subsection (a) of this section, the Secretary may give preference to qualified covered

veterans for employment in the Department as veterans' benefits counselors and veterans' claims examiners and in positions to provide the outreach services required under section 6303 of this title, to serve as veterans' representatives at certain educational institutions as provided in section 6305 of this title, or to provide readjustment counseling under section 1712A of this title.

-SOURCE-

(Added Pub. L. 93-508, title IV, Sec. 403(a), Dec. 3, 1974, 88 Stat. 1593, Sec. 2014; amended Pub. L. 95-202, title III, Sec. 308, Nov. 23, 1977, 91 Stat. 1445; Pub. L. 95-520, Sec. 6(b), Oct. 26, 1978, 92 Stat. 1821; Pub. L. 96-466, title V, Sec. 510, title VIII, Sec. 801(l), Oct. 17, 1980, 94 Stat. 2207, 2217; Pub. L. 97-72, title II, Sec. 202(a), Nov. 3, 1981, 95 Stat. 1054; Pub. L. 97-295, Sec. 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98-543, title II, Sec. 211, Oct. 24, 1984, 98 Stat. 2743; Pub. L. 99-576, title III, Sec. 332, Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101-237, title IV, Sec. 407(a)(1), (b), Dec. 18, 1989, 103 Stat. 2082; Pub. L. 102-16, Sec. 9(a), (b), Mar. 22, 1991, 105 Stat. 54; renumbered Sec. 4214 and amended Pub. L. 102-83, Secs. 2(c)(5), 4(a)(1), (3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402-406; Pub. L. 102-127, Sec. 4, Oct. 10, 1991, 105 Stat. 622; Pub. L. 102-568, title V, Sec. 505, Oct. 29, 1992, 106 Stat. 4340; Pub. L. 107-288, Sec. 2(c)(1)-(3), Nov. 7, 2002, 116 Stat. 2036; Pub. L. 109-233, title IV, Sec. 402(e)(3), June 15, 2006, 120 Stat. 411.)

-REFTEXT-

REFERENCES IN TEXT

Executive Order Numbered 11521 (March 26, 1970), referred to in subsec. (b)(1), is set out as a note under section 3302 of Title 5, Government Organization and Employees.

GS-11, referred to in subsec. (b)(1)(A), is contained in the General Schedule which is set out under section 5332 of Title 5.

Such Act, referred to in subsec. (c), means Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, popularly known as the Rehabilitation Act of 1973, which is classified principally to chapter 16 (Sec. 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

-MISC1-

AMENDMENTS

2006 - Subsec. (g). Pub. L. 109-233 substituted "section 6303" for "section 7722" and "section 6305" for "section 7724".

2002 - Subsec. (a)(1). Pub. L. 107-288, Sec. 2(c)(1), (3)(A)(i), substituted "life" for "life since veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers" in first sentence, "uniquely qualified" for "major" in second sentence, and "qualified covered veterans (as defined in paragraph (2)(B))" for "disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era" in third sentence.

Subsec. (a)(2). Pub. L. 107-288, Sec. 2(c)(3)(A)(ii), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For the purposes of this section, the term 'agency' means a department, agency, or instrumentality in the executive branch."

Subsec. (b)(1). Pub. L. 107-288, Sec. 2(c)(2)(A), substituted "recruitment" for "readjustment" in introductory provisions.

Subsec. (b)(2). Pub. L. 107-288, Sec. 2(c)(2)(B), substituted "to qualified covered veterans." for "to - " and struck out subpars.

(A) and (B) which read as follows:

"(A) a veteran of the Vietnam era; and

"(B) veterans who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces after May 7, 1975, and were discharged or released from active duty under conditions other than dishonorable."

Subsec. (b)(3). Pub. L. 107-288, Sec. 2(c)(2)(C), amended par. (3) generally, substituting present provisions for provisions limiting reception of appointment to specified time periods.

Subsec. (e)(2)(B)(i). Pub. L. 107-288, Sec. 2(c)(3)(B), struck out "of the Vietnam era" after "veterans".

Subsec. (g). Pub. L. 107-288, Sec. 2(c)(3)(C), substituted "qualified covered veterans" for "qualified special disabled veterans and qualified veterans of the Vietnam era" and "under section 1712A of this title" for "under section 1712A of this title to veterans of the Vietnam era".

1992 - Subsec. (b)(2)(A). Pub. L. 102-568, Sec. 505(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "a veteran of the Vietnam era who -

"(i) is entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.; or

"(ii) during such era, served on active duty in the Armed Forces in a campaign or expedition for which a campaign badge has been authorized; and".

Subsec. (b)(3)(A)(ii). Pub. L. 102-568, Sec. 505(b)(1), substituted "1995" for "1993".

Subsec. (b)(3)(B)(ii). Pub. L. 102-568, Sec. 505(b)(2), substituted "December 31" for "December 18".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 2014 of this title as this section.

Subsec. (a)(1). Pub. L. 102-16, Sec. 9(a), substituted "The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life since veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a major recruiting source. It is, therefore, the policy of the United States" for "It is the policy of the United States" and "disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era" for "certain veterans of the Vietnam era and veterans of the post-Vietnam era".

Subsec. (b)(1)(A). Pub. L. 102-16, Sec. 9(b)(1)(A), substituted "up to and including the level GS-11 or its equivalent" for "up to and including the level GS-9 or its equivalent or in the case of a veteran referred to in paragraph (2)(A) of this subsection, the level of GS-11 or its equivalent".

Subsec. (b)(1)(B) to (D). Pub. L. 102-16, Sec. 9(b)(1)(B), added cls. (B) to (D), redesignated former cl. (D) as (E), and struck out former cls. (B) and (C) which read as follows:

"(B) a veteran referred to in paragraph (2) of this subsection shall be eligible for such an appointment during (i) the four-year period beginning on the date of the veteran's last discharge or release from active duty, or (ii) the two-year period beginning on the date of the enactment of the Veterans Education and Employment Amendments of 1989, whichever ends later;

"(C) a veteran of the Vietnam era referred to in paragraph (2) of this subsection who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose

discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;"

Subsec. (b)(1)(E), (F). Pub. L. 102-16, Sec. 9(b)(1)(C), (D), redesignated cl. (D) as (E), substituted a period for "; and" at end, and struck out former cls. (E) and (F) which read as follows:

"(E) the requirement of an educational or training program for a veteran receiving such an appointment shall not apply if the veteran has 15 years or more of education; and

"(F) in the case of a veteran who is not a disabled veteran, the veteran may not have completed more than 16 years of education at the time of the veteran's appointment."

Subsec. (b)(2)(A)(i). Pub. L. 102-127 substituted "is entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty." for "has a service-connected disability".

Subsec. (b)(2)(B). Pub. L. 102-16, Sec. 9(b)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "a veteran who served on active duty after the Vietnam era."

Subsec. (b)(3). Pub. L. 102-83, Sec. 5(c)(1), substituted "3011(a)(1)(A)(ii)(III)" for "1411(a)(1)(A)(ii)(III)" and "3018A(a)(1)" for "1418A(a)(1)" in subpar. (D).

Pub. L. 102-16, Sec. 9(b)(2), added par. (3) and struck out former par. (3) which read as follows: "For purposes of paragraph (1)(B)(i) of this subsection, the last discharge or release from a period of active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."

Subsec. (b)(4). Pub. L. 102-16, Sec. 9(b)(2), struck out par. (4) which read as follows: "No veterans readjustment appointment may be made under authority of this subsection after December 31, 1993."

Subsec. (c). Pub. L. 102-83, Sec. 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" after "with the".

Subsec. (e)(2)(B). Pub. L. 102-83, Sec. 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted "4211" for "2011".

Subsec. (g). Pub. L. 102-83, Sec. 5(c)(1), substituted "1712A" for "612A".

Pub. L. 102-83, Sec. 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102-83, Sec. 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Pub. L. 102-83, Sec. 2(c)(5), substituted "7722" for "241" and "7724" for "243".

1989 - Subsec. (a)(1). Pub. L. 101-237, Sec. 407(b)(1), substituted "certain veterans of the Vietnam era and veterans of the post-Vietnam era who are qualified for such employment and advancement" for "qualified disabled veterans and veterans of the Vietnam era".

Subsec. (b)(1). Pub. L. 101-237, Sec. 407(b)(2)(A)(i), substituted "veterans referred to in paragraph (2) of this subsection" for "veterans of the Vietnam era".

Subsec. (b)(1)(A). Pub. L. 101-237, Sec. 407(b)(2)(A)(ii), inserted before semicolon at end "or in the case of a veteran referred to in paragraph (2)(A) of this subsection, the level of GS-11 or its equivalent".

Subsec. (b)(1)(B). Pub. L. 101-237, Sec. 407(b)(2)(A)(iii), added cl. (B) and struck out former cl. (B) which read as follows: "a veteran of the Vietnam era shall be eligible for such an appointment without any time limitation with respect to eligibility for such an appointment;".

Subsec. (b)(1)(C). Pub. L. 101-237, Sec. 407(b)(2)(A)(iv), inserted "referred to in paragraph (2) of this subsection" after "a veteran of the Vietnam era".

Subsec. (b)(1)(E), (F). Pub. L. 101-237, Sec. 407(b)(2)(A)(v)-(vii), added subpars. (E) and (F).

Subsec. (b)(2), (3). Pub. L. 101-237, Sec. 407(b)(2)(B), added pars. (2) and (3). Former par. (2) redesignated (4).

Subsec. (b)(4). Pub. L. 101-237, Sec. 407(a)(1), redesignated former par. (2) as (4) and substituted "1993" for "1989".

1986 - Subsec. (b)(2). Pub. L. 99-576 substituted "December 31, 1989" for "September 30, 1986".

1984 - Subsec. (a). Pub. L. 98-543, Sec. 211(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1)(A), (D). Pub. L. 98-543, Sec. 211(b)(1), substituted "GS-9" for "GS-7" in subpar. (A) and added subpar. (D).

Subsec. (b)(2). Pub. L. 98-543, Sec. 211(b)(2), substituted "September 30, 1986" for "September 30, 1984".

Subsec. (c). Pub. L. 98-543, Sec. 211(c), substituted "agency" for "department, agency, and instrumentality in the executive branch" and "such agency" for "such department, agency, or instrumentality".

Subsec. (d). Pub. L. 98-543, Sec. 211(d), substituted "annual" for "semiannual" in second sentence and struck out provisions listing information to be included in the report.

Subsec. (e). Pub. L. 98-543, Sec. 211(d), substituted provisions listing information to be included with respect to each agency and setting forth to whom the information shall be shown for provisions which set forth reporting requirements regarding the employment of the handicapped.

1982 - Subsec. (c). Pub. L. 97-295 substituted "Health and Human Services" for "Health, Education, and Welfare".

1981 - Subsec. (b)(2). Pub. L. 97-72 substituted "September 30, 1984" for "September 30, 1981".

1980 - Subsec. (b)(1). Pub. L. 96-466, Sec. 801(l)(1), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (b)(2), (3). Pub. L. 96-466, Sec. 801(l)(2), redesignated par. (3) as (2). Former par. (2), which provided that in this subsection "veteran of the Vietnam era" had the meaning given such term in section 2011(2)(A) of this title, was struck out.

Subsec. (c). Pub. L. 96-466, Sec. 801(l)(1), (3), substituted "the Rehabilitation Act of 1973 (29 U.S.C. 791(b))" for "Public Law 93-112 (87 Stat. 391)" and "Office of Personnel Management" for "Civil Service Commission".

Subsec. (d). Pub. L. 96-466, Sec. 801(l)(1), substituted "Office of Personnel Management" and "Office" for "Civil Service Commission" and "Commission", respectively.

Subsec. (e). Pub. L. 96-466, Sec. 801(l)(1), (4), substituted "Office of Personnel Management" and "Office" for "Civil Service Commission" and "Commission", respectively, and "the Rehabilitation Act of 1973 (29 U.S.C. 791(d))" for "such Public Law 93-112".

Subsec. (g). Pub. L. 96-466, Sec. 510, added subsec. (g).

1978 - Subsec. (b). Pub. L. 95-520, Sec. 6(b)(1), incorporated part of existing text in provisions designated par. (1), designated part of existing provision as item (A), increasing appointments to level GS-7 from GS-5, added items (B) and (C) and par. (2), designated part of existing text as par. (3), substituting Sept. 30, 1981, for June 30, 1978, as cut off date for veterans readjustment appointments, and struck out provisions: that in applying the one-year period of eligibility specified in section 2(a) of Ex. Ord. No. 11521 to a veteran or disabled veteran who enrolled, within one year following separation from the Armed Forces or following release from hospitalization or treatment following such separation in a program of education on more than a half-time basis, the time spent in such program of education was not to be counted; that the eligibility of the veteran for a readjustment appointment was to continue for not less than six months after the veteran first ceased to be enrolled therein on more than a half-time basis; and that directed the Chairman of the Civil Service Commission to report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in subsec. (b), with the report to be submitted to the President and Congress not later than six months after enactment of the GI Bill Improvement Act of 1977 on Nov. 23, 1977.

Subsec. (d). Pub. L. 95-520, Sec. 6(b)(2), substituted in second sentence "subsection (c) of this section" for "subsection (c) thereof" and inserted requirement that reports include certain prescribed information.

Subsec. (f). Pub. L. 95-520, Sec. 6(b)(3), substituted "as used in subsection (a) of this section" for "as used in this section".

1977 - Subsec. (b). Pub. L. 95-202 inserted provision directing Chairman of Civil Service Commission to report on need for continuation after June 30, 1978, of authority for veterans readjustment appointments contained in subsec. (b), with the report to be submitted to President and Congress not later than six months after enactment of GI Bill Improvement Act of 1977.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-288, Sec. 2(c)(4), Nov. 7, 2002, 116 Stat. 2036, provided that: "The amendments made by this subsection [amending this section] shall apply to qualified covered veterans without regard to any limitation relating to the date of the veteran's last discharge or release from active duty that may have otherwise applied under section 4214(b)(3) as in effect on the date before the date of the enactment of this Act [Nov. 7, 2002]."

EFFECTIVE DATE OF 1991 AMENDMENT

Section 9(d) of Pub. L. 102-16, as amended by Pub. L. 102-86, title V, Sec. 506(c), Aug. 14, 1991, 105 Stat. 426; Pub. L. 103-353, Sec. 6(a), Oct. 13, 1994, 108 Stat. 3174, provided that: "The amendments made by this section [amending this section] shall apply only to appointments made after the date of the enactment of this Act [Mar. 22, 1991]."

[Section 6(b) of Pub. L. 103-353 provided that: "The amendment made by subsection (a) [amending section 9(d) of Pub. L. 102-16, set out above] shall take effect as if included in Public Law 102-16 to which such amendment relates."]

[Section 506(c) of Pub. L. 102-86 provided that the amendment made by that section to section 9(d) of Pub. L. 102-16, set out above, is effective as of Mar. 22, 1991.]

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-237 effective Jan. 1, 1990, see section 407(c) of Pub. L. 101-237, set out as a note under section 4211 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 202(b) of Pub. L. 97-72 provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1981."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 510 of Pub. L. 96-466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96-466, set out as a note under section 4101 of this title.

Amendment by section 801(l) of Pub. L. 96-466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96-466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-202 effective Nov. 23, 1977, see section 501 of Pub. L. 95-202, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 3452 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (e) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 188 of House Document No. 103-7.

EMPLOYMENT ASSISTANCE: OTHER FEDERAL AGENCIES

Pub. L. 112-56, title II, Sec. 235(b), Nov. 21, 2011, 125 Stat. 724, provided that:

"(1) Definitions. - In this subsection -

"(A) the term 'agency' has the meaning given the term 'Executive agency' in section 105 of title 5, United States Code; and

"(B) the term 'veteran' has the meaning given that term in section 101 of title 38, United States Code.

"(2) Responsibilities of office of personnel management. - The Director of the Office of Personnel Management shall -

"(A) designate agencies that shall establish a program to provide employment assistance to members of the Armed Forces who are being separated from active duty in accordance with paragraph (3); and

"(B) ensure that the programs established under this subsection are coordinated with the Transition Assistance Program (TAP) of the Department of Defense.

"(3) Elements of program. - The head of each agency designated under paragraph (2)(A), in consultation with the Director of the Office of Personnel Management, and acting through the Veterans Employment Program Office of the agency established under Executive Order 13518 (74 Fed. Reg. 58533; relating to employment of veterans in the Federal Government) [5 U.S.C. 3301 note], or any successor thereto, shall -

"(A) establish a program to provide employment assistance to members of the Armed Forces who are being separated from active duty, including assisting such members in seeking employment with

the agency;

"(B) provide such members with information regarding the program of the agency established under subparagraph (A); and

"(C) promote the recruiting, hiring, training and development, and retention of such members and veterans by the agency.

"(4) Other office. - If an agency designated under paragraph (2)(A) does not have a Veterans Employment Program Office, the head of the agency, in consultation with the Director of the Office of Personnel Management, shall select an appropriate office of the agency to carry out the responsibilities of the agency under paragraph (3)."

CONTENTS OF REPORTS ON VETERANS' READJUSTMENT APPOINTMENTS

Pub. L. 95-454, title III, Sec. 307(b)(2), Oct. 13, 1978, 92

Stat. 1147, as amended by Pub. L. 102-83, Sec. 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "The Director of the Office of Personnel Management shall include in the reports required by section 4214(d) [formerly 2014(d)] of title 38, United States Code, the same type of information regarding the use of the authority provided in section 3112 of title 5, United States Code (as added by paragraph (1) of this subsection), as is required by such section 4214 with respect to the use of the authority to make veterans readjustment appointments."

-End-

-CITE-

38 USC Sec. 4215

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 42 - EMPLOYMENT AND TRAINING OF VETERANS

-HEAD-

Sec. 4215. Priority of service for veterans in Department of Labor job training programs

-STATUTE-

(a) Definitions. - In this section:

(1) The term "covered person" means any of the following individuals:

(A) A veteran.

(B) The spouse of any of the following individuals:

(i) Any veteran who died of a service-connected disability.

(ii) Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II) captured in line of duty by a hostile force, or (III) forcibly detained or interned in line of duty by a foreign government or power.

(iii) Any veteran who has a total disability resulting from a service-connected disability.

(iv) Any veteran who died while a disability so evaluated was in existence.

(2) The term "qualified job training program" means any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the Department of Labor and includes the following:

(A) Any such program or service that uses technology to assist individuals to access workforce development programs (such as job and training opportunities, labor market information, career assessment tools, and related support services).

(B) Any such program or service under the public employment service system, one-stop career centers, the Workforce Investment Act of 1998, a demonstration or other temporary program, and those programs implemented by States or local service providers based on Federal block grants administered by the Department of Labor.

(C) Any such program or service that is a workforce development program targeted to specific groups.

(3) The term "priority of service" means, with respect to any qualified job training program, that a covered person shall be given priority over nonveterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of law. Such priority includes giving access to such services to a covered person before a non-covered person or, if resources are limited, giving access to such services to a covered person instead of a non-covered person.

(b) Entitlement to Priority of Service. - (1) A covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program.

(2) The Secretary of Labor may establish priorities among covered persons for purposes of this section to take into account the needs of disabled veterans and special disabled veterans, and such other factors as the Secretary determines appropriate.

(c) Administration of Programs at State and Local Levels. - An entity of a State or a political subdivision of the State that administers or delivers services under a qualified job training program shall -

(1) provide information and priority of service to covered persons regarding benefits and services that may be obtained through other entities or service providers; and

(2) ensure that each covered person who applies to or who is assisted by such a program is informed of the employment-related rights and benefits to which the person is entitled under this section.

(d) Addition to Annual Report. - (1) In the annual report required under section 4107(c) of this title for the program year beginning in 2003 and each subsequent program year, the Secretary of Labor shall evaluate whether covered persons are receiving priority of service and are being fully served by qualified job training programs. Such evaluation shall include -

(A) an analysis of the implementation of providing such priority at the local level;

(B) whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market, including within groups that the Secretary may designate for priority under such programs, if any; and

(C) performance measures, as determined by the Secretary, to

determine whether veterans are receiving priority of service and are being fully served by qualified job training programs.

(2) The Secretary may not use the proportion of representation of veterans described in subparagraph (B) of paragraph (1) as the basis for determining under such paragraph whether veterans are receiving priority of service and are being fully served by qualified job training programs.

-SOURCE-

(Added Pub. L. 107-288, Sec. 2(a)(1), Nov. 7, 2002, 116 Stat. 2033; amended Pub. L. 112-56, title II, Sec. 239, Nov. 21, 2011, 125 Stat. 727.)

-REFTEXT-

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(2)(B), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

-MISC1-

AMENDMENTS

2011 - Subsec. (a)(3). Pub. L. 112-56, Sec. 239(1), inserted at end "Such priority includes giving access to such services to a covered person before a non-covered person or, if resources are limited, giving access to such services to a covered person instead of a non-covered person."

Subsec. (d). Pub. L. 112-56, Sec. 239(2), amended subsec. (d) generally. Prior to amendment, text read as follows: "In the annual report required under section 4107(c) of this title for the program year beginning in 2003 and each subsequent program year, the Secretary of Labor shall evaluate whether covered persons are receiving priority of service and are being fully served by qualified job training programs, and whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market, including within groups that the Secretary may designate for priority under such programs, if any."

DEPARTMENT OF LABOR IMPLEMENTATION OF REGULATIONS FOR PRIORITY OF SERVICE

Pub. L. 109-461, title VI, Sec. 605, Dec. 22, 2006, 120 Stat. 3439, provided that: "Not later than two years after the date of the enactment of this Act [Dec. 22, 2006], the Secretary of Labor shall prescribe regulations to implement section 4215 of title 38, United States Code."

REQUIREMENT TO PROMPTLY ESTABLISH ONE-STOP EMPLOYMENT SERVICES

Pub. L. 107-288, Sec. 4(c), Nov. 7, 2002, 116 Stat. 2044, provided that: "By not later than 18 months after the date of the enactment of this Act [Nov. 7, 2002], the Secretary of Labor shall provide one-stop services and assistance to covered persons electronically by means of the Internet, as defined in section 231(e)(3) of the Communications Act of 1934 [47 U.S.C. 231(e)(3)], and such other electronic means to enhance the delivery of such services and assistance."

-End-

